

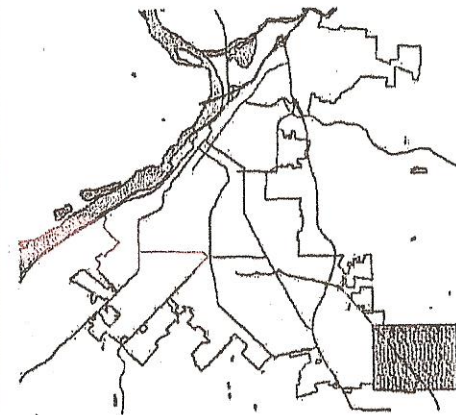
AP 14-02 Graser-Lindsey Appeal
of Planning File SP 14-01
Beavercreek Rd. Live/Work Apartments
Jan. 21, 2015

Problem #1:

Application cannot be approved
because the concept plan
must proceed
urbanization and development.

AN 07-02

SP 14-01

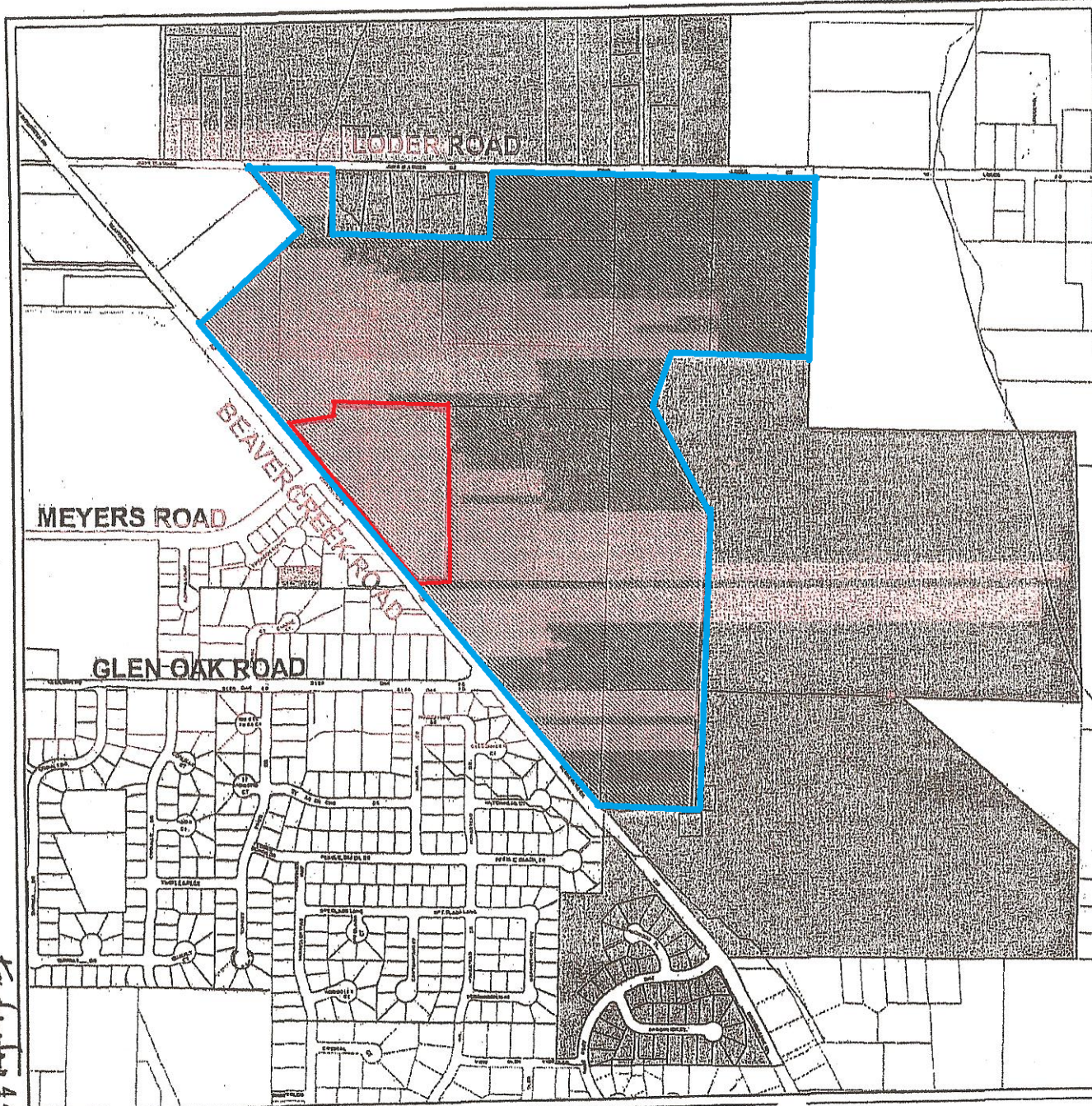


City of Oregon City
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This map is not suitable for survey, engineering, legal, or navigation purposes. Errors and omissions may exist.

Map created with OCMAP 2006

05/29/2007



LOG 2007-171 Record

Page

Exhibit 442

Division

Annexation Law considered by LUBA

#1

OCCP Goal 14.4 “Annex lands to the city through a process that considers the effects on public services and the benefits to the city as a whole and ensures that development within the annexed area is consistent with the Oregon City Comprehensive Plan, City ordinances, and the City Charter.”

“Policy 14.4.2 Include an assessment of the fiscal impacts of providing public services to unincorporated areas upon annexation, including the costs and benefits to the city as a whole as a requirement for concept plans.”

LUBA's interpretation of OCCP Goal 14.4 and similar law:

“The underlying purpose of OCCP Goal 14.4 and related city and Metro provisions appears to be to ensure that

- (1) **a concept plan will precede actual urbanization of the annexed areas,**
- (2) concept plans will provide the basis for planning and zoning of annexed areas for urban development, and
- (3) adequate and sufficient public facilities are extended to annexed areas as they urbanize in a way that does not financially burden or adversely affect public facilities and services in other parts of the city.

As we have explained elsewhere in this opinion, **the city took steps to ensure that urbanization cannot occur until the Beaver Creek Road Concept Plan has been completed.**” (LUBA 2007-171 Final Opinion and Order, p. 20)

Annexation Law considered by LUBA

#2

OCMC 14.04.060(A) Annexation factors

- A. When reviewing a proposed annexation, the commission shall consider the following factors, as relevant:
 - 1. Adequacy of access to the site;
 - 2. Conformity of the proposal with the city's comprehensive plan;
