



PLANNING COMMISSION WORK SESSION AGENDA

Monday, November 26, 2018 - 5:00 PM

City Hall, Conference Room A, 169 SW Coast Hwy, Newport, OR 97365

The meeting location is accessible to persons with disabilities. A request for an interpreter for the DEAF AND HARD OF HEARING, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Peggy Hawker, City Recorder at 541.574.0613.

The agenda may be amended during the meeting to add or delete items, change the order of agenda items, or discuss any other business deemed necessary at the time of the meeting.

1. CALL TO ORDER

2. UNFINISHED BUSINESS


- 2.A Identify Preferred Alternatives Out Of Newport Short-Term Rental Ordinance Amendments (Draft Ordinance No. 2144).
[Ordinance No 2144 Amendments.pdf](#)

3. NEW BUSINESS

4. ADJOURNMENT

Memorandum

To: Planning Commission

From: Derrick I. Tokos, AICP, Community Development Director 

Date: November 21, 2018

Re: Short-Term Rental Ordinance No. 2144 - Preferred Alternatives Recommendation

This work session is an opportunity for the Planning Commission to discuss how it wants to take the policy alternatives contained in Ordinance No. 2144 and winnow them down to a set of "preferred alternatives" that will be put forth to the public at a public hearing on December 10, 2018. In undertaking this effort, Commission members should consider the reasons why the regulations have been put forward, as articulated in the purpose section of the draft codes, the body of evidence developed by the Ad-Hoc Work Group, and public testimony provided to date.

To assist the Commission in this effort, and to help facilitate the work session discussion, staff is providing a recommended set of preferred alternatives along with a policy rationale to support those choices. The staff recommendation is incorporated into draft code Chapters 4.25 and 14.25, both of which are attached to this memo. The staff recommendation is specific to topic areas with policy options. My hope is that the Commission can work through those issues first, before doubling back to address other elements of the draft codes.

With respect to use of a third-party vendor to assist the City with enforcement, staff recommends the Commission advise the City Council that such a service is needed to (a) improve issue resolution through a centralized 24/7 complaint hotline with dispatch service to property managers, (b) identify short-term rentals operating outside of the City's licensing program, and (c) improve room tax collections.

I look forward to our discussion on Monday.

Attachments

- NMC Chapter 4.25, with staff recommendation
- NMC Chapter 14.25, with staff recommendation
- Allowed location map alternatives
- Spacing requirement map alternatives
- Short-Term Rental Real Market Value Summary
- Written testimony received since the November 13, 2018 hearing

CHAPTER 4.25 SHORT-TERM RENTAL BUSINESS LICENSE ENDORSEMENTS

4.25.005 Purpose

A short-term rental business license endorsement is a permission to operate a short-term rental on property within the City of Newport. This chapter provides an administrative framework for licensing the annual operation of a short-term rental, in order to ensure the safety and convenience of renters, owners, and neighboring property owners; protect the character of residential neighborhoods; protect the City's supply of needed housing; and address potential negative effects such as excessive noise, overcrowding, illegal parking, and nuisances (e.g. accumulation of refuse, light pollution, etc.).

It is the intent of these regulations to strike a reasonable balance between the need to limit short-term rental options within neighborhoods to ensure compatibility, while also recognizing the benefits of short-term rentals in providing recreation and employment opportunities, as well as transitional housing for tourists, employees of businesses, and others who are in need of housing for a limited duration.

4.25.010 Definitions

The following definitions apply in this chapter.

- A. Authorized Agent. A property management company or other entity or person who has been designated by the owner to act on their behalf. An authorized agent may or may not be the designated point of contact for complaints.
- B. Bed and Breakfast Facility. A single-family dwelling used as a short-term rental where the operator resides on the premises and meals are provided for a fee on a daily or weekly room rental basis.
- C. Bedroom. A habitable room that (a) is intended to be used primarily for sleeping purposes; (b) contains at least 70-square feet; and (c) is configured so as to take the need for a fire exit into account.

