

## RESOLUTION NO. 15-29

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### A RESOLUTION INTERPRETING THE TERM “DESIGNATED AS A PARK” AS SET FORTH IN CHAPTER X, SECTION 43 OF THE CITY OF OREGON CITY CHARTER

**WHEREAS**, Chapter X of the City of Oregon City Charter (hereinafter “City Charter”) was adopted by voter initiative in 1970 and Section 40 of that chapter identifies the purpose of that chapter to be to prevent “the transfer, sale, vacation or major change in use of city parks without first obtaining an approving vote of the legal voters of this city; to designate certain park areas and their use; to preserve the natural beauty of public parks and to protect the rights of citizens in the preservation of their heritage of nature;” and

**WHEREAS**, Chapter X, Section 42 of the City of Oregon City Charter (hereinafter “City Charter”) identifies several areas that are “designated as parks” by the citizens of Oregon City as part of the Charter, including Waterboard Park, which is specifically described to include the following areas:

The area designated as WATERBOARD PARK on the map of Oregon City revised 1969, and the adjoining areas thereof lying below the high bluff, the westerly end of which area is at the southwesterly corner of Tract 19, FIELDS ADDITION, and the easterly end of which area is approximately at the intersection of Quarry and Third Streets; except any portion thereof lying north of the road running from John Adams Street and the extension thereof around the south side of the Armory and connecting to South 2nd Street. WATERBOARD PARK as above described is designated as a natural park; and

**WHEREAS**, the description of Waterboard Park in Section 42 specifically excludes the areas north of the road running from John Adams Street and the extension thereof around the south side of the Armory, which is historically and currently used as the upper yard of the Public Works Operations Facility (hereinafter “the subject property”) and, therefore, the citizens of Oregon City did not intend, at the time of the adoption of Chapter X to provide protection to the subject property; and

**WHEREAS**, Chapter X, Section 43 of the City Charter authorizes the City Commission to create additional parks and whenever this additional land is “designated as a park,” it is subject to the provisions of Chapter X, including prohibiting certain actions without first obtaining approval by the voters within the city; and

**WHEREAS**, after reviewing the City’s files, City staff was unable to locate, nor has a specific ordinance been identified, that designated the subject property as a Charter-designated park, as authorized by Chapter X, Section 43; and

**WHEREAS**, the Comprehensive Plan map adopted in 1975 through Resolution 75-22, indicates that the subject property was colored green, designated for “Parks, Schools and Recreation,” and therefore, could be put to uses other than parks; and

**WHEREAS**, during the period from 1930 to 1968, the Oregon City Vocational School and Clackamas Community College used the subject property for educational purposes suggesting that the green coloring on the map allowed other non-park uses; and

**WHEREAS**, the zoning maps dated 1965, 1974, 1977, and 1980 show that the subject property was zoned R-2, One Family Dwelling and R-6, Single Family dwelling and there is no indication that the property was ever zoned for Park use; and

**WHEREAS**, on June 18, 2004, the City adopted a new Comprehensive Plan map as part of a large legislative update to the City's Comprehensive Plan that specifically included a provision contemplating a second ordinance to update the Comprehensive Plan and fix errors and other incongruities that resulted from the large number of changes to the Comprehensive Plan; and

**WHEREAS**, the June 18, 2004, Comprehensive Plan Map depicted the subject property in green, which indicated a Comprehensive Plan designation as "Park;" and

**WHEREAS**, on December 17, 2004, as part of the prior June 2004 provisions to fix plan errors and other incongruities that resulted from the large number of changes to the Comprehensive Plan including Comprehensive Plan map clean-up, the City adopted a new Comprehensive Plan map through Ordinance No. 04-1016, indicating that the subject property was designated "Quasi-Public;" and

**WHEREAS**, page 10 of the Comprehensive Plan explains that the comprehensive plan is to serve a land use planning purpose, where it states:

