**ORDINANCE NO. 2015-51**

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW A PYLON LED SIGN ON PROPERTY ZONED C-2 (LIBERAL RETAIL COMMERCIAL DISTRICT) OUTSIDE THE GEOGRAPHIC AREA WHERE LED SIGNS ARE PERMITTED, WITH A HEIGHT OF 35 FEET, WHERE A MAXIMUM OF 20 FEET IS ALLOWED, AND A SIGN AREA OF 240 SQUARE FEET, WHERE A MAXIMUM OF 120 SQUARE FEET IS ALLOWED; CONTRA TO HIALEAH CODE §§ 74-149 (b), 74-149(g)(2)(b), AND 74-149(g)(2)(c). **PROPERTY LOCATED AT 5301 WEST 20 AVENUE, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS,** the Planning and Zoning Board at its meeting of August 12, 2015, recommended approval of this ordinance; and

**WHEREAS,** the petitioner proffered a declaration of restrictive covenants agreeing to remove the existent Office Depot pylon sign immediately after the expiration of the current contract between petitioner and its tenant, such that upon removal of the Office Depot sign there is only one pylon sign servicing the advertising needs of all tenants on the property, to which the City accepts.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** The foregoing facts and recitations contained in the preamble to this ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

**Section 2:** The below-described property is hereby granted a variance permit to allow a pylon LED sign on property zoned C-2 (Liberal Retail Commercial District) outside the geographic area where LED signs are allowed, with a height of 35 feet, where a maximum of 20 feet is allowed, and a sign area of 240 square feet, where a maximum

of 120 square feet is allowed, contra to Hialeah Code §§ 74-149 (b), 74-149(g)(2)(b), and 74-149(g)(2)(c), which provide in pertinent part: "*Geographic area.* The LED regulations are limited to a geographic area comprising of three distinct areas: (1) properties fronting West 49 Street, from the west side of West 4 Avenue to West 20 Avenue; (2) properties fronting West 16 Avenue, from Okeechobee Road to West 49 Street; and (3) properties fronting Okeechobee Road, on the northern side, from West 16 Avenue to West 20 Avenue.", "*Maximum area.* The maximum sign area allowed, including the sign face and structure, is 120 square feet.", and "*Maximum height.* The maximum height shall be 20 feet from the street grade to the top of the sign structure. The height of the LED display itself shall not exceed 15 feet.", respectively. Property located at 5301 West 20 Avenue, Hialeah, Miami-Dade County, Florida, zoned C-2 (Liberal Retail Commercial District), and legally described as follows:

> BEING A PORTION OF THE PLAT "REVERSION PLAT OF CLIFTON NO. 1", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 35, AT PAGE 31, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA; (ALSO KNOWN AS PORTION OF TRACT 41, FLORIDA FRUIT LANDS CO. SUBDIVISION OF SECTION 35, TOWNSHIP 52 SOUTH, RANGE 40 EAST, AS RECORDED IN PLAT BOOK 2 AT PAGE 17, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA) BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
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> COMMENCE AT THE SOUTHEAST CORNER OF TRACT 41 AND RUN WEST ALONG THE SOUTH LINE F SAID TRACT 41 FOR 427.76 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED; THENCE CONTINUE WEST ALONG THE LAST DESCRIBED COURSE FOR 742.98 FEET; THENCE N02°16'39" W ALONG A LINE PARALLEL WITH AND 150.00 FEET EASTERLY OF, AS MEASURED AT RIGHT ANGLES TO THE WEST LINE OF TRACT 41 FOR 175.88 FEET; THENCE EAST, 195.00 FEET; THENCE N00°00'02"

W, 105 FEET; THENCE S89°59'58" W, 199.18 FEET; THENCE N02°16'39" W, PARALLEL WITH AND 150.00 FEET EASTERLY OF THE WEST LINE OF SAID TRACT 41, 49.04 FEET; THENCE N89°59'58" E ALONG THE NORTH LINE OF SAID TRACT 41 FOR 756.10 FEET; THENCE S00°00'02" E, AT RIGHT ANGLES TO THE LEAST DESCRIBED COURSE FOR 329.74 FEET TO THE POINT OF BEGINNING LYING AND BEING IN DADE COUNTY, FLORIDA.

EASEMENT PARCEL: A 23 FOOT INGRESS-EGRESS EASEMENT MORE PARTICULARLY DESCRIBED N OFFICIAL RECORDS BOOK 10754, AT PAGE 2729, AND PLAT OF VERSAILLES MANOR, AND RECORDED IN PLAT BOOK 115, AT PAGE 7 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA.

**Section 3: Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 4: Penalties.**

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed $500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

**Section 5: Additional Penalties upon Violation of Conditions of Use.**

Any change of the terms and conditions of the use identified in this ordinance and as provided in the Declaration of Restrictive Covenants, if submitted, will cause a

revocation of the city occupational license if issued in connection herewith and the property shall revert to the zoning classification without the benefit of the variances.

**Section 6: Severability Clause.**

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

**Section 7: Effective Date.**

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 22nd day of September, 2015.

Isis Garcia-Martinez
Council President

THE FOREGOING ORDINANCE OF THE CITY OF HIALEAH WAS PUBLISHED IN ACCORDANCE WITH THE PROVISIONS OF FLORIDA STATUTE 166.041 PRIOR TO FINAL READING.

Attest:

Approved on this 24 day of September, 2015.

Marbelys Fatjo, City Clerk

Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

DDP

Lorena E. Bravo, City Attorney

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Ordinance was adopted by a 6-0-1 vote with Councilmembers, Caragol, Casals-Munoz, Garcia-Martinez, Gonzalez, Hernandez and Lozano voting "Yes", Councilmember Cue-Fuente absent.