



# City of Tualatin

www.tualatinoregon.gov

September 11, 2015

## INTERPRETATION DECISION INT-15-0002

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Case:	INT-15-0002
Use(s):	Brew, brewing, brewery, breweries, brew pub, or microbrewery
Address(es):	18761/18791 SW Martinazzi Avenue, 18626 SW Boones Ferry Road
Tax Lot:	2S1 24BC 01503
Planning District:	Central Commercial (CC)
Applicant:	Gary Haberman, Hot Seat, 503-885-8787

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### BACKGROUND

The applicant is Gary Haberman, owner and operator of Hot Seat Sports Bar located on the subject property.

Hot Seat received approval to construct an outdoor dining deck through Architectural Review AR-14-14 on June 9, 2015. Following this approval, Mr. Haberman submitted an application for a code interpretation. The interpretation pre-application conference was July 22, 2015.

The interpretation application asks if the use of brewing beer is permitted in the Central Commercial (CC) Planning District, such as through Tualatin Development Code (TDC) 53.020(48) "Tavern or cocktail lounge", in order to allow brewing of beer on the subject property.

## ANALYSIS AND FINDINGS

### *Summary*

- TDC [31.070](#) sets forth the process and criteria for code interpretations.
- The abovementioned subject property is associated with the Hot Seat request. The interpretation has implications for the Central Commercial (CC) Planning District at large.
- Tualatin Development Code (TDC) 53 contains the CC zoning regulations. TDC 53.020(48) permits the use of, "Tavern or cocktail lounge." Neither TDC 1.020 "Definitions" nor 31.060 "Definitions" defines a tavern or cocktail lounge.
- Brewing beer, fermentation, or processing of beer is not listed as either a permitted or conditional use in CC.
- The applicant is requesting this interpretation to "brew beer at Hot Seat Sports Bar." The application materials (Attachment 101, Narrative p.1) states that the character of activity to be conducted on the site is the same as Hot Seat.
- Hot Seat has City business license 15-1091 first issued March 1, 1999 and last renewed December 18, 2014. Hot Seat is a restaurant as well as a bar, and TDC 53.020(41) permits "Restaurant, without drive-in service."

### *City Goals*

- TDC [6.030](#) "Commercial Planning Districts" establishes the comprehensive plan goals for such district, of which two are applicable:
  - "(1) Encourage commercial development."
  - "(3) Provide shopping opportunities for surrounding communities."This is because allowing a bar to brew on-site aids retention of an existing business and increase in patronage by residents and out-of-towners.
- TDC [53.010](#) "Purpose" establishes the purpose of CC zoning:
  - "The purpose of this district is to provide areas of the City that are suitable for a full range of retail, professional and service uses of the kind usually found in downtown areas patronized by pedestrians. The district also provides areas suitable for civic, social and cultural functions serving the general community. The district serves to implement the City's Central Urban Renewal Plan and, consequently, multi-family dwellings are also an appropriate use in certain portions of the district, as specified by the Central Urban Renewal Plan." The subject property is within the Central Urban Renewal Area, specifically Block 20 as shown on [TDC Map 9-3 "Central Urban Renewal Area"](#). TDC [53.030](#) grants Block 20 additional permitted uses, most of which are residential. The proposal is in keeping with this purpose because allowing a bar to brew aids patronage of a town center service use, and one ideal for pedestrians rather than motorists, and a bar serves a social function.

- The [Central Urban Renewal Plan](#) (October 2009), establishes under B1 on p. 7 that:  
B1 “THE OVERALL GOAL OF THE PLAN IS: To strengthen the social and economic development of central Tualatin by stabilizing and improving property values, eliminating existing blight, and preventing future blight; and to encourage and facilitate land uses, private and public, that result in activity during all business hours, evenings, nights, and weekends; and to encourage indoor and outdoor uses.”

The proposal is in keeping with this goal because allowing a bar to brew facilitates the land use of tavern or cocktail lounge and results in activity during all business hours, evenings, nights, and weekends.