[T]he principal land-use planning ordinance and the City's controlling land-use document. It establishes the City's legal record of policy on land use and other development and conservation issues. As a land use planning document, the Comprehensive Plan represents a future, desired vision of Oregon City; and

**WHEREAS**, Goal 2.7 characterizes the Comprehensive Plan Land Use Map as "the official long-range planning guide for land use development;" and

**WHEREAS**, Section 8 of the Comprehensive Plan addresses expansion of parklands, but makes no mention of designating any parks; instead, it suggests that new parks should be located in newly annexed areas: "Oregon City should continue to implement the master plan and periodically review it, with special attention given to areas that are experiencing rapid growth. Because it is difficult to purchase large tracts of parkland in developed areas, the City should look to newly annexed areas and to areas within potential expansions of the Urban Growth Boundary for possible regional and community park sites while relatively inexpensive property with substantial acreage still exists;" and

**WHEREAS**, neither the City's Parks and Recreation Master Plan dated September 24, 1991 (Ordinance 91-1034 enacted on November 6, 1991) nor the 2008 Parks and Recreation Master Plan include specific site acquisition or site development plans, recommendations for park designation, site acquisition, or park development in or around Waterboard Park; and

**WHEREAS**, the 1991 Parks and Recreation Master Plan described Waterboard Park as "a park in name only" lacking in facilities, which is inconsistent with the existence of the Public Works Operation Center and other buildings in the area shown on the accompanying map; and

**WHEREAS**, the acreage identified in the text of the 1991 Parks and Recreation Master Plan is inconsistent with the area covered by the colored area in the accompanying map, which

would indicate a far larger area as being part of Waterboard Park, including a number of properties that the City did not own; and

**WHEREAS**, given the conflict in the 1991 Parks and Recreation Master Plan between the text of the description of Waterboard Park and the map identified above, the City Commission relies on the text as the more definitive identification of the area in Waterboard Park; and

**WHEREAS**, the purpose of the Zoning Code of Oregon City, as stated in OCMC 17.02.015, is “to promote public health, safety and general welfare through standards and regulations designed to provide adequate light and air; to secure safety from fire and other dangers; to lessen congestion in the streets; to prevent the overcrowding of land; to assure opportunities for effective utilization of land; to provide for desired population densities; and to facilitate adequate provision for transportation, public utilities, parks and other provisions set forth in the Oregon City Comprehensive Plan and the Oregon Land Conservation and Development Commission Statewide Planning Goals;” and

**WHEREAS**, the City Commission has seen no document or ordinance that shows any specific intent to move the Public Works Operations Center from its current location or any ordinance that demonstrates and discusses a specific intent to designate the subject property as a park pursuant to Chapter X of the City Charter, and providing the property with the level of protection that such a designation would entail; and

**WHEREAS**, designating the subject property as a park and providing the subject property with the protection that comes with Charter Park designation would be inconsistent with the intent to continue to have the subject property serve as the Public Works Operation Center.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Commission of Oregon City that:

**Section 1.** The City Commission hereby interprets the term “designated as a park” as used in Chapter X, Section 43 of the City of Oregon City Charter as requiring the adoption of an ordinance so designating the property, as described by its legal or common property boundaries, for inclusion in the list of Chapter X, Section 42 Parks Designated and subject to Chapter X of the City Charter. This interpretation is based on the findings above, including the different purposes for the various documents, including Chapter X of the City Charter, the City's Comprehensive Plan, Parks and Recreation Master Plan and City Zoning Code.

**Section 2.** The City Commission further finds that the City's Comprehensive Plan and Comprehensive Plan Land Use Map are long-range, future planning documents for regulating land uses within the City as a whole and that the Comprehensive Plan is intended to provide flexibility as the City evolves. As such, a designation appearing on the Comprehensive Plan Land Use Map adopted by ordinance does not control whether or not a specific property is “designated as a park” and subject to the provisions of Chapter X of the City Charter. Moreover, the City Commission finds that the December 2004 correction of the Comprehensive Plan Map indicates that the inclusion of the subject property in a “parks” designation was a drafting error that was corrected at the first opportunity.

