City of Sunny Isles Beach
18070 Collins Avenue
Sunny Isles Beach, Florida 33160

(305) 947-0606 City Hall
(305) 949-3113 Fax

MEMORANDUM

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

RECOMMENDATION:

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

REASONS:

The purpose of the attached Ordinance is to require re-noticing of zoning applications where the deferral or continuance request exceeds thirty (30) days. Currently, Section 265-11(F) of the City Code provides that public hearings for zoning applications may be deferred or continued at the discretion of the City Commission.

The City wishes to amend Section 265-11(F) to clarify that if a zoning applicant requests a deferral or continuance in excess of thirty (30) days, the zoning applicant shall be required, at their own expense, to re-notice their zoning application to all property owners of record located within a radius of 300 (three hundred) feet of the property described in the application not less than 10 (ten) days prior to the re-noticed public hearing.

ATTACHMENTS:

• Ordinance
• Notice of Public Hearing
ORDINANCE NO. 2012-____

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF SUNNY ISLES BEACH, FLORIDA, AMENDING CHAPTER 265, ARTICLE V, OF THE CITY CODE ENTITLED "DEVELOPMENT REVIEW PROCEDURES" TO REQUIRE RE-NOTICING OF ZONING APPLICATIONS WHERE DEFERRAL REQUEST EXCEEDS THIRTY (30) DAYS; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 265, Article V, of the Code of Ordinances of the City of Sunny Isles Beach ("City") establishes application procedures for approval of development permits; and

WHEREAS, Section 265-11(F) of the City Code provides that public hearings for zoning applications may be deferred or continued at the discretion of the City Commission; and

WHEREAS, the City desires to amend the procedure for deferrals or continuances of zoning applications, to require re-noticing of zoning applications where deferral or continuance requests exceed thirty (30) days.

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 265-11 of the City Code is amended to read as follows:

§ 265-11. – Stormwater utility fees.

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F. Rescheduled meeting dates and withdrawal. Public hearings for applications may be deferred or continued, by and at the discretion of the City Commission, to a meeting date certain. If a zoning applicant requests a deferral or continuance in excess of thirty (30) days, the zoning applicant at its own expense shall be required to re-notice their zoning application to all property owners of record located within a radius of 300 (three hundred) feet of the property described in the application not less than 10 (ten) days prior to the re-noticed public hearing, pursuant to Section 265-11(F) of the City Code. If a deferral is either not elected or not granted, the City Commission, within its discretion, may grant a withdrawal of the zoning application with or without prejudice. If a zoning applicant is provided with an opportunity to withdraw its application without prejudice, the application which is subject to said withdrawal may be refiled at any time. If, however, a
zoning applicant is allowed to withdraw its application with prejudice, that application shall not be resubmitted for reconsideration to the City Commission for a period of one year after the date the withdrawal with prejudice is granted by the City Commission. In the event an application in whole or in part has been twice or more denied or withdrawn, a period of two years must run prior to the filing of any subsequent application. In any case, the applicant shall bear the costs associated with either the withdrawal or refiling.

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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 15th day of November 2012.

PASSED and ADOPTED on second reading the ____ day of _________ 2012.

ATTEST:

Norman S. Edelcup, Mayor

Jane A. Hines, CMC, City Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

Hans Ottinot, City Attorney

Words added underlined, words stricken deleted (ed)
Moved by: ______________________
Seconded by: ______________________

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