TO: HONORABLE CITY COUNCIL

FROM: City Attorney
City Manager

DATE: May 8, 2006

SUBJECT: ORDINANCE ADDING CHAPTER 18.90 TO THE PALO ALTO MUNICIPAL CODE TO ALLOW THE CREATION OF EASEMENTS THROUGH THE EXECUTION AND RECORDATION OF COVENANTS

RECOMMENDATION

Following the public hearing on this issue, staff recommends that the Council review and adopt the proposed Chapter 18.90 of the Municipal Code, allowing the creation of easements through the execution and recordation of covenants.

DISCUSSION

Government Code sections 65870-65875 allow the creation of easements on properties held by a common owner for the limited purposes of parking, ingress, egress, emergency access, light and air access, landscaping, or open space purposes, in cities that have passed local enabling ordinances for the creation of easements pursuant to the Government Code. Without that type of ordinance, which creates an exception to the general rule in property law that one cannot grant an easement to one’s own property, it is very difficult to satisfy City and practical requirements to ensure that an easement placed on property held in common ownership is permanent.

Passage of this ordinance will solve a number of City and developer problems. Historically, many adjacent properties in Palo Alto have been held in common ownership, and today many owners want to redevelop the parcels while continuing to hold them under the same ownership. This ordinance will help eliminate delay in development projects by simplifying the legal requirements for property owners in this situation and enabling the City and property owners to ensure that necessary easements exist in perpetuity.
RE: ORDINANCE ADDING CHAPTER 18.90 TO THE PALO ALTO MUNICIPAL CODE TO ALLOW THE CREATION OF EASEMENTS THROUGH THE EXECUTION AND RECORDATION OF COVENANTS

BOARD/COMMISSION REVIEW AND RECOMMENDATIONS

The Planning and Transportation Commission reviewed this ordinance on April 26, 2006, and voted unanimously to recommend that the City Council adopt the ordinance.

PREPARED BY: MELISSA TRONQUET Deputy City Attorney

CITY ATTORNEY APPROVAL: GARY M. BAUM City Attorney

CITY MANAGER APPROVAL: EMILY HARRISON Assistant City Manager

ATTACHMENTS

A. Draft Ordinance Allowing Creation of Easements Through the Execution and Recordation of Covenants
B. Staff Report to Planning and Transportation Commission, April 26, 2006
C. Minutes of Planning and Transportation Discussion on Draft Ordinance, April 26, 2006