- D. Dwelling Unit. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
- E. Home share. A short term rental, other than a Bed and Breakfast Facility, where a portion of a dwelling unit is rented while the homeowner is present. For the purposes of this definition, "present" means the homeowner is staying in the dwelling overnight for the duration of the rental.
- F. Owner. Means the natural person(s) or legal entity that owns and holds legal or equitable title to the property.
- G. Short Term Rental. A dwelling unit that is rented to any person on a day to day basis or for a period of less than thirty (30) consecutive nights.
- H. Sale or Transfer. Means any change of ownership during the period of time that a license is valid, whether or not there is consideration, except a change in ownership where title is held not as tenants in common but with the right of in survivorship (e.g., survivorship estates recognized in ORS 93.180, such as with a spouse or domestic partner, or transfers on the owner's death to a trust which benefits only a spouse or domestic partner for the lifetime of the spouse or domestic partner).

Exceptions:

1. A license holder may transfer ownership of the real property to a trustee, a limited liability company, a corporation, a partnership, a limited partnership, a limited liability partnership, or other similar entity and not be subject to license termination so long as the transferor lives and remains the only owner of the entity. Upon the transferor's death or the sale or transfer of his or her interest in the entity to another person, the license held by the transferor shall terminate.

2. A license holder may transfer ownership of the real property to the license holder and a spouse or domestic partner with the right of survivorship and not be subject to license termination.

- I. Vacation Rental. A short term rental, other than a Bed and Breakfast Facility or Home Share, where the entire dwelling unit is rented for less than 30 consecutive days.

4.25.015 Annual Short-Term Rental Business License Endorsement Required

No owner of property within the Newport city limits may advertise, offer, operate, rent or otherwise make available for occupancy or use a short-term rental without a business license with a short-term rental endorsement. Advertise or offer includes through any media, whether written, electronic, web-based, digital, mobile or otherwise.

4.25.020 Application Information and Filing Fee

- A. Applications for short-term rental business license endorsements are to be on forms provided by the City, and shall include the following:
 1. Owner Information. Owner's name, permanent residence address, telephone number, email address (if available) and short-term rental address and telephone number.
 2. Authorized Agent. The name, telephone number, mailing address and email of a property management company or other entity or person who has been designated by the owner to act on their behalf.
 3. Representative Information. The name, telephone number, mailing address and email of a local representative who can be contacted concerning use of the property or complaints related to operation of the short-term rental. For the purposes of this requirement, local means the representative's address is within 30 minutes travel time of the subject property.
 4. Liability Insurance. Letter of intent to insure (for new applications) or certificate of insurance (for renewals) establishing that the owner will have, or has, liability

insurance which expressly covers the vacation rental operations on the subject property in the amount of \$1,000,000 combined single limit for bodily injury and property damage. Where letters of intent to insure are provided, certificate of insurance shall be submitted to the city prior to use of the unit as a short-term rental.

5. Land Use Authorization. A land use compatibility statement, signed by the Community Development Director or designee and that is current within 90-days, indicating that the short-term rental satisfies the land use standards for short-term rentals listed in NMC Chapter 14.25.
6. Occupancy. Occupancy limits and number of bedrooms (as specified in the Land Use Authorization).
7. Parking. Statement that required off-street parking spaces are available, with a photo(s), dated within the last 90 days, of interior and exterior parking spaces. A site plan including a parking diagram of the parking spaces shall also be provided.
8. Proof of Residential Use (for Home shares and Bed and Breakfast Facilities). At least two of the following items shall be submitted as evidence that the dwelling is the primary residence of the owner.
 - a. A copy of the voter registration
 - b. A copy of an Oregon Driver's License or Identification Card
 - c. A copy of federal income tax return from last tax year (page one only and financial data should be redacted)
9. Good Neighbor Guidelines. Acknowledgement of receipt and review of a copy of the good neighbor guidelines. In addition, evidence that the good neighbor guidelines has been effectively relayed to short-term rental tenants, by incorporating it into the rental contract, including it in the rental booklet, posting it online, providing it in a conspicuous place in the dwelling unit, or a similar method.