It establishes another goal, “Land Use Goal 1 Commercial Development”, which is “[t]o encourage and facilitate commercial development in the Urban Renewal Area with an emphasis on establishing a visible and viable central business district that encourages community and business activity on weekdays, evenings and weekends”. The proposal is in keeping with this goal because allowing a bar to brew aids increase in patronage and thereby the viability of the town center, encouraging business activity on weekdays, evenings and weekends.

#### *Analysis of Application Materials & Context*

Neither TDC 1.020 “Definitions” nor 31.060 “Definitions” describes brew, brewing, brewery, breweries, brew pub or microbrewery. The American Planning Association (APA) Planning Advisory Service (PAS) Report Number 491/492, *A Glossary of Zoning, Development, and Planning Terms* (ed. Michael Davidson and Fay Dolnick, Chicago, 1999) provides sample definitions of “brew pub” or “microbrewery” and “brewery” such that the two former terms are of a bar or commercial restaurant context and the latter term is of an industrial context. The report defines and cross references “bar” and “tavern” – and does not define “cocktail lounge” – such that the terms denote commercial establishments in which alcoholic drinks are primary and food is secondary.

The application narrative, particularly the text addressing Criteria (a), (d), (f), and (j), make clear that the applicant intends the Hot Seat proposal to be limited to a bar and commercial restaurant context:

*(a) the amount and type of traffic generated;*

“one truck per week to deliver grain, and truck per week to pickup spent grain. No distribution, so no other trucks. Traffic at the bar / restaurant should remain the same”.

*(b) the type of manufacturing or commercial process;*

“beer brewing / fermentation”.

*(c) the nature of any machinery used;*

The narrative refers to Exhibit A, a price quote listing brewing equipment including tanks. The floor plan indicates the largest equipment in the form of six

tanks at about four feet in diameter each and a cooler of 10 by 15 ft.

*(d) noise and odor characteristics, associated with the use or activity;*  
“no significant noise to speak of. Refrigeration unit is similar to commercial AC unit as far as noise goes. Everything and every process inside the brew space is relatively quiet. On brew-days (~once per week), a batch will be boiled and the result will be a bit of steam coming out of the building (no worse than a commercial kitchen), and the smell will be fairly innocuous (a little malty smell? ...)”

*(e) outside storage of materials or products;*  
“none”.

*(f) type of structures required;*  
“existing. No further expansion of the current structure is required”.

*(g) character of activity to be conducted on the site;*  
“same as Hot Seat”.

*(h) amount of parking required;*  
“as per item G [reference in error; see Criterion (a)]”.

*(i) number of persons who would occupy the premises at any one time; and*  
“Approximately 12”.

*(j) any other information which the City Manager or designee determines to be relevant to a determination of the issue.*  
“Most breweries distribute their product, so they experience a lot of extra traffic (trucks mostly). Gary [Haberman, owner] plans to sell all of his product at Hot Seat, so I really don't see this as being invasive or intrusive on the local infrastructure. Everyone is already used to the bar/ restaurant's existence and the addition of on-site beer production shouldn't add any additional burden to Hot Seat's surroundings”.

Regarding traffic (“a”) and parking (“h”), the subject property and its businesses are part of the Core Area Parking District, an area of downtown where five public parking lots provide a variety of short and long term parking. The property is adjacent to and makes use of the White Lot with City permission. Existing truck loading takes place off street from any of SW Boones Ferry Road, SW Martinazzi Avenue, or SW Seneca Street, and so would the additional *de minimis* two weekly truck trips.

### *Conclusion*

In summary, staff agrees that the use of use of brew, brewing, brewery, breweries, brew pub or microbrewery is of similar character to other Central Commercial (CC) permitted uses that TDC 53.020 lists, specifically (48) “Tavern or cocktail lounge”, meeting the purpose of the district. The application materials show that brewing would be limited in size to an area within the existing Hot Seat building. TDC 31.070(3) allows for

interpretation conclusions for the particular aspects of the decision, such as qualifying statements. In order to preclude brewing in an industrial context on the subject property or other properties zoned CC or brewing so large it would cause nuisance, it is best the use is further tied to “tavern or cocktail lounge” by being allowed only with a bar, pub, tavern, or cocktail lounge and with a square footage cap. An outline of logic arriving at a cap on the use within CC is below.

