EXHIBIT LRP 2005-00007C

ORDINANCE NO. 3086

AN ORDINANCE AMENDING TITLE 21 OF THE SAN LUIS OBISPO COUNTY CODE, THE REAL PROPERTY DIVISION ORDINANCE, CHAPTER 21.09 RELATIVE TO THE QUIMBY ORDINANCE (PARKLAND DEDICATION ORDINANCE)

The Board of Supervisors of the County of San Luis Obispo ordains as follows:

SECTION 1: Chapter 21.09 of the Real Property Division Ordinance, Title 21 of the San Luis Obispo County Code, is hereby amended as follows:

21.09.010 - Parks and recreation facilities

This Section through Section 21.09.060 are enacted pursuant to Section 66477 of the Government Code and collectively shall be known as the "Quimby Ordinance."

(a) As a condition of the division of land, the divider shall dedicate land and/or pay a fee for the purpose of d eveloping new or rehabilitating existing neighborhood or community park or recreational facilities to serve the subdivision. This requirement shall apply to all divisions of land except those exempted by Section 66477 of the Government Code.

(b) If the proposed division contains fifty (50) parcels or less, the divider shall not be required to dedicate any land for park and recreational purposes without his consent but shall pay a fee in accordance with Section 21.09.018 of this ordinance. Where a condominium project, stock cooperative, or community apartment project exceeds fifty (50) dwelling units, dedication of land shall be required even though the number of parcels may be less than fifty (50).

21.09.012 - Relation of land required to population density

Based upon the principles and standards of the county general plan, it is hereby found and determined that the public interest, convenience, health, safety, and welfare require that 0.00564 acres of land required per dwelling unit for Residential Multiple Family and 0.00741 acres of land per dwelling unit for any other residential or Rural Lands land use category be devoted to neighborhood and community park and recreational purposes, in addition to school lands used cooperatively for recreational purposes. The acres per dwelling unit factor is based on three required park and recreation acres per 1,000 persons in accordance with the county general plan and the average county population density of 1.88 persons per dwelling unit for Residential Multiple Family and 2.47 persons per dwelling unit for any other residential or Rural Lands land use category per the 2000 census.

21.09.014 - Land dedication formula

The amount of acreage required to be dedicated by a divider of land in a residential land use category for park and recreational purposes shall be based upon the dwelling units expected to be generated by the proposed division and shall be computed on the basis of 0.00564 acres of land required per dwelling unit

for Residential Multiple Family and 0.00741 acres of land required per dwelling unit for any other residential or Rural Lands land use category.

21.09.016 - Improvements to land dedicated for park purposes

The dedication of land for park and recreational purposes shall not be deemed to waive any other requirements which may be imposed by the county upon the divider. The divider may, at the time of approval of the tentative map, be required by conditions to said map to provide such public improvements as are deemed necessary by county to develop the park facility. Such improvements may include, but not be limited to, curbs, gutters, drainage facilities, street lighting, stop lights, street signs, matching pavement and street trees.

If the divider provides park and recreational improvements to the dedicated land including, but not limited to, playground equipment, swimming or wading pools, tennis courts, picnic units, or sports facilities, the value of the improvements together with any equipment located thereon shall be a credit against the payment of fees or dedication of land required by this ordinance.

21.09.018 - Amount of fee in lieu of land dedication

When a fee is to be paid in lieu of land dedication, the amount of such fee shall be based upon the projected cost of acquiring, for recreational purposes, the amount of park land which would otherwise be required to be dedicated pursuant to Section 21.09.014. The Board of Supervisors shall from time to time determine the current average cost of acquiring one acre of park land within the county. The fee shall be based on the land component cost as established in the county's Public Facilities Financing Plan. The divider shall pay a fee determined by multiplying such cost by the number of dwelling units expected to be generated by the proposed division by 0.00564 acres of land required per dwelling unit for Residential Multiple Family and 0.00741 acres of land per dwelling unit for any other residential or Rural Lands land use category. The amount of fee required in lieu of land dedication shall be reflected on the fee schedule and paid when the divider records the parcel or tract map. Where the parkland dedication fees (Quimby) have been paid at the time of recordation of the parcel or tract map, the land portion of the park component of the Public Facility fee (30.7 percent) shall not be collected at the time of the construction permit.