10. Listing Number. For renewals, the listing numbers or website addresses of where the short term rental advertises.
 11. Fire Safety. Completed checklist identifying that the unit complies with the fire safety standards listed in NMC 4.25.030(C)(5).
 12. Structural Safety. Completed checklist identifying that the unit complies with the Structural safety standards listed in NMC 4.25.030(C)(6).
 13. Waste Management. Proof of garbage service as required in NMC 4.25.030(C)(7).
 14. Other Requirements. Such other information as the City Manager or designee deems reasonably necessary to administer this chapter.
- B. Incomplete Application. If a license application does not include all required materials, the application will be considered incomplete and the City will notify the applicant, in writing, explaining the information required. If the applicant provides the missing required information within 30 calendar days of the date of the notice, the application will be reviewed. If the applicant does not provide the required information, the application will be deemed withdrawn and the City will refund the application fee.
- C. License Fee. The fee for the application of a short-term rental business license endorsement, and any of its components requiring city action, shall be established by resolution of the City Council.

4.25.025 Term of Annual Business License Endorsement and Transferability

- A. Term. A short-term rental business license endorsement shall be issued for a period of 12-months, effective July 1st of each year, and may be renewed annually by the owner provided all applicable standards of this chapter are met.

POLICY ALTERNATIVES

B.1. Transferability. The business license endorsement shall be issued in the name of the owner(s) and is not transferable.

or

B.2. Transferability. The business license endorsement shall be issued in the name of the owner(s) and is transferrable only in those cases where the property is commercially zoned.

or

B.3. Transferability. The business license endorsement shall be issued in the name of the owner(s) and is transferrable in those cases where the property is within, or across the street from, a commercial zone.

Staff: Transferability is relevant if the city limits the total number of annual licenses it issues and it is our recommendation that such a limit be put in place. The justification for limiting transferability is to avoid circumstances where use of a dwelling for commercial purposes in a residential neighborhood becomes permanent, potentially impacting the supply of needed housing and the character of residential areas. Eliminating license transferability in residential areas would serve as a disincentive to anyone looking to purchase units for exclusive use as a vacation rental while, at the same time, it would not impose a barrier to those looking to operate a vacation rental for a period of time before they transition to Newport on a more permanent basis (assuming there is license availability under a cap).

It is difficult to apply this rationale to areas that are transitioning to or are entirely within commercial zones, as there is an expectation in these areas that dwelling units would be built for the sole purpose of being used for transient rental purposes and may lack the functional amenities (e.g. storage, office space, etc.) that persons would need if they were living in the units on a long term basis. Alternative B.3. balances these interests.

4.25.030 Business License Endorsement and Endorsement Renewal

- A. Endorsement Must Be Obtained: An endorsement to a business license for a short-term rental shall be obtained and renewed as required in this section. The ability to operate a short-term rental in the City of Newport shall be discontinued for failure to obtain or renew an endorsement to operate as provided in this chapter.
- B. Application and Renewal Application Process: A person engaging in a short-term rental who has not yet obtained a business license endorsement, or who is required to renew an existing endorsement, shall do so as follows:
1. Time of Application.
 - a. Existing Non-Conforming Short-Term Rentals. A business license endorsement renewal application completed in accordance with the provisions of NMC 4.25.020, is due on July 1st, 2019 and annually every year thereafter.
 - b. New Short-Term Rentals. A business license endorsement for a short-term rental shall be obtained before beginning operations. Endorsement applications, completed in accordance with the provisions of NMC 4.25.020, may be submitted and issued at any time. The endorsement may be renewed annually thereafter on July 1st of each year.
 - c. Sale or Transfer of Property. For business license endorsements that are eligible to be transferred pursuant to NMC 4.25.025(B), it is the obligation and responsibility of the new owner to obtain a new endorsement in order to operate the short-term rental. The new owner shall have 60 days from the date of ownership (closing of the sale) to apply for and receive a new business license endorsement. The business license endorsement obtained by the prior owner shall remain in effect during the 60-day period within which the new owner must obtain an endorsement.