 - 3. Adequacy and availability of public facilities and services to service potential development;
 - 4. Compliance with applicable sections of ORS Ch. 222, and Metro Code Section 3.09;
 - 5. Natural hazards identified by the city, such as wetlands, floodplains and steep slopes;
 - 6. Any significant adverse effects on specially designated open space, scenic, historic or natural resource areas by urbanization of the subject property at time of annexation;
 - 7. Lack of any significant adverse effects on the economic, social and physical environment of the community by the overall impact of the annexation.

LUBA's interpretation of OCMC 14.04.060(A)

“...**the city interprets OCMC 14.04.060(A)** to require that the city ‘consider’ the ultimate comprehensive planning for the annexed area and to ‘consider’ the adequacy and availability of public services and facilities to serve that urban development as ‘relevant factors.’

We understand the city to argue that since (1) annexation, in and of itself, authorizes no additional urban development of the annexed property, (2) no urban development of the 122 annexed acres is allowed or will be allowed under the existing FU-10 zoning, (3) **no urban development will be possible before the Beavercreek Road Concept Plan is adopted** and necessary comprehensive plan and zoning amendments are adopted to allow urbanization of the annexed area, and (4) **the Beavercreek Road Concept Plan will be required to address the public facilities and services** that will be needed for the urbanization of the plan area, the city’s findings that recognize and point out **these facts are sufficient to** ‘consider’ the ‘relevant factors’ set out in **OCMC 14.04.060(A).**” (LUBA 2007-171 Final Opinion and Order, p. 24).

LUBA's Reiteration

“We ultimately conclude in rejecting subassignments of error B and C under the first assignment of error that **the city** did not violate its obligations under those OCCP and OCMC requirements because it **has ensured that the 122 acres will not urbanize until the required land use and public facilities planning is completed under the Beaver Creek Road Concept Plan.**” LUBA 2007-171 Final Opinion and Order, p. 2 line 13-17).

On OCMC 14.04.050(E), the annexation application and its references to “anticipated development” and “proposed development”, LUBA notes: **“The city concedes that the Metro Code and the OCCP require that the Beaver Creek Road Concept Plan must be adopted before the annexed territory can be planned and zoned in a manner that would allow the annexed property to be developed with urban uses.”** (LUBA 2007-171 Final Opinion and Order, p. 13-14).

Other laws requiring concept plan prior to development

OCCP Policy 14.1.2

Concept plans that provide more detail than the city's Comprehensive Plan **will be required prior to development** of lands within the Urban Growth Boundary.

OCCP Goal 14.3 Orderly Provision of Services to Growth Areas

Plan for public services to lands within the Urban Growth Boundary **through adoption of a concept plan** and related Capital Improvement Program, as amendments to the Comprehensive Plan.

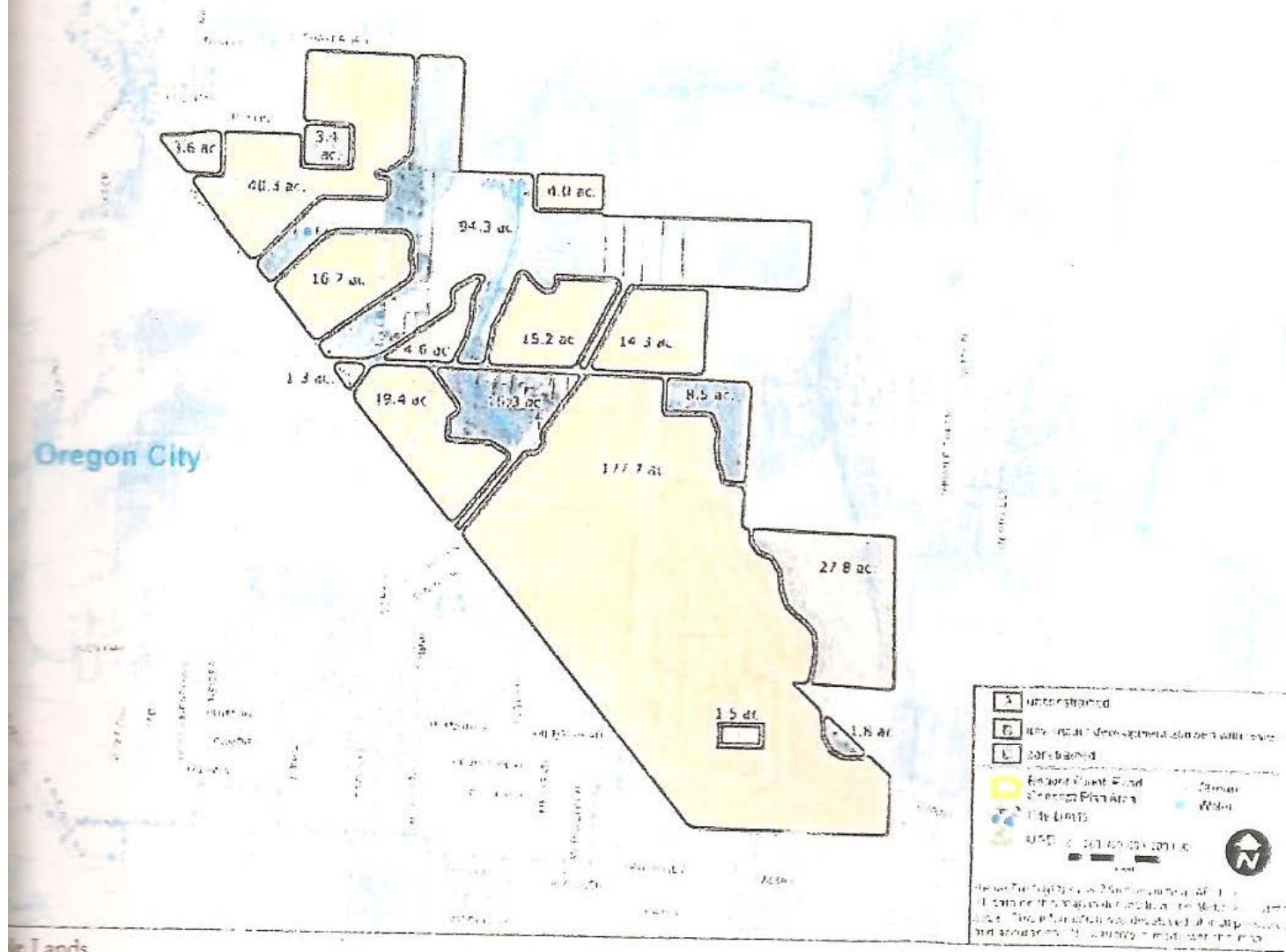
Problem #2:

Public services and facilities
are not planned properly
for the development.