As background:

TDC 53.060 sets a CC zoning minimum lot size of 10,000 square feet (sq ft) and for those lots also within the Central Urban Renewal Area a lesser minimum of 5,000 sq ft. TDC 73.240(3) sets a CC zoning minimum landscaped percentage of 15% and for property within the Core Area Parking District a lesser minimum of 10%.

- Assume an abstract lot of 5,000 sq ft.
- Assume 10-15% occupied by landscaping.
- Assume 15-20% developed by improvements other than building square footage, such as walkways, driveways, drive aisles, and off-street parking.
- Assume 70% remains to be occupied by building square footage, i.e. 3,500 sq ft.
- Of 3,500 sq ft, 2,000 sq ft is any of bar, restaurant, tavern, or cocktail lounge use at a majority of 57.1% and the remaining 1,500 sq ft is a round number and minority of 42.9%.
- The Hot Seat proposal, based on the floor plan, is between 750 and 1,000 sq ft and therefore within a 1,500 sq ft cap.

## INTERPRETATION

Based on the application materials and the analysis and findings, the use of use of brew, brewing, brewery, breweries, brew pub or microbrewery is of similar character to other Central Commercial (CC) permitted uses that TDC 53.020 lists, specifically (48) “Tavern or cocktail lounge”, meeting the purpose of the district, and is permitted with restrictions:

- a) The use of brew, brewing, brewery, breweries, brew pub or microbrewery shall be in conjunction with and accessory to a bar, restaurant, tavern, or cocktail lounge within the same building and may be within a separate owned or leased tenant space within the same building.
- b) Apart from square footage occupied by bar, restaurant, tavern, or cocktail lounge use, the use of brew, brewing, brewery, breweries, brew pub or microbrewery shall not occupy more than 1,500 square feet.

## APPEAL

This interpretation will be final after 14 calendar days on **September 25, 2015 unless a written appeal is received** by the Community Development Department, Planning Division at 18880 SW Martinazzi Avenue, Tualatin, Oregon 97062-7092 **before 5 p.m. on September 25, 2015. The appeal must be submitted on the City appeal form** with all the information requested provided thereon and signed by the appellant. The

appeal forms are available at the Planning Division office. The City Council reviews appeals of interpretations pursuant to Tualatin Development Code (TDC) 31.070(4).

Submitted by:

A handwritten signature in blue ink that reads "Colin Cortes". The signature is written in a cursive, flowing style.

Colin Cortes, AICP, CNU-A  
Assistant Planner

- Attachments:
- 101. Application Materials
  - 102. Map 9-1 Community Plan Map
  - 103. Map 9-3 Central Urban Renewal Area

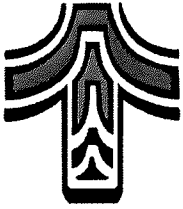
INT-15-0002: CC: Brewery

September 11, 2015

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cc: Aquilla Hurd-Ravich, AICP, Planning Manager  
Clare Fuchs, AICP, Senior Planner  
Cindy Hahn, AICP, Associate Planner  
Lynette Sanford, Office Coordinator  
Jeff Fuchs, PE, City Engineer  
Tony Doran, EIT, Engineering Associate  
Ginny Kirby, Office Coordinator  
Jim Sayers, Building Official  
Stephanie Marcinkiewicz, Permit Coordinator  
Nadya Dowd, Permit Technician  
Sean Brady, City Attorney

file: INT-15-0002



# City of Tualatin

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CITY OF TUALATIN  
RECEIVED

JUL 21 2015

COMMUNITY DEVELOPMENT  
PLANNING DIVISION

## APPLICATION FOR INTERPRETATION (INT)

Community Development Department  
Planning Division (503-691-3026)  
18880 SW Martinazzi Avenue  
Tualatin, Oregon 97062-7092

Case No. INT-15-0002  
Fee Rec'd N/A; fee is \$0  
Receipt No N/A  
By [Signature]

PLEASE PRINT IN INK OR TYPE

Applicant's Name: Gary Haberman

Applicant's Address 18791 SW Martinazzi Ave Tualatin, OR 97062  
(street) (city) (state) (zip)

Applicant is: Owner  Contract Purchaser \_\_\_\_\_ Developer \_\_\_\_\_ Agent \_\_\_\_\_  
Other haber mangary@gmail.com

Code Section: \_\_\_\_\_ 111

Interpretation request: Briefly describe your request. Please use additional pages to give a more detailed description of factor involved.

