MEMORANDUM

TO: The Honorable Mayor and City Commission
FROM: Hans Ottinot, City Attorney
DATE: 12/20/2012
RE: Ordinance amending Section 265-18 of the City Code

RECOMMENDATION:

It is recommended that the City of Sunny Isles Beach (the "City") adopt the proposed Ordinance amending Section 265-18 of the City Code.

REASONS:

Section 265-18 of the Code of Ordinances of the City of Sunny Isles Beach ("City") establishes rules of procedure for administrative site plan review. The City desires to amend Section 265-18(I) to clarify that any proposed height modification, whether a height increase or decrease, to a previously approved site plan application requires approval of the City Commission. The City Manager has authority to administratively approve "minor" changes and deviations from an approved site plan. However, the proposed amendment clarifies that a modification that either increases or decreases height is not considered a "minor" modification, and therefore cannot be approved administratively.

ATTACHMENTS:
- Ordinance
ORDINANCE NO. 2012-______

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF SUNNY ISLES BEACH, FLORIDA, AMENDING SECTION 265-18 OF THE CITY CODE ENTITLED "ADMINISTRATIVE SITE PLAN REVIEW" TO REQUIRE APPROVAL OF THE CITY COMMISSION FOR ANY PROPOSED HEIGHT MODIFICATIONS TO A PREVIOUSLY APPROVED SITE PLAN APPLICATION; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 265-18 of the Code of Ordinances of the City of Sunny Isles Beach ("City") establishes administrative site plan review guidelines; and

WHEREAS, the City desires to amend Section 265-18(I) to clarify that any proposed height modifications, whether a height increase or decrease, to a previously approved site plan application requires approval of the City Commission.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SUNNY ISLES BEACH, FLORIDA, AS FOLLOWS:

Section 1. Incorporation of Recitals. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part by this Ordinance upon adoption hereof.

Section 2. Amendment. Section 265-18(I) of the City Code is amended to read as follows:

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I. Site plan revisions. Where a proposed revision of an approved site plan affects the overall design and layout or where the proposal will require review under this section, the fee for processing the revision shall be the same as the initial submittal. All other revisions shall require a minor modification-processing fee as established by the City Commission.

(1) Major modification. Any change to an approved site plan that does not meet the criteria for review as a minor modification shall be deemed a major modification. All major modifications shall be processed in the same manner as an original site plan.

(2) Minor modification. The City Manager shall administratively approve "minor" changes and deviations from an approved site plan which are in compliance with the provisions and intent of this chapter and which do not depart from the principal concept of the approved plan. An amendment shall be considered a minor modification if in compliance with each of the following limitations:
(a) The modification does not change lot coverage, setbacks, height limitations increase or decrease, as well as density or intensity calculations set forth in a previously approved site plan;

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(3) Upon considering whether a modification has met the criteria to be deemed a minor modification, the City Manager or his/her designee, shall render a decision as to whether the modification shall be reviewed. The City Manager or his/her designee may shall have the discretionary authority to require the City Commission to review of any modification whether minor or major deemed a minor modification.

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Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clause, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Inclusion in the Code. It is the intention of the Commission, and it is hereby ordained, that the provisions of this Ordinance shall become and be made a part of the code of the City of Sunny Isles Beach, Florida; and that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word “ordinance” shall be changed to “section” or other appropriate word, as required.

Section 5. Repealer. All ordinances or part of ordinances in conflict herewith be and the same are hereby repealed.

Section 6. Effective Date. This Ordinance shall be effective upon adoption on second reading.

PASSED and ADOPTED on first reading the _____ day of__________ 2012.

PASSED and ADOPTED on second reading the _____ day of__________ 2012.

Norman S. Edelcup, Mayor

ATTEST:

Jane A. Hines, CMC, City Clerk
APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

[Signature]
Hans Ottilot, City Attorney

Moved by: ____________________________
Seconded by: _________________________

Vote:
Mayor Edelcup           (Yes)          (No)
Vice Mayor Aelion       (Yes)          (No)
Commissioner Gatto      (Yes)          (No)
Commissioner Scholl     (Yes)          (No)
Commissioner Levin      (Yes)          (No)