Problem #3:

This development would hamper, block and preempt needed concept planning.

This could prevent meeting Oregon City's needs and compliance with the law.



Note: Buildable Lands

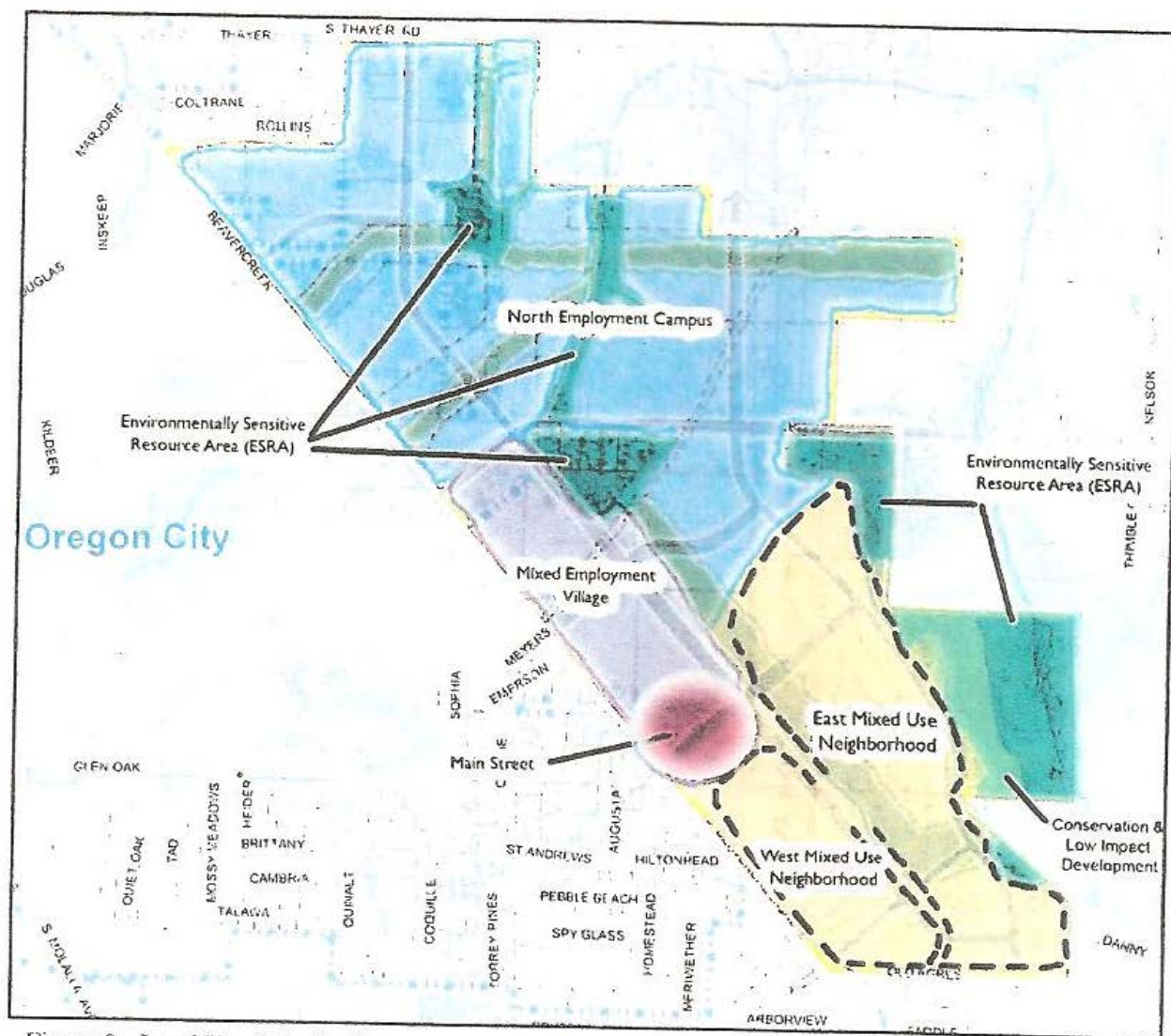
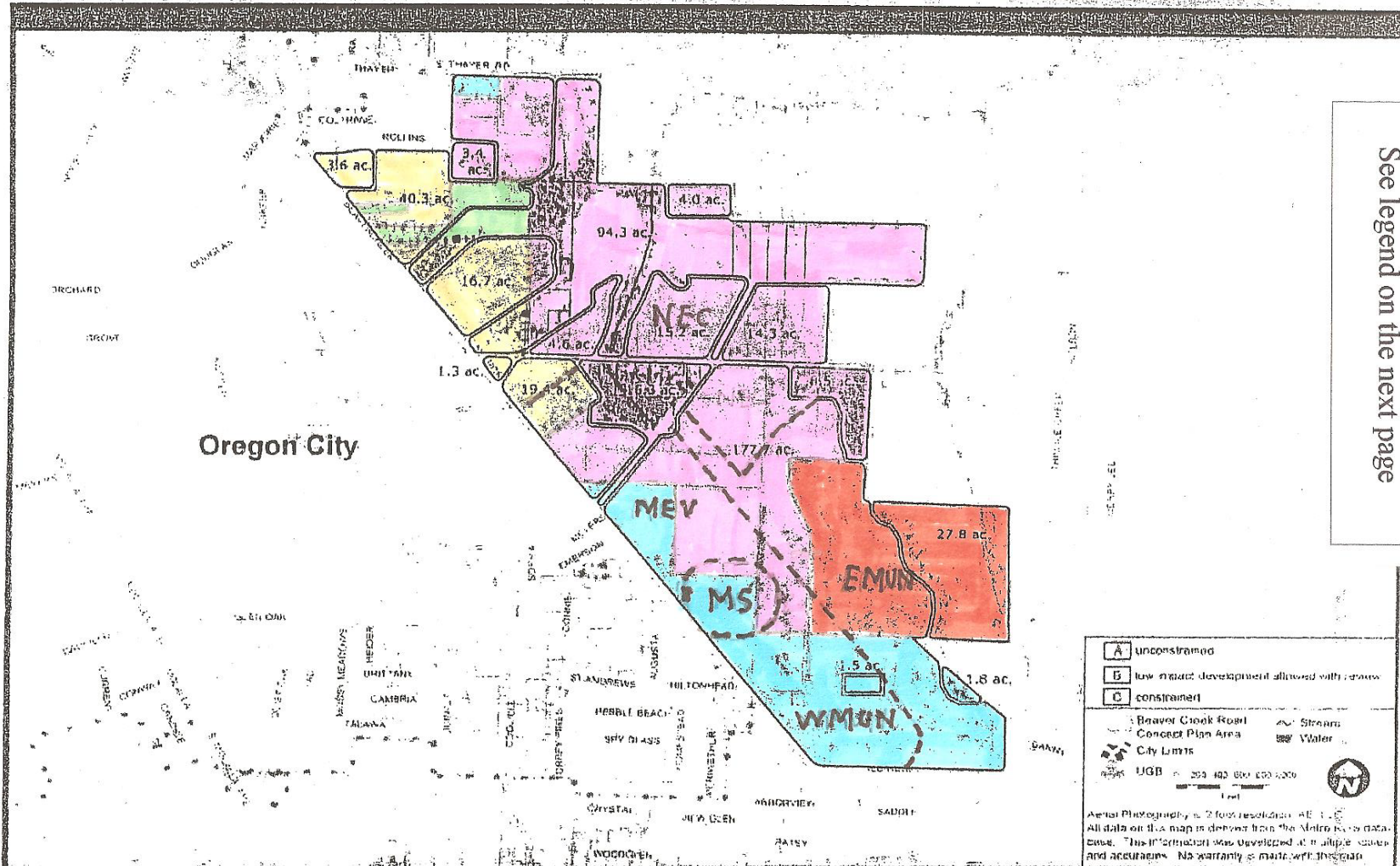


Figure 8 - Land Use Sub-districts

Note: Beaver Creek Road Concept Road

See legend on the next page

BEAVERCREEK ROAD
CONCEPT PLAN

Draft Buildable Lands