Request approval to brew beer at Hot Seat Sports Bar.

In the interpretation is for a use on a particular site, please fill in the section below:

Address of Property 18791 SW Martinazzi Ave Tualatin, OR 97062  
Lot Area \_\_\_\_\_ acres Planning District Washington County  
Assessor's Map Number 25-1-24BC Tax Lot Number(s) 1501 + 1503  
Property Owner's name Gary Haberman  
Property Owner's address 18791 SW Martinazzi Ave Tualatin, OR 97062



a. type of manufacturing of commercial processes;

**beer brewing / fermentation**

b. character of activity to be conducted on the site;

**same as Hot Seat**

c. the nature of any machinery used;

See Exhibit A

**One refrigeration unit (oversized AC unit on roof) for chilling of said beer, one small ~1hp pump for beer transfer**

d. noise and odor characteristics, associated with the use of activity;

**no significant noise to speak of. Refrigeration unit is similar to commercial AC unit as far as noise goes. Everything and every process inside the brew space is relatively quiet. On brew-days (~once per week), a batch will be boiled and the result will be a bit of steam coming out of the building (no worse than a commercial kitchen), and the smell will be fairly innocuous (a little malty smell? Actually quite pleasant IMO)**

e. outside storage of materials or products;

**none**

f. type and size of structures required;

**existing. No further expansion of the current structure is required**

g. the amount and type of traffic generated;

**one truck per week to deliver grain, and truck per week to pickup spent grain. No distribution, so no other trucks. Traffic at the bar / restaurant should remain the same**

h. amount of parking required;

**as per item G**

i. number of persons who would occupy the premises at any one time;

**Approximately 12**

j. number and type of customer/client base; and

**same as bar / restaurant**

k. any other information which the City Manager or his designate determines to be relevant to a determination of the issue.

**Most breweries distribute their product, so they experience a lot of extra traffic (trucks mostly). Gary plans to sell all of his product at Hot Seat, so I really don't see this as being invasive or intrusive on the local infrastructure. Everyone is already used to the bar / restaurant's existence and the addition of on-site beer production shouldn't add any additional burden to Hot Seat's surroundings**

### **Other Due-diligence**

Gary, as we talked in the hallway yesterday, there can be challenges with process waste from breweries. Are you able to send us the following items related to process waste?

1. What will be the volume of process waste from the process?

**Approximately 30-50 gallons per week**

2. What will the process waste contain?

**Warm water, yeast solids, citric acid (cleaner). Waste water ph level will be slightly acidic.**

3. How often will it be discharged?

**About once per week (average fermentation cycle is 7-10 days)**

With the answers to these questions, we can start conversations with Clean Water Services and our Sewer Division to make sure there is capacity to handle any waste.

# Practical Fusion LLC

18147 SW Boones Ferry Road  
Portland, OR 97224  
[practicalfusion@comcast.net](mailto:practicalfusion@comcast.net)  
503-348-0650

