TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER

DATE: MARCH 12, 2007

DEPARTMENT: PLANNING AND COMMUNITY ENVIRONMENT

CMR: 164:07

SUBJECT: ORDINANCE AMENDING SECTION 18.10.070(A) OF THE PALO ALTO MUNICIPAL CODE TO PROHIBIT SECOND DWELLING UNITS, INCLUDING AIRSPACE RIGHTS THERETO, UNDER DIFFERENT OWNERSHIP FROM THE INITIAL DWELLING UNIT, IN THE R-2 AND RMD ZONING DISTRICTS.

RECOMMENDATION

Staff and the Planning and Transportation Commission (P&TC) recommend that the City Council adopt the attached ordinance (Attachment A) to prohibit second dwelling units, including associated airspace rights, under different ownership from the initial dwelling unit in the RMD and R-2 zoning districts.

BACKGROUND

On November 20, 2006, the City Council denied an appeal and upheld the Director’s decision to allow a parcel map to accommodate two “airspace” condominium lots on an existing parcel at 610 California Avenue. The intent of the minor subdivision was to convert each residential structure to ownership units. The underlying lot would not be subdivided, but would be owned by a single entity comprised of the owners of the residential buildings (in the form of a homeowners association).

Also on November 20, 2006, the Council adopted an extension of an interim urgency ordinance (Attachment B) to prohibit ownership of second units in the R-2 and RMD zones, to be effective through October 15, 2008 or earlier if a permanent ordinance is enacted to repeal the interim ordinance. The interim ordinance exempted the 610 California Ave. project from its provisions. The Council stated that this action and the permanent revision should be considered a “clarification” of the existing ordinance, intended to specify the original purpose of the R-2 and RMD regulations to limit second units to rentals.
DISCUSSION
The amended ordinance (Attachment A) adds language to Section 18.10.070(a) that states “Any second dwelling unit, and any airspace rights thereto, under different ownership from the initial dwelling unit, shall be prohibited in the R-2 and RMD districts.” The purpose of this language is to clarify Council’s original intent to explicitly preclude the condominium approach proposed for 610 California Ave.

Planning and Transportation Commission (P&TC) Action
On January 10, 2007, the P&TC voted unanimously to recommend that the Council adopt the attached draft ordinance. The Commission discussed the potential to tie condominium conversions to preservation of historic homes, but determined that was outside the scope of the present ordinance review. A motion to defer the adoption until other historic preservation options could be evaluated was defeated 3-4. The Commission did, however, request that discussion of such potential historic preservation incentives be set for a future P&TC study session. Two members of the public spoke at the hearing, one in favor and one opposed to the change (their correspondence is included in Attachment E).

The P&TC staff report (Attachment C) and minutes (Attachment D) of the January 10, 2007 meeting are also attached.

RESOURCE IMPACT
The recommendations in the proposed zoning amendment will have no impact on City resources. The modifications would preserve and clarify the intent of the current zoning ordinance provisions.

POLICY IMPLICATIONS
The zoning amendment would be consistent with Comprehensive Plan and Zoning Ordinance purpose and intent statements to retain second dwelling units as rental units in the City of Palo Alto.

ENVIRONMENTAL REVIEW
The California Environmental Quality Act (CEQA) lists “minor alterations in land use limitations” as exempt from CEQA (Section 15305). It is readily apparent that the ownership differences noted in the ordinance amendment could have no significant physical environmental impacts.

PREPARED BY:  _______________________________________________
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DEPARTMENT HEAD REVIEW:  ________________________________
STEVE EMSLIE 
Director of Planning and Community Environment

CITY MANAGER APPROVAL:  ____________________________________
EMILY HARRISON 
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ATTACHMENTS
Attachment A: Draft Ordinance No.___________
Attachment B: Interim Ordinance No. 4921
Attachment C: January 10, 2007 Planning and Transportation Commission Staff Report
Attachment D: January 10, 2007 Planning and Transportation Commission Minutes
Attachment E: Correspondence

COURTESY COPIES