**Section 3.** The City Commission further finds that the City's Parks and Recreation Master Plans are ancillary documents to the City's Comprehensive Plan and also serve a long range, future planning purpose for the City as a whole and were not intended to serve to designate


additional parks pursuant to the provisions of Chapter X of the City Charter. Moreover, the City Commission finds that the map of Waterboard Park found in the 1991 Parks and Recreation Master Plan is contradicted by the text of the same plan and the City Commission finds the text of that document more reliable given the description of the park and the acreage contained in the description.

**Section 4.** The City Commission further finds that designation of property as a park pursuant to Section 43 of Chapter X of the City Charter requires the City Commission to adopt an ordinance that specifically identifies the area and evidences an intent for the property to be subject to the protections provided by Chapter X of the City Charter.

**Section 5.** Based on the foregoing, the City Commission concludes that the subject property has never been "designated as a park" as set out in Chapter X of the City Charter and, therefore, is not subject to the protections set forth in Chapter X of the City Charter.

**Section 6.** Severability. If any provision of this Resolution or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable.

Approved and adopted at a regular meeting of the City Commission held on the 18th day of November 2015.

  
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DAN HOLLADAY, Mayor

Attested to this 18<sup>th</sup> day of November 2015:

  
\_\_\_\_\_  
Kattie Riggs, City Recorder

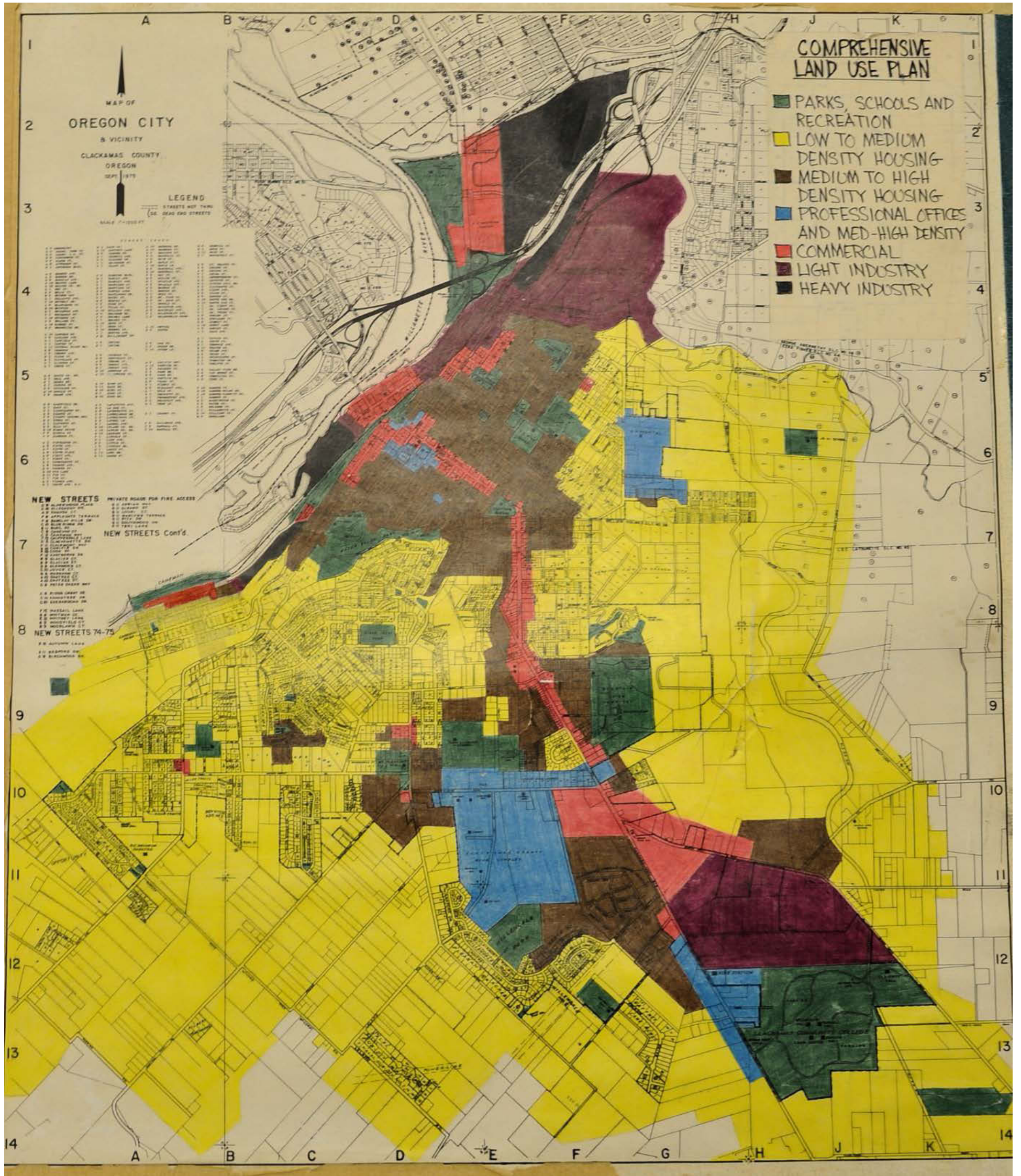
Approved as to legal sufficiency:

  
\_\_\_\_\_  
City Attorney

Exhibits:

- A: 1975 Comprehensive Plan Land Use Map
- B: June, 2004 Comprehensive Plan Land Use Map
- C: December, 2004 Comprehensive Plan Land Use Map

GSB:7266399.2



# City of Oregon City

GEOGRAPHIC INFORMATION SYSTEM

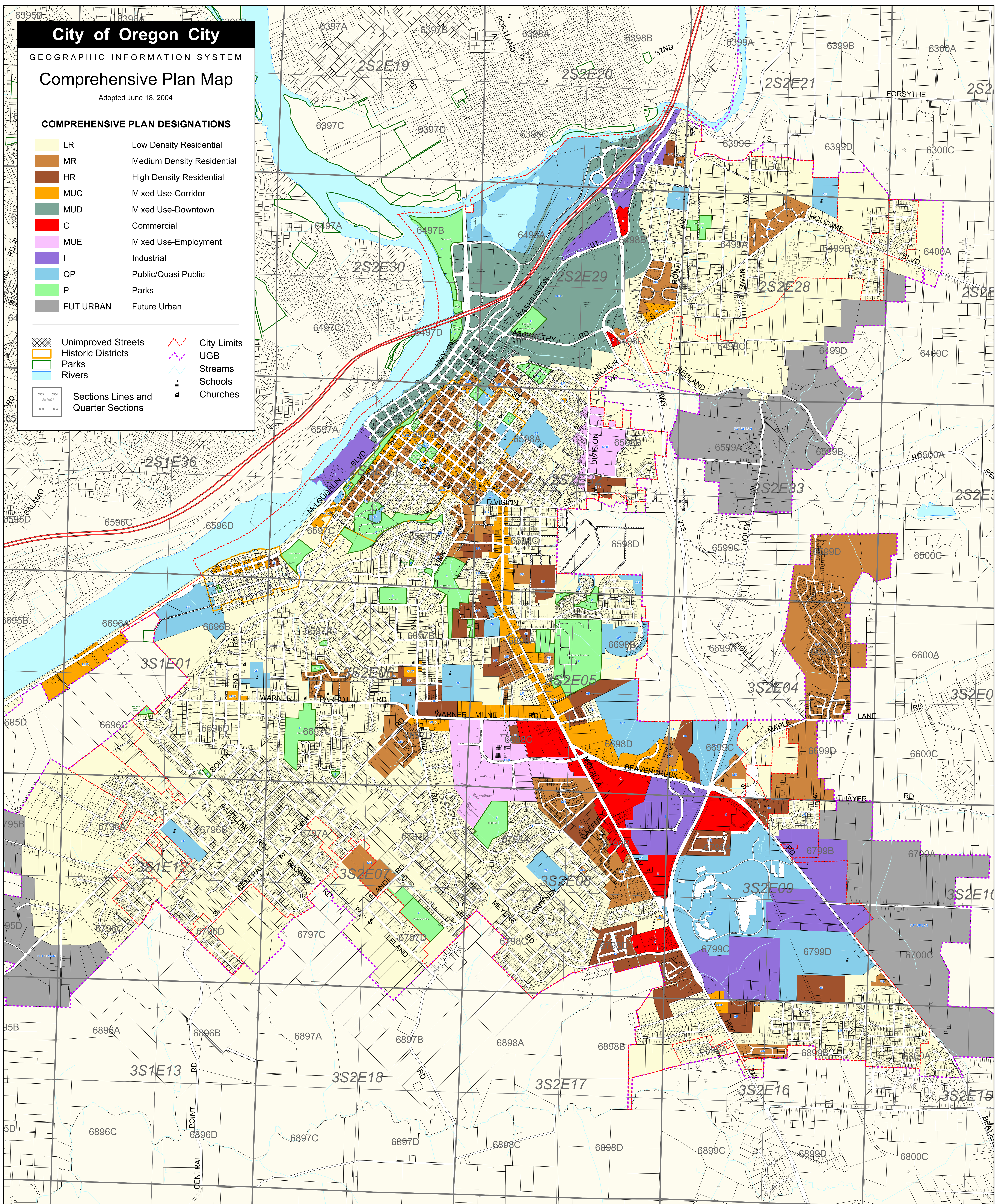
## Comprehensive Plan Map

Adopted June 18, 2004

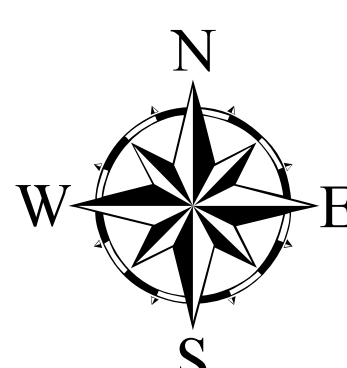
### COMPREHENSIVE PLAN DESIGNATIONS

LR	Low Density Residential
MR	Medium Density Residential
HR	High Density Residential
MUC	Mixed Use-Corridor
MUD	Mixed Use-Downtown
C	Commercial
MUE	Mixed Use-Employment
I	Industrial
QP	Public/Quasi Public
P	Parks
FUT URBAN	Future Urban

	Unimproved Streets		City Limits
	Historic Districts		UGB
	Parks		Streams
	Rivers		Schools
	Sections Lines and Quarter Sections		Churches



MAP FOR REFERENCE PURPOSES ONLY.  
The information on this map is derived from Oregon City's digital database. However, there may be map errors or omissions. Please contact Oregon City directly to verify map information. Notification of any errors is appreciated.



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Plot date: June 18, 2004  
Plot name: Comprehensive\_36x48P\_20040618.pdf  
Map name: Comprehensive Map - 36x48 portrait.mxd

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# City of Oregon City

GEOGRAPHIC INFORMATION SYSTEM

## Comprehensive Plan Map

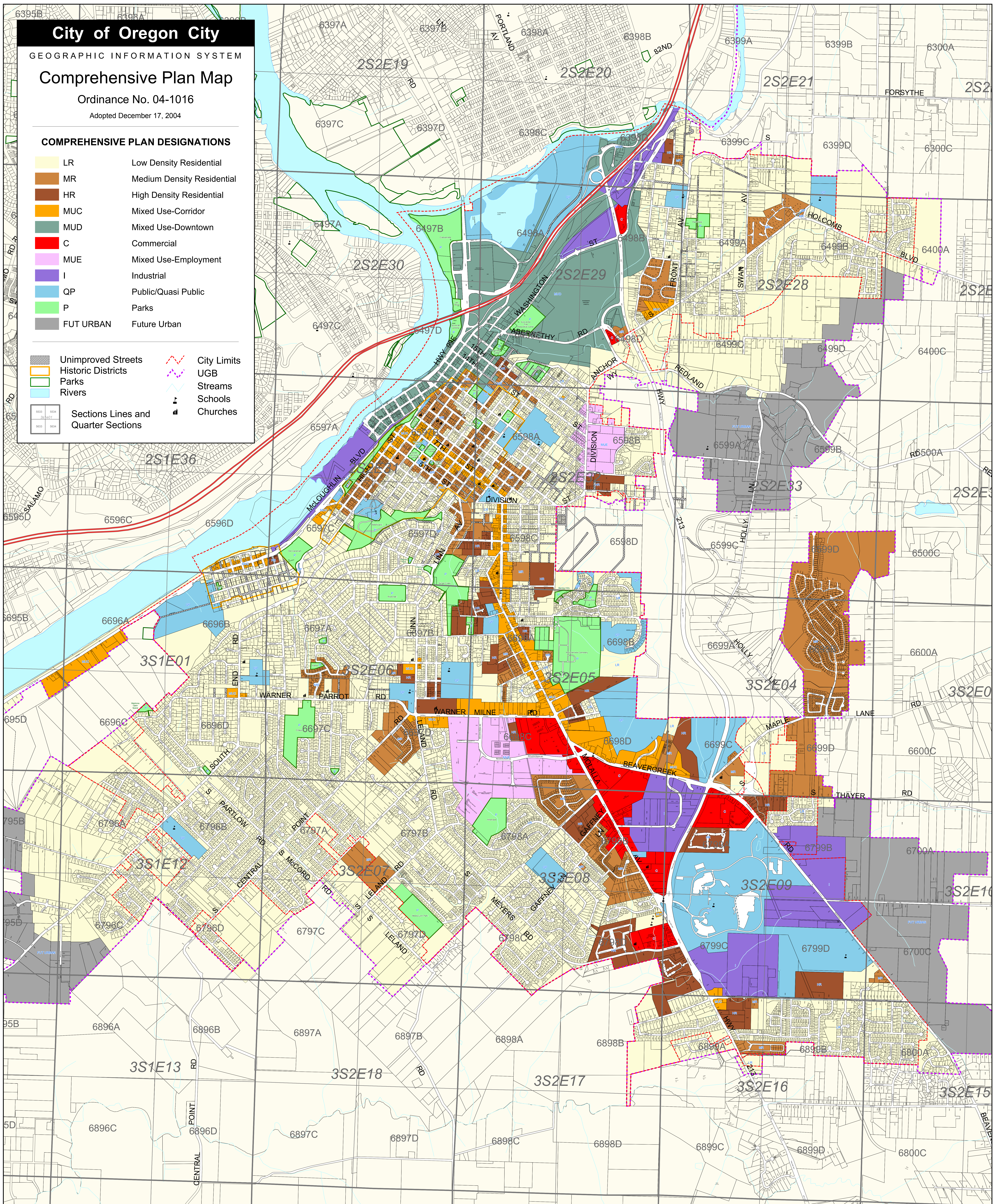
Ordinance No. 04-1016

Adopted December 17, 2004

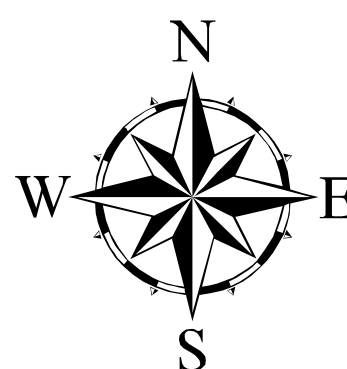
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Plot date: December 17, 2004  
Plot name: Comprehensive\_36x48P\_20041217.pdf  
Map name: Comprehensive Map - 36x48 portrait.mxd

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