2. Notice. On or about July 1st of each year, the City shall send notice to owners of property with short-term rental endorsements informing them that the endorsement must be renewed no later than August 15th of each year and that failure to do so will result in expiration of the endorsement. Notice shall be sent by first-class mail to the address the owner provided with the endorsement on file with the City.
3. Expiration of Endorsement. Failure of an owner to renew an endorsement by August 15th shall result in expiration of the endorsement, and the ability of the owner to operate shall be conclusively presumed to be discontinued with no further action by the City. For new owners, once the 60 day grace period to apply for a license expires, as referenced in NMC 4.25.030(B)(1)(c) of this section, the ability to operate shall be conclusively presumed to be discontinued with no further action by the City.

C. Approval Standards.

The owner or authorized agent has the burden of proof to demonstrate compliance with standards for the approval or renewal of an endorsement. The approval standards also serve as continuing code compliance obligations of the owner. To receive approval, an owner or authorized agent must demonstrate that the approval standards listed below have been satisfied:

1. Zoning. The property is in compliance with requirements of NMC Chapter 14.25.
2. Contact Information. The owner or authorized agent has provided information sufficient to verify a qualified person will be available to be contacted about use of the short-term rental during and after business hours. The qualified person shall be available to be contacted by telephone to ensure a response to the short-term rental address at all hours (24 hours a day, seven days a week) while the dwelling unit is occupied for rent. The qualified person must be able to reach the premises within 30 minutes. The individual identified as the "qualified person" may be changed from time to time throughout the term of a license. To do so, the license

information shall be revised with the city at least 14-days prior to the date the change takes effect, except when the failure to do so is beyond the owner or authorized agent's control. In an emergency or absence, contact forwarding information to a qualified person may be provided to the owner or authorized agent. In the case of home shares, the contact person shall be the permanent resident who will be hosting the transient accommodations.

3. Notice to Neighbors. The owner or authorized agent shall post a small, non-illuminated sign on the premises, between 1 and 2 square feet in size, containing the owner and/or representatives contact information. Such sign shall be placed in a location clearly visible from the adjacent street. In the event the City establishes a 24/7 hotline for dispatching calls to operators of short-term rentals, then the contact information contained on the placard or sign shall be that of the firm providing the dispatch service.
4. Electronic Availability. The City will make a database electronically accessible within which any person can enter in an address of a short term rental and obtain the owner, authorized agent, and/or representative's name, telephone number, and email address.
5. Fire and Emergency Safety. A completed checklist for fire safety (fire extinguishers, smoke alarms, carbon monoxide detectors, unobstructed exits, etc.) shall be required with each new endorsement and renewal. The owner or authorized agent shall be responsible for completing the fire safety checklist and ensuring continued compliance. Verification by the City of Newport Fire Marshall shall be required prior to issuance of a new endorsement and may be required for renewals at the City Manager's discretion.
6. Structural Safety. A completed checklist, signed by the City of Newport Building Official, indicating that the short-term rental has been inspected and complies with the building safety standards listed below. Such checklist shall be completed prior to issuance of a new endorsement and may be required for renewals at the City Manager's discretion.

