TO:       HONORABLE CITY COUNCIL
FROM:     CITY MANAGER
DEPARTMENT: PLANNING AND
COMMUNITY ENVIRONMENT
DATE:     MARCH 1, 2004
SUBJECT:  2957 WAVERLEY AVENUE: REQUEST BY CHUCK BRADLEY
FOR A PARTIAL REFUND OF DEVELOPMENT IMPACT FEES
PAID IN NOVEMBER 2002 ON A SECOND RESIDENTIAL UNIT
CONSTRUCTED IN CONJUNCTION WITH A REPLACEMENT
HOME

RECOMMENDATION
Staff recommends that the City Council deny the request for a partial refund.

BACKGROUND
On March 25, 2002, the City Council adopted development impact fees to meet some of the
capital costs for parks, libraries and community centers to serve new residents. On
September 17, 2002, the City Council introduced an ordinance reducing impact fees for
multi-family units of 900 square feet or less, from $6,930 to $3,500. The fee reduction was
effective on projects approved after November 7, 2002 (CMR 380:02).

One of the projects subject to the impact fees was the replacement of a single family
dwelling at 2957 Waverley of approximately 925 square feet with a new residence of
approximately 2,600 square feet and a second unit of approximately 900 square feet. The
larger unit was not subject to development impact fees because it replaced an existing home.
The second unit was subject to the fees.

The larger unit was approved on June 2002. The second unit was approved on August 26
2002. Development impact fees were paid when the building permit was issued on
November 21, 2002. A synopsis of events and dates related to development impact fees and
the property owner’s request for a partial refund is listed in attachment A.

DISCUSSION
Detailed information regarding application of the law related to the property at 2497
Waverley has been provided to Mr. Bradley by the City Attorney’s Office (attachment B).
Palo Alto Municipal Code 16.58.040 states “the obligation to pay the fees established by
this chapter shall accrue as of the date the first discretionary approval is given for the
development, or if no discretionary approval is required, as of the date a complete application is submitted for a building permit.” The $6,930 fee collected is consistent with the ordinance: it was the fee amount required by law on the date the project was approved.

Mr. Bradley attended the July 16, 2003 public hearing when the impact fee levels were considered by the Finance Committee. Mr. Bradley also attended the September 17, 2003 City Council meeting, where he strongly recommended the City Council exempt single-family homes from the ordinance during oral communications.

City Council adopted the proposed fees on September 17, 2002. Residential properties were not exempted as recommended by Mr. Bradley, nor does the ordinance permit either the increase or decreased fees to be applied retroactively.

Five residential units were subject to the $6,930 development impact fee before Council adopted the $3,500 fee level for units smaller than or equal to 900 square feet, including the property at 2457 Waverley Avenue. The other properties subject to the $6,930 fee level are:

- 727 Addison 2nd unit
- 124 Emerson 2nd unit attached to garage
- 2051 El Camino Real 2 units (part of a mixed use project)

None of the property owners listed above, other than Mr. Bradley, have requested a partial refund based on the lower fee authorized by City Council.

**POLICY IMPLICATIONS**
The proposed recommendation is consistent with Council policies and priorities.

**ATTACHMENTS**

A. Refund Request Synopsis


C. Letter addressed to City Council from Chuck Bradley, February 20, 2004