21.09.020 - Credit for common open space

Where usable common open space for park and recreational purposes is provided in a proposed division of land and such space is to be privately owned and maintained by the future residents of the subdivision, partial credit, not to exceed 50%, may be given against the requirement of land dedication or payment of fees in lieu thereof if the Review Authority finds that it is in the public interest to do so, and that all of the following standards are met:

(a) That yards, setbacks, open space required for cluster divisions, and other open areas required by Title 22, Title 23, and Title 19 of this code, including areas credited against minimum lot sizes, shall not be included in computing the amount of such common open space; and,

(b) That the private ownership and maintenance of the open space shall be adequately provided for by deeds and recorded covenants; and

(c) That the use of common open space shall be restricted for park and recreational purposes by

recorded covenants which run with the land in favor of the existing and future owners of the property within the division of land and which cannot be eliminated without the consent of the county; and,

(d) That the proposed common open space is reasonably adaptable for use for park and recreational purposes as determined by the county; and,

(e) That the open space for which credit is given will meet the needs of the future residents of the subdivision, or, alternatively, that the land and/or facilities offered provide a special recreational benefit to the subdivision not otherwise provided in available park and recreational facilities.

21.09.022 - Choice and method of dedication of land and/or payment of fees

The procedure for determining whether a divider is to dedicate land, pay a fee, or do both, shall be as follows:

(a) At the time of filing an application for a tentative map , the divider as a part of filing shall indicate whether a dedication of property for park and recreational purposes is proposed, or whether payment of an in-lieu fee is proposed. If dedication of land is proposed, the area proposed shall be designated on the tentative map. If the property is located outside the boundaries of the proposed division, another map shall be submitted to the Department of Planning and Building showing the location of the property to be dedicated.

(b) If the divider is requesting credit for common open space pursuant to Section 21.09.020, the request for such credit must be submitted in writing at the time of filing the application, with a copy of such request submitted to the Director of General Services outlining the following:

(1) The acreage and average slope of the open space area being offered for park purposes; and,

(2) A description of on-site recreational amenities being proposed, detailing the location of said facilities within the division of land; and,

(3) The proposed form of ownership and method of maintenance of the open space and facilities.

(c) When land dedication is required, it shall be accomplished in accordance with the provisions of the Subdivision Map Act and of Section 21.09.030. When fees are required, they shall be paid to the County Treasurer prior to recordation of the tract or parcel map or prior to a finding waiving the requirement for a parcel map pursuant to Section 21.02.010(e) and shall be held until such time as the map is recorded, withdrawn by the divider, or the time for recordation expires. If the parcel or tract map is withdrawn or the time for recordation expires, the funds shall be returned without interest to the divider.

(d) Deeds and recorded covenants for private common open space approved pursuant to Section 21.09.020 must be approved by the Director of Planning and Building and County Counsel prior to approval of the tentative map, and the divider shall make all conveyances of the parcels within the division subject to such deeds and recorded covenants.

(e) The determination whether to require a dedication of land, the payment of a fee in lieu thereof, or a combination of both, shall be made by the Review Authority upon consideration of the following factors which are not deemed exclusive:

(1) The county general plan; and

(2) Site development factors such as the topography, environmental suitability, access and location of the land in the subdivision available for dedication; the size and shape of the subdivision and the land available for dedication; the location of existing or proposed park sites and trailways; and,

(3) The desirability of developing the land proposed for dedication for park and recreational purposes.

Except that for divisions of land of fifty (50) parcels or less, the provisions of Section 21.09.010b shall apply. In the event that a dedication of land is required, the location of the dedication shall be shown on the tentative map. In the event that fees are to be required, the amount shall be determined according to Section 21.09.018.

21.09.030 - Conveyance of land

Real property conveyed under the provisions of this ordinance shall be conveyed by grant deed in fee simple absolute to the county by the divider free and clear of all encumbrances except those which, in county's opinion, will not interfere with use of the property for park and recreational purposes and which the county agrees to accept. Required deeds shall be deposited with the county prior to recordation of the parcel or tract map. The deeds shall be held by the county until such time as the parcel or tract map is recorded, withdrawn by the divider, or the time for recordation expires. The divider shall provide all fees and instruments required to convey the land plus title insurance in favor of the county in an amount equal to the value of the property being conveyed.

21.09.040 - Use of fees and dedicated land

The director of general services shall develop a schedule specifying how, where, and when the county will use the land or fees or both to develop park or recreational facilities to serve the residents of the subdivision. The fees that are collected shall be placed into five zones reflecting geographic areas of common interest for parks and recreation needs based upon the following Planning Areas:

Area 1: Adelaida, El Pomar-Estrella, Nacimiento, and Salinas River Planning Areas
Area 2: Estero and North Coast Planning Areas
Area 3: San Luis Bay (coastal and inland) and San Luis Obispo Planning Areas
Area 4: South County (coastal and inland) Planning Area
Area 5: Las Pilitas, Shandon-Carrizo, Huasna-Lopez,and Los Padres Planning Areas

The fees that are collected shall be expended in the geographic area where the fees have been collected as established above. All fees collected under this ordinance shall be committed within five years of payment of said fees or the issuance of building permits on one-half of the lots created by the subdivision, whichever occurs later. If such fees are not committed, they, without any deductions, shall be distributed and paid to the then record owners of the subdivision in the same proportion that the size of their lot bears to the total area of all lots within the subdivision

21.09.050 - Local agencies

In cases where the county determines that park and recreational facilities to serve the subdivision should be or are provided by a local agency other than the county, the county may require that land be dedicated or fees be paid to such other local agency if the local agency agrees to accept the land or fees. In such an event, the amount and location of land to be dedicated or fees to be paid shall be jointly determined by the county and such local agency in accordance with the terms and conditions of this ordinance and such local agency shall develop the land or use the fees in the manner provided herein.

21.09.060 - Limitation on use of land and fees

The land and fees received under the provisions of this ordinance shall be used only for the purpose of providing park and recreational facilities to serve the subdivision in accordance with the principles and standards contained in California law, the county general plan, and administrative guidelines developed by the Department of General Services.

SECTION 2. That the activity is covered by a general rule exemption (State CEQA Guidelines section 15061(b)(3)) from the California Environmental Quality Act (CEQA) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

SECTION 3. If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 4: This ordinance shall take effect and be in full force on and after 60 days from the date of its passage hereof. Before the expiration of 15 days after the adoption of this ordinance, it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

INTRODUCED at a regular meeting of the Board of Supervisors held on the 11th day of April, 2006, and PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the 25th day of April, 2006, by the following roll call vote, to wit:

AYES: Supervisors James R. Patterson, Shirley Bianchi, Jerry Lenthall, Chairperson K.H. 'Katcho' Achadjian

NOES: None

ABSENT: Supervisor Harry L. Ovitt

ABSTAINING: None

K.H. ACHADJIAN

Chairman of the Board of Supervisors,
County of San Luis Obispo, State of California

ATTEST:

JULIE L. RODEWALD

County Clerk and Ex-Officio Clerk
of the Board of Supervisors
County of San Luis Obispo, State of California

[SEAL] By: C.M. CHRISTENSEN
Deputy Clerk

ORDINANCE CODE PROVISIONS APPROVED
AS TO FORM AND CODIFICATION:

JAMES B. LINDHOLM, JR.
County Counsel

By: _____
Deputy County Counsel

Dated: 3·30·06