- a. Bedrooms shall have an operable emergency escape window or exterior door with a minimum opening size of 5.7 sq. ft. (5.0 sq. ft. at grade floor), with minimum net clear dimensions of 20-inches in width and 24-inches in height and having a sill height not more than 44-inches above the finished floor.
- b. All stairs with 4 or more risers shall have a handrail on at least one side. Handrails shall be secure, continuous, and have returns at each end.
- c. The open sides of stairs, decks, porches or other walking surfaces more than 30-inches above grade or the floor below shall have guardrails configured such that a 4-inch sphere cannot pass through.
- d. Windows within a 24-inch arc of doors and glass within bathtub or shower enclosures shall be safety glazed, or have an equivalent means of protection.
- e. Wood frame decks shall be structurally sound. In cases where a deck supports a hot tub or other features of a similar size and weight, engineering analysis of the supports may be required.
- f. Electrical plug-ins and light switches shall have faceplates.
- g. Electrical breaker boxes shall have all circuits labeled, and empty breaker spaces must be plugged.
- h. GFCI (Ground Fault Circuit Interrupter) protection shall be provided for exterior outlets, kitchens, garages, laundry areas, and bathroom receptacles.
- i. Functioning smoke detectors shall be installed in all bedrooms and outside each bedroom in hallways or other rooms providing access to bedrooms, and on each story including basements.
- j. Functioning carbon monoxide alarms shall be installed if the unit (a) contains a heater, fireplace,

appliance or cooking source that uses coal, kerosene, petroleum products, wood or other fuels that emit carbon monoxide as a by-product of combustion; or (b) includes an attached garage with an opening that communicates directly with a living space. Such alarms shall be installed in compliance with State Fire Marshal Rules and any applicable requirements of the State Building Code, and there shall be available in the premises a written notice containing instructions for testing the alarm.

- k. Water heaters shall be strapped and secured in accordance with seismic protections standards, with a TEP (Temperature and Pressure Relief) line that is run to an approved location.
 - l. A 2A10BC fire extinguisher shall be provided on each floor.
 - m. Address numbers shall be posted and visible from the street.
 - n. Any violation of applicable codes that the Building Official determines to be hazardous shall be corrected prior to use of the dwelling as a vacation rental.
7. Proof of Use. For renewals, room tax remittance records must show that the unit has been rented at least 30 days within the 12 month fiscal year.
8. Room Tax Compliance. The unit shall be in compliance with room tax requirements of Chapter 3.05 of the Newport Municipal Code.
9. Violations. A short-term rental business license endorsement that is suspended or revoked shall not be renewed. An owner whose endorsement has been revoked shall not be eligible to reapply for a new endorsement involving the same property for a period of two years.

D. Additional Operational Requirements

1. Complaints. The owner or representative shall respond to neighborhood complaints within one hour and shall maintain a written record of complaints, the dates they were received, and efforts taken to resolve issues that have been raised. The written record shall be provided to the City upon request.

POLICY ALTERNATIVES

2.1. Guest Registry. Owner or designee shall maintain a guest and vehicle register for each tenancy. The register shall include the name, home address, and phone number of the primary tenant; the total number of occupants; vehicle license plate numbers of all vehicles used by the tenants, and the date of the rental period. This information shall be provided to emergency responders upon request.

or

2.2. Guest Registry. Owner or designee shall maintain a guest and vehicle register for each tenancy. The register shall include the name, home address, and phone number of the primary tenant; the total number of occupants; vehicle license plate numbers of all vehicles used by the tenants, and the date of the rental period. This information shall be provided to emergency responders and non-emergency city personnel upon request.

Staff: Emergency responders need access to guest registry information so that, in the event of a catastrophic event, they can identify who was in the unit. That same information can be useful in enforcement actions and room tax auditing purposes, both of which are legitimate government activities. Online intermediaries, such as Airbnb, are not required to provide cities with room tax reports that track back to individual units; therefore, the City will need tools like this if it is to perform its own auditing. For these reasons, staff recommends the Commission select alternative 2.2.

3. Mandatory Postings. The short-term rental business license endorsement issued by the City shall be displayed in a prominent location within the interior of the dwelling adjacent to the front door. The endorsement will contain the following information:
 - a. A number or other identifying mark unique to the short-term rental endorsement which indicates that it was issued by the City of Newport, with date of expiration.
 - b. The name of the owner and authorized agent and a telephone number where the owner and authorized agent may be contacted.
 - c. The property address.
 - d. The number of approved parking spaces.
 - e. The maximum occupancy permitted for the short-term rental.
 - f. Any required information or conditions specