

ORDINANCE NO. 07-2002

AN ORDINANCE OF THE CITY OF ELK GROVE AMENDING CHAPTER 16.83 IN THE ELK GROVE CITY CODE RELATING TO DEVELOPMENT IMPACT FEES IN THE LAGUNA SOUTH AREA

The City Council of the City of Elk Grove does ordain as follows:

Section 1. Purpose and Authority. The purpose of this ordinance is to amend Chapter 16.83 in the City Code relating to the establishment of development impact fees in the Laguna South area of the City of Elk Grove (hereinafter "Laguna South"). The City Council enacts this ordinance pursuant to the authority granted cities by Article XI, Section 7 of the California Constitution.

Section 2. Findings. The City Council finds and determines as follows:

a. Upon its incorporation, the City of Elk Grove adopted the Sacramento County General Plan (hereinafter "General Plan") as the City's general plan. The General Plan includes a description of the general location, capacity, and types of public facilities planned to accommodate development anticipated to occur in Laguna South.

b. As stated in the General Plan, the City shall ensure that adequate public facilities are provided to serve new growth and maintain or improve existing levels of service within the City. To finance needed public facilities in Laguna South, the City needs to establish an appropriate schedule of development impact fees pursuant to Government Code section 66000, et seq., so that new development in Laguna South pays no more nor less than its fair share of the cost of providing these public facilities.

c. The basis for establishment of the facilities fees is identified in the General Plan, and the need for and cost of new public facilities and improvements required by new development in the Laguna South area is analyzed in the City of Elk Grove Laguna South Public Facilities Fee Program Nexus Study dated January 25, 2002, prepared by Economic and Planning Systems, Inc. The Nexus Study was made available for public review at least ten (10) days prior to the public hearing on this Ordinance.

d. In order to protect the health, safety, and welfare of the community and to ensure that adequate public facilities are provided for the residents of the City of Elk Grove, adoption of a capital improvement facilities fee is necessary.

Section 3. Additions. Chapter 16.83 is hereby amended in the City Code of the City of Elk Grove, to read in its entirety as follows:

“CHAPTER 16.83

**ESTABLISHMENT OF DEVELOPMENT FEES TO FINANCE
THE COST OF PUBLIC FACILITIES WITHIN THE CITY OF ELK GROVE/LAGUNA
SOUTH PUBLIC FACILITIES FEE PROGRAM AREA**

Sections:

- 16.83.010 Purpose
- 16.83.020 Definitions
- 16.83.030 Establishment of City of Elk Grove/Laguna South Roadway Facilities Fund
- 16.83.040 Establishment of City of Elk Grove/Laguna South Fire Facilities Fund
- 16.83.050 Establishment of City of Elk Grove/Laguna South Library Facilities Fund
- 16.83.060 Establishment of City of Elk Grove/Laguna South Transit Facilities Fund
- 16.83.070 Establishment of City of Elk Grove/Laguna South Fee Program Administration Costs Fund
- 16.83.080 Establishment of City of Elk Grove/Laguna South Park Facilities Fund
- 16.83.090 Establishment of City of Elk Grove/Laguna South Landscape Corridor Facilities Fund
- 16.83.100 Establishment of City of Elk Grove/Laguna South Supplemental Drainage Facilities Fund
- 16.83.110 Establishment of City of Elk Grove/Laguna South Reclaimed Water Facilities Fund
- 16.83.120 Payment of Development Fees
- 16.83.130 Adoption and Compliance with Schedule of LSPFFP
- 16.83.140 Establishment of Development Fees
- 16.83.150 Calculation of Development Fees
- 16.83.160 Credit/Reimbursement for Construction of Public Facilities
- 16.83.170 Compliance with Other Laws

16.83.010 PURPOSE

The City of Elk Grove General Plan requires that areas chosen for urban expansion shall be capable of being provided within a reasonable period of time with an adequate level of public facilities, including:

- I. Regional Public Facilities
 - (1) Roadway facilities;
 - (2) Fire protection facilities;

(3) Library facilities;

(4) Transit facilities;

II. Plan Area Specific Public Facilities

(1) Park facilities;

(2) Landscape corridor facilities;

(3) Supplemental drainage facilities;

(4) Reclaimed water facilities.

b. The General Plan further requires the preparation of a plan that identifies a mechanism for financing and providing for those facilities necessary to serve urban development in areas designated for policies for supporting funding of the aforementioned facilities.

c. The purpose of this Chapter is to implement the General Plan requirements set forth in subdivisions (a) and (b) of this section and to use the authority in Article XI, Section 7 of the California Constitution by imposing development fees to fund the cost of certain facilities described in the City of Elk Grove Laguna South Public Facilities Fee Program (hereinafter and in some instances referred to as LSPFFP).

16.83.020 DEFINITIONS.

a. "Administrative Fee" means that fee collected to cover the City's costs of administering the LSPFFP.

b. "Building Permit" means the permit issued or required for the construction or improvement of additional square footage for any structure pursuant to and as defined by the City of Elk Grove Building Code.

c. "City" means the City of Elk Grove.

d. "City of Elk Grove/Laguna South Fee Program Administration Fund" means that special interest bearing trust fund established pursuant to Section 16.83.70.

e. "City of Elk Grove/Laguna South (EGCSD) Fire Facilities Fund" means that special interest-bearing trust fund established pursuant to Section 16.83.40.

f. "City of Elk Grove/Laguna South Library Facilities Fund" means that special interest-bearing trust fund established pursuant to Section 16.83.50.

g. "City of Elk Grove/Laguna South Plan Specific Landscape Corridor Facilities Fund" means that special interest-bearing fund established pursuant to Section 16.83.90.

h. "City of Elk Grove/Laguna South Plan Specific Park Facilities Fund" means that special interest-bearing trust fund established pursuant to Section 16.83.80.

i. "City of Elk Grove/Laguna South Plan Specific Reclaimed Water Facilities Fund" means that special interest-bearing fund established pursuant to Section 16.83.110.

j. "City of Elk Grove/Laguna South Plan Specific Supplemental Drainage Facilities Fund" means that special interest-bearing fund established pursuant to Section 16.83.100.

k. "City of Elk Grove/Laguna South Public Facilities Fee Program Area" means all property located within the geographic area depicted in Figure 1 attached to this ordinance and hereby incorporated by reference. Figure 1 is on file with the City Clerk of the City of Elk Grove and is by this reference incorporated herein.

l. "City of Elk Grove/Laguna South Public Facilities Fee Program" means the program, including any amendments thereto, adopted by resolution of the City Council for financing of designated facilities within the LSPFFP area, including, but not limited to, a designation of those facilities to be constructed with the development fees collected pursuant to this Chapter, the schedule for commencement of construction, the estimated cost of construction of the facilities and the total number of dwelling unit equivalents within the LSPFFP area.

m. "City of Elk Grove/Laguna South Roadway Facilities Fund" means that special interest-bearing trust fund established pursuant to Section 16.83.30.

n. "City of Elk Grove/Laguna South Transit Facilities Fund" means that special interest-bearing trust fund established pursuant to Section 16.83.60.

o. "Cost Schedule" means a schedule included in the LSPFFP that contains the units and cost per unit for each type of eligible public facility improvement.

p. "Costs" means amounts spent, or authorized to be spent, in connection with the planning, financing, acquisition and development of a facility including, without limitation, the costs of land, construction, engineering, administration, and consulting fees.

q. "Council" means the City Council of the City of Elk Grove.

r. "Department" means the City of Elk Grove Public Works Department.

s. "Development Fee" or "LSPFF" means the Laguna South Public Facilities Fee, the fee levied by this Chapter upon the approval of building permits within the LSPFFP area.

t. "Director" means the Director of the City of Elk Grove Public Works Department.

u. "Facilities" means those public facilities designated in the LSPFFP – Development Fee Program.

v. "Facility Benefit Area" as referenced in the LSPFFP, means an area designated in the LSPFFP that receives benefit from one or more public facility improvement.

w. "Interest Rate" means the rate applied to the monies owed developers awaiting reimbursement for the roadway component of the LSPFFP. The Interest Rate shall be established by the City Council.

x. "Non-Residential Development" means a subdivision map, parcel map, or permit for the original construction, grading or installation of construction other than single-family detached homes, single-family attached homes, duplexes, town homes, condominiums, apartments, manufactured homes and mobile homes.

y. "Planning Director" means the Director of the City of Elk Grove Department of Planning and Community Development.

z. "Program Fee Per Square Foot" means the development fee per gross leasable square foot within a particular category of non-residential land use zoning classification, as outlined in the LSPFFP fee schedules. The fee is particular to land use zoning classification and Facilities Benefit Area within which the fee is being imposed.

aa. "Program Fee Per Unit" means the development fee per unit within a particular residential land use zoning classification, as outlined in the LSPFFP fee schedules. The fee is particular to land use zoning classification and Facilities Benefit Area within which the fee is being imposed.

bb. "Residential Development" means a subdivision map, parcel map, or permit for the original construction, grading or installation of single-family detached homes, single-family attached homes, duplexes, town homes, condominiums, apartments, manufactured homes and mobile homes.

16.83.030 ESTABLISHMENT OF CITY OF ELK GROVE/LAGUNA SOUTH ROADWAY FACILITIES FUND.

There is hereby created by the office of the City Treasurer, a special interest-bearing trust fund entitled the City of Elk Grove/Laguna South Roadway Facilities Fund. All roadway development fees collected pursuant to this Chapter shall be placed in said fund and shall be expended by the City of Elk Grove solely to pay the costs of roadway facilities identified in the LSPFFP – Development Fee Program. As provided for in the LSPFFP, the roadway fee shall be divided into two components: one to fund the Grant Line Road/Highway 99 Interchange, and one to fund all other roadway improvements. The roadway fee separation will result in a percentage, as set forth by resolution of the Elk Grove City Council, of each roadway fee dollar being reserved for the Interchange.

16.83.040 ESTABLISHMENT OF CITY OF ELK GROVE/LAGUNA SOUTH FIRE FACILITIES FUND.

There is hereby created by the office of the City Treasurer, a special interest-bearing trust fund entitled the City of Elk Grove/Laguna South Fire Facilities Fund. All fire facilities development fees collected pursuant to this Chapter shall be placed in said fund and shall be expended by the Elk Grove Community Services District, or its successor agency, solely to pay the costs of fire facilities identified in the LSPFFP.

16.83.050 ESTABLISHMENT OF CITY OF ELK GROVE/LAGUNA SOUTH LIBRARY FACILITIES FUND.

There is hereby created by the office of the City Treasurer a special interest-bearing trust fund entitled the City of Elk Grove/Laguna South Library Facility Fund. The Sacramento Public Library Authority, or its successor agency, solely to pay the costs of the library facilities identified in the LSPFFP, shall expend all library facility development fees collected pursuant to this Chapter.

16.83.060 ESTABLISHMENT OF CITY OF ELK GROVE/LAGUNA SOUTH TRANSIT FACILITIES FUND.

There is hereby created by the office of the City Treasurer a special interest-bearing trust fund entitled the City of Elk Grove/Laguna South Transit Facilities Fund. The City of Elk Grove, or its successor agency, solely to pay the costs of transit facilities identified in the LSPFFP, pursuant to this Chapter shall expend all transit facilities fees collected.

16.83.070 ESTABLISHMENT OF CITY OF ELK GROVE/LAGUNA SOUTH FEE PROGRAM ADMINISTRATION COSTS FUND.

There is hereby created in the office of the City Treasurer a special interest-bearing fund entitled the City of Elk Grove/Laguna South Fee Program Administration Costs Fund. As described in the LSPFFP, this fee is equal to a percentage of the total LSPFF. All such fees collected pursuant to this Chapter shall be deposited in said fund and shall be expended by the City of Elk Grove solely to pay the costs of the fee program administration costs identified in the LSPFFP.

16.83.080 ESTABLISHMENT OF CITY OF ELK GROVE/LAGUNA SOUTH PARK FACILITIES FUND.

For each Facility Benefit Area, there is hereby created by the office of the City Treasurer, a special interest-bearing trust fund entitled the Elk Grove/Laguna South Park Facilities Fund. All park facilities fees collected from such Facility Benefit Area pursuant to this Chapter shall be placed in said fund and shall be expended by the Elk Grove Community Services District, or its successor agency, solely to pay the costs of park facilities identified in the LSPFFP for that Facility Benefit Area.

16.83.090 ESTABLISHMENT OF CITY OF ELK GROVE/LAGUNA SOUTH LANDSCAPE CORRIDOR FACILITIES FUND.

For each Facility Benefit Area, there is hereby created by the office of the City Treasurer, a special interest-bearing trust fund entitled the Elk Grove/Laguna South Landscape Corridor Facilities Fund. All landscape corridor facilities fees collected from such Facility Benefit Area pursuant to this Chapter shall be placed in said fund and shall be expended by the City of Elk Grove solely to pay the costs of landscape corridor facilities identified in the LSPFFP for that Facility Benefit Area.

16.83.100 ESTABLISHMENT OF CITY OF ELK GROVE/LAGUNA SOUTH SUPPLEMENTAL DRAINAGE FACILITIES FUND.

For each Facility Benefit Area, there is hereby created by the office of the City Treasurer, a special interest-bearing trust fund entitled the Elk Grove/Laguna South Supplemental Drainage Facilities Fund. All supplemental drainage facilities fees collected from such Facility Benefit Areas pursuant to this Chapter shall be placed in said fund and shall be expended by the Sacramento County Water Agency, or its successor agency, solely to pay the costs of supplemental drainage facilities identified in the LSPFFP for that Facility Benefit Area.

16.83.110 ESTABLISHMENT OF CITY OF ELK GROVE/LAGUNA SOUTH RECLAIMED WATER FACILITIES FUND.

For each Facility Benefit Area, there is hereby created by the office of the City Treasurer, a special interest-bearing trust fund entitled the Elk Grove/Laguna South Reclaimed Water Facilities Fund. All reclaimed water facilities fees collected from such Facility Benefit Areas pursuant to this Chapter shall be placed in said fund and shall be expended by the Sacramento County Water Agency, or its successor agency, solely to pay the costs of reclaimed water facilities identified in the LSPFFP for that Facility Benefit Area.

16.83.120 PAYMENT OF DEVELOPMENT FEES.

The property owner shall pay the development fees imposed pursuant to this Chapter to the City, in an amount calculated pursuant to Sections 16.83.150. The fees shall be both calculated and paid upon the issuance of building permits.

16.83.130 ADOPTION AND COMPLIANCE WITH SCHEDULE OF LSPFFP.

The City Council shall establish the amount of the LSPFF by resolution. The City Council shall review the LSPFFP not less than annually and may amend it at its discretion.

16.83.140 ESTABLISHMENT OF DEVELOPMENT FEES.

A separate development fee is hereby established for each of the following categories:

- I. Regional Public Facilities
 - (1) Roadway facilities;
 - (2) Fire protection facilities;
 - (3) Library facilities;
 - (4) Transit facilities;
 - (5) Fee program administration costs.
- II. Specific Public Facilities for Each Facility Benefit Area.
 - (1) Park facilities;
 - (2) Landscape corridor facilities;
 - (3) Supplemental drainage facilities; and
 - (4) Reclaimed water facilities.

16.83.150 CALCULATION OF DEVELOPMENT FEES.

a. For residential development, the LSPFF shall be calculated by multiplying the number of units per land use zoning category by the Program Fee Per Unit in the LSPFFP for the Facilities Benefit Area in which the development is occurring.

b. For non-residential development, the LSPFF shall be calculated by multiplying the number of gross leasable square feet per land use zoning category by the Program Fee Per Square Foot in the LSPFFP for the Facilities Benefit Area in which the development is occurring.

c. For the purpose of calculating LSPFFP pursuant to subdivisions (a) and (b) of this section for properties with an approved use permit, which significantly changes the underlying use of the site, or properties within a Special Planning Area, the Planning Director is hereby authorized to determine the land use zone, which corresponds most directly to the use and density.

d. For the purpose of calculating LSPFFP pursuant to subdivisions (a) and (b) of this section for building permits for dwelling units not associated with a recorded residential subdivision, non-residential development, or multiple family development, or for land use categories not included in the LSPFFP, the Planning Director is hereby authorized to determine the appropriate land use zone which corresponds most directly to the use and density.

e. In January of each calendar year, the LSPFFP shall be automatically adjusted by the change in the average of the San Francisco and 20-city Construction

Cost Index as reported in the Engineering News Record for the 12-month period ending October of the prior year.

16.83.160 CREDIT/REIMBURSEMENT FOR CONSTRUCTION OF PUBLIC FACILITIES.

I. General Provisions

a. Fee credits and reimbursements shall be available for each LSPFF component administered by the City. Public facility projects eligible for reimbursement must be accepted by the City and must be constructed in accordance with City Improvement Standards and Standard Specifications. Public facility projects eligible for fee credit must be shown on City-approved improvement plans, and must be secured with bonds or other financial security to the satisfaction of the City. City makes no representation either express or implied as to whether or not the construction of public facility projects requires the payment of prevailing wages.

b. Developers may request fee credits or reimbursements only against the fee component out of which the facilities for which fee credits or reimbursements are being sought would have been constructed or funded.

c. Fee credits or reimbursements will only be granted for public facilities identified within the current or previous Five-Year Capital Improvement Program (CIP) for that facility type or identified as an eligible public facility project in the LSPFFP.

II. Timing and Amount of Fee Credits/Reimbursements

a. Once all criteria are met, fee credits may be taken against fees when payable at the time the building permit is issued. To obtain fee credits on single-family residential building permits, developers must apply to the City prior to issuance of the first building permit associated with a final subdivision map. Fee credits granted shall be prorated over each lot shown on the final subdivision map(s). Large lot maps shall not be used to prorate fee credits in single-family residential developments. To obtain fee credits on multi-family residential or non-residential building permits, developers must apply to the City prior to issuance of building permits. Fee credits granted shall be prorated over each unit for multi-family residential projects or per gross leasable square foot in non-residential development projects. Large lot maps may be used to allocate and assign fee credits in multi-family residential or non-residential developments upon mutual agreement between the developer and the City.

b. Reimbursements shall be due to developers who have advance funded a facility (or facilities) in excess of their fair share of that (those) public facility cost (or facilities costs). In this instance, developers would first obtain fee credits, up to their fair share requirement for a facility, and then await reimbursement from fee revenue collections from other fee payers.

c. Reimbursement priority shall be determined on a first in and first out basis monthly for each public facility type. All public facilities accepted by the City in a given month shall have equal weighting in terms of priority for reimbursement.

d. To obtain reimbursements, developers must enter into a reimbursement agreement with the City. When funds are available in each fee component, reimbursements shall be paid on a quarterly, semi-annual or other basis as determined by the City. As noted, reimbursements shall be paid only after City acceptance of public facility improvements.

e. Reimbursements are an obligation of the Fee Program and not an obligation of the City General Fund. Monies owed developers awaiting reimbursement on the roadway fee shall earn interest at the Interest Rate determined by the City Council. Said interest shall begin to accrue on the date of execution of the reimbursement agreement.

f. With exceptions that may be provided by resolution of the City Council, within each fee component developers shall be eligible for fee credits/reimbursements up to but not exceeding 100 percent of the fee excluding administration costs.

g. Eligible public facility costs used to determine fee credits/reimbursements shall be based on the Cost Schedules set forth in the LSPFFP or actual construction costs. Actual construction costs shall be used when a public facility is publicly bid pursuant to the procedures set forth in California Public Contracts Code Section 20160, et seq.

h. In January of each calendar year, the Cost Schedules set forth in the LSPFFP shall be automatically adjusted by the change in the average of the San Francisco and 20-city Construction Cost Index as reported in the Engineering News Record for the 12-month period ending October of the prior year.


16.83.170 COMPLIANCE WITH OTHER LAWS.

This Chapter is intended to establish a method for funding the cost of certain facilities the need for which will be generated by the level and type of development proposed in the City of Elk Grove Laguna South area. The provisions of this Chapter shall not be construed to limit the power of the City Council to impose any other fees or exactions or to continue to impose existing ones, on development within the LSPFFP area, but shall be in addition to any other requirements which the City Council is authorized to impose, or has previously imposed, as a condition of approving plans, rezonings or other entitlements within the LSPFFP area pursuant to state and local laws. In particular, individual property owners shall remain obligated to fund, construct, and/or dedicate the improvements, public facilities and other exactions required by, but not limited to: (a) The City of Elk Grove Department of Public Works Improvement Standards; (b) the Quimby Act (Government Code section 66477 et seq.) and implementing ordinances (Chapter 22.40 of this Code); (c) school impact fees (Government Code section 65970 et seq.) and implementing ordinances; (d) county

drainage fees; (e) county sanitation district sewer fees; and (f) county water agency water fees. Any credits or repayments pursuant to this Chapter shall not include the funding, construction or dedications described in this section.”

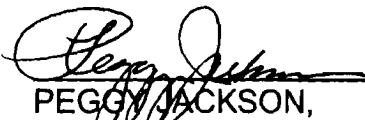
Section 4. Effective Date. This Ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance within 15 days after its passage, a summary of the ordinance may be published at least five days prior to and fifteen (15) days after adoption by the City Council and a certified copy shall be posted in the office of the City Clerk, pursuant to GC 36933(c)(1).

PASSED AND ADOPTED by the City Council of the City of Elk Grove on this 20TH day of February 2002.


MICHAEL P. LEARY, MAYOR of the
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:


PEGGY JACKSON,
CITY CLERK


TONY MANZANETTI,
CITY ATTORNEY

AYES: Leary, Scherman,
Briggs, Soares
NOES: None
ABSTAIN: None
ABSENT: Cooper

Effective Date: **March 22, 2002**

Map 1

Laguna South Fee Program Boundary

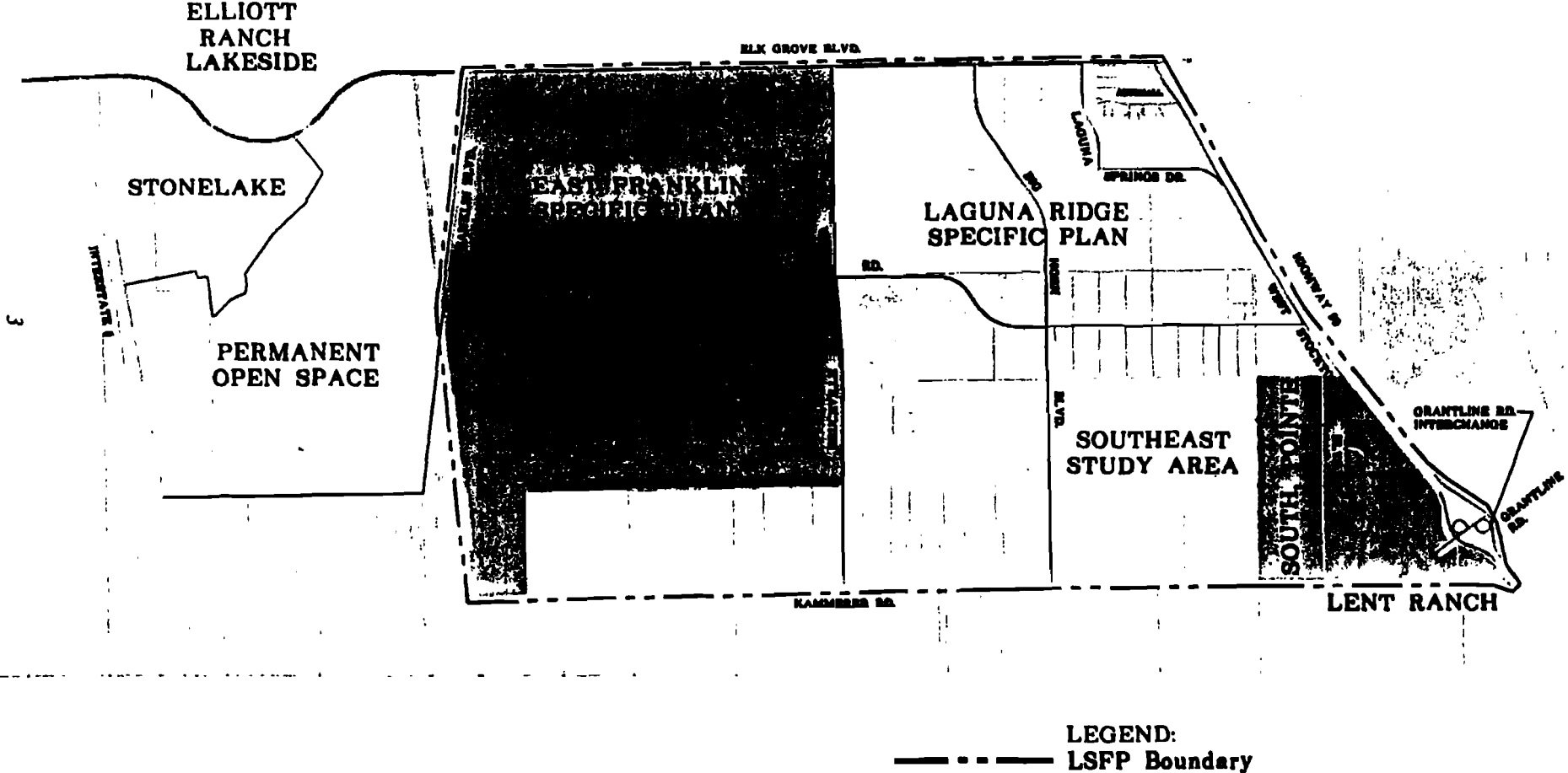


Figure 1