# QUOTE

DATE: MARCH 2015

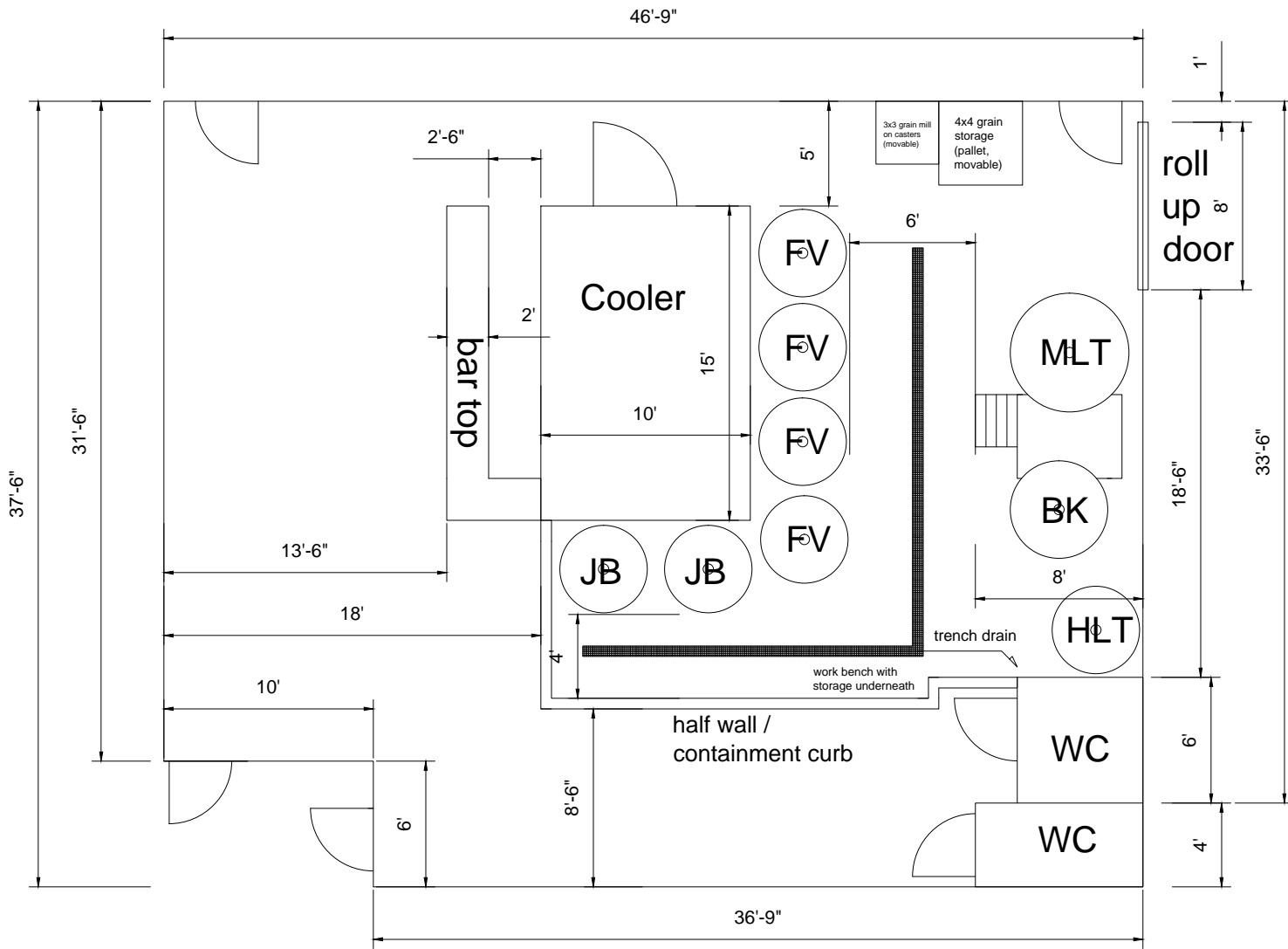
TO:

FOR:

10bbbl Brewery Equipment

DESCRIPTION	QUANTITY	RATE	TOTAL
10bbbl indirect fire boil kettle with Midco EC300 burner	1		\$12500
10bbbl MLT with grist hydrator, grant, sparge assembly, and temp mixing station	1		\$14500
Add inline flow meter to MLT fill circuit	1		\$1000
25bbbl gross HLT with 15kw element and temp controller	1		\$11500
Stainless steel brew deck between MLT and kettle	1		\$4000
Thermaline T8 heat exchanger	1		\$3500
Add inline wort oxygenation stone and sight glass to heat exchanger wort outlet	1		\$400
Hard-piped brewhouse wort manifold between kettle and MLT w/ 2hp wort pump and VFD	1		\$7500
Add 1hp HLT pump with temp mixing station supply and recirculation circuits	1		\$2500
2-tap keg washing cart (\$6k bare bones, +\$350 add 6kw element, +\$1000 add 1hp pump)	1		\$6000
2hp wheeled mobile transfer pump cart with VFD	1		\$3000
2x 20ft lengths of 1.5" TC brewers hose, 6x 1.5" TC valves, clamps, and gaskets	1		\$1500
10bbbl uni-tank conical fermenter (insulated and clad) w/ accessories	4	\$11000	\$44000
10bbbl jacketed insulated clad brite tank w/ accessories	2	\$9500	\$19000
Temp controller and solenoid valve (need one pair per jacketed cellar tank)	6		\$1050
5hp Pro Refrigeration glycol chiller	1		\$11550
Equipment delivery and placement is included, brewhouse to be hard-piped on site			
			<b>\$143500</b>

**Quotes are valid for 30 days**  
**Please make checks payable to Practical Fusion LLC**  
**Thank you for the opportunity to serve you!**



HOT SEAT ROUGH


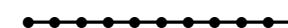

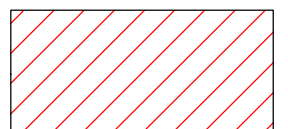


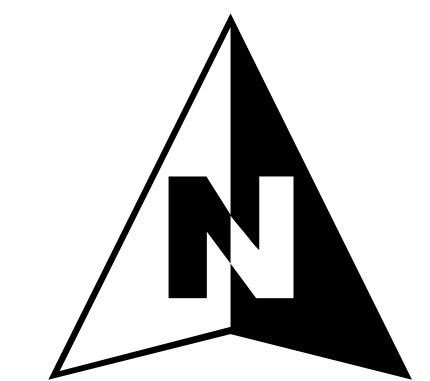


# Community Plan Map -Planning Districts- Map 9-1

**NOTES:**


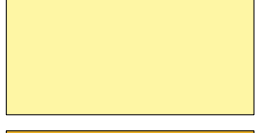



1. All plan designation boundaries are intended to follow property lines, center lines of streets, or can be scaled pursuant to the scale of this map. If mapping errors occur, the City Council shall be the sole arbitration body to decide the location of boundaries.
2. Specific requirements for each Planning District are found within the Tualatin Development Code.
3. The Wetland Protection District and the Greenway and Riverbank Protection District locations are described in the Tualatin Development Code. Maps of the districts are available from the Planning Department.
4. Properties within the Tualatin Urban Renewal Area boundary are subject to the Tualatin Urban Renewal Plan which may contain specifications and requirements that are more restrictive than those found within the Planning District standards.

-  Planning Area Boundary
-  Manufactured Dwelling Park Permitted
-  City Boundary
-  In Planning Area/ Outside of City













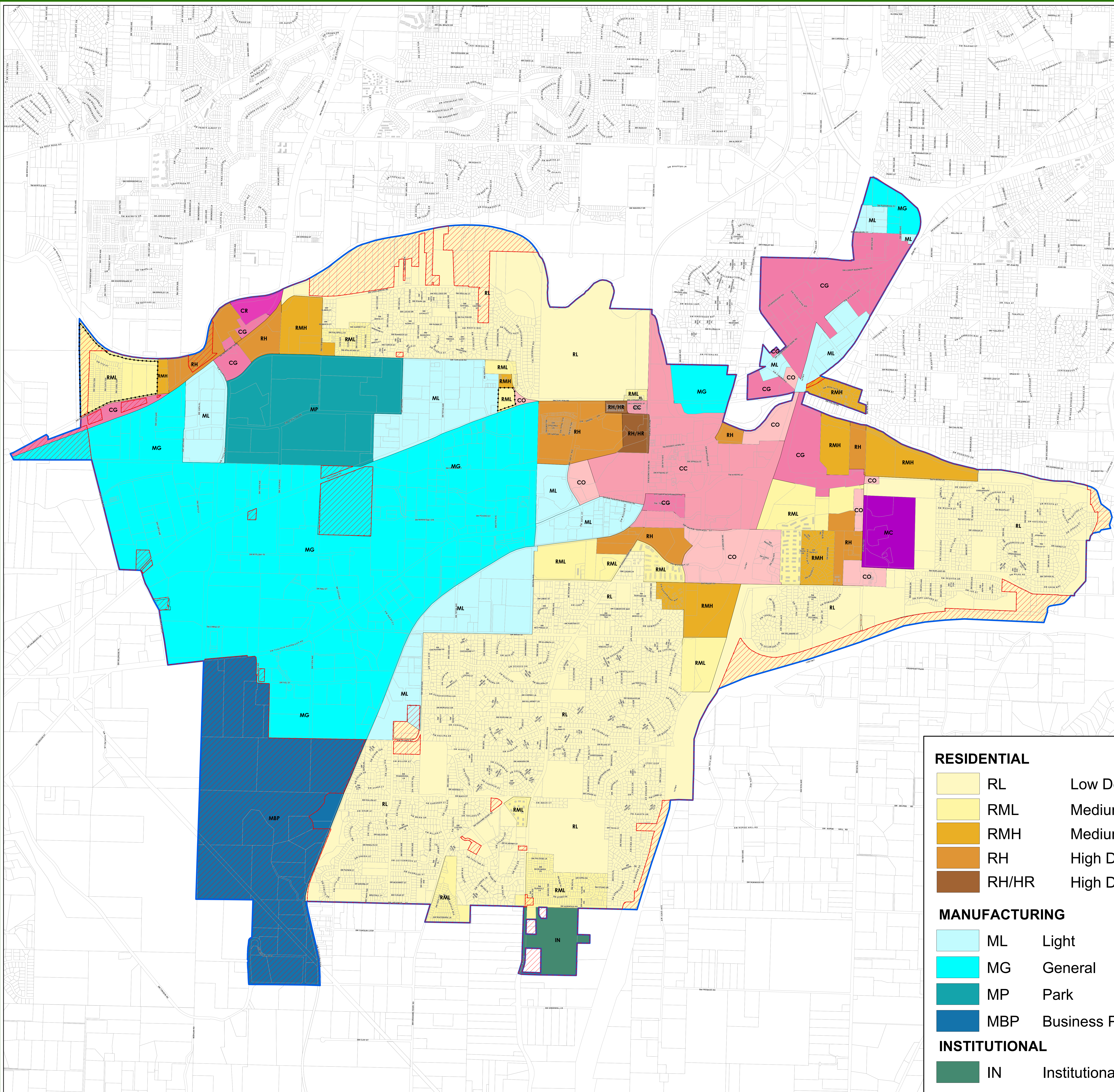
**RF 1:9,600**

**Effective: May 14, 2014**

<b>RESIDENTIAL</b>		<b>DU/Acre</b>
	RL Low Density	1-6.4
	RML Medium-Low Density	7-10
	RMH Medium-High Density	11-15
	RH High Density	16-25
	RH/HR High Density/High Rise	26-30

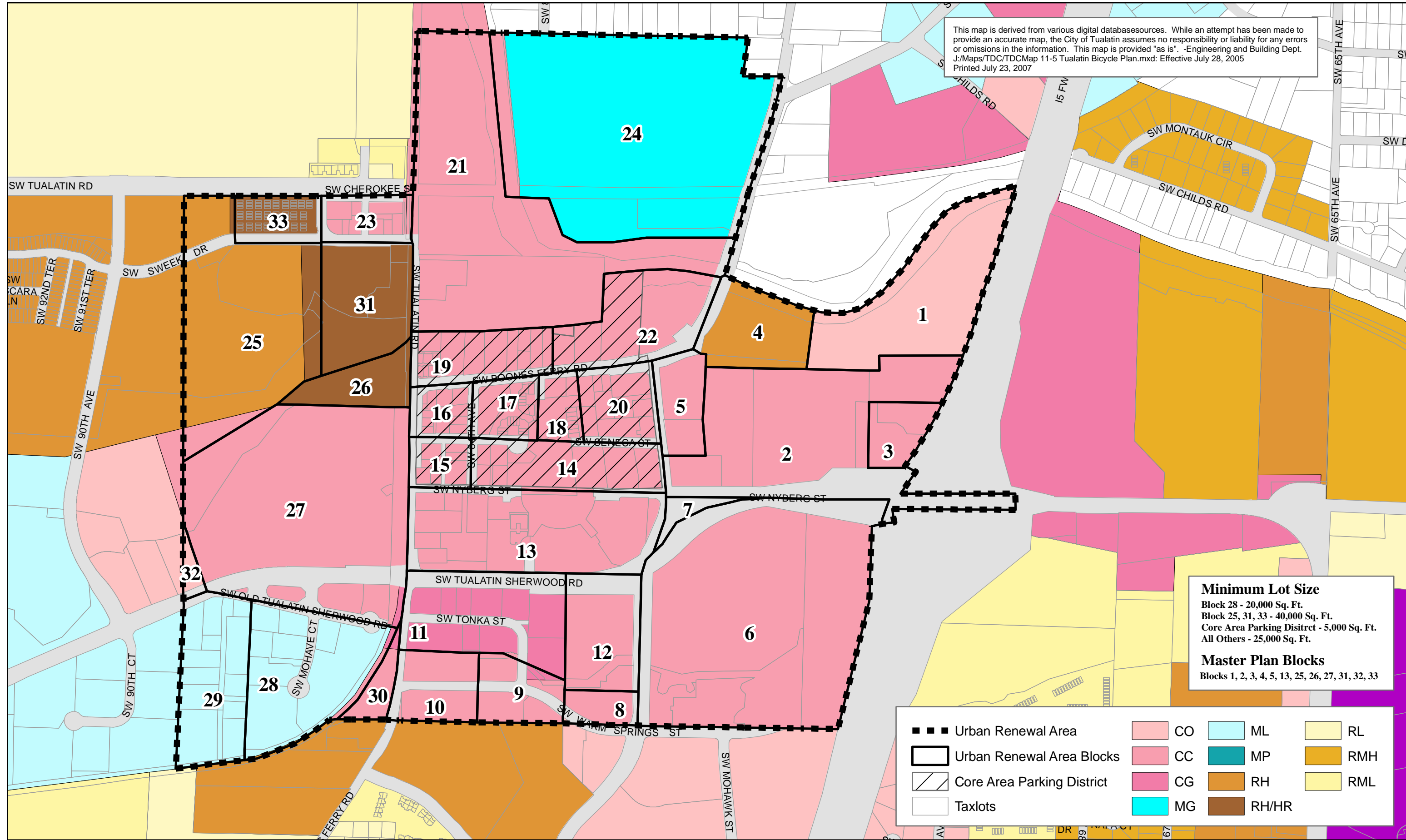
  

<b>MANUFACTURING</b>	<b>COMMERCIAL</b>
 ML Light	 CO Office
 MG General	 CC Central
 MP Park	 CG General
 MBP Business Park	 CR Recreational
<b>INSTITUTIONAL</b>	 MC Medical Center
 IN Institutional	





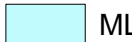














This map is derived from various digital databasesources. While an attempt has been made to provide an accurate map, the City of Tualatin assumes no responsibility or liability for any errors or omissions in the information. This map is provided "as is". -Engineering and Building Dept. J:/Maps/TDC/TDCMap 11-5 Tualatin Bicycle Plan.mxd: Effective July 28, 2005 Printed July 23, 2007



**Minimum Lot Size**  
 Block 28 - 20,000 Sq. Ft.  
 Block 25, 31, 33 - 40,000 Sq. Ft.  
 Core Area Parking Disitret - 5,000 Sq. Ft.  
 All Others - 25,000 Sq. Ft.

**Master Plan Blocks**  
 Blocks 1, 2, 3, 4, 5, 13, 25, 26, 27, 31, 32, 33

 Urban Renewal Area	 CO	 ML	 RL
 Urban Renewal Area Blocks	 CC	 MP	 RMH
 Core Area Parking District	 CG	 RH	 RML
 Taxlots	 MG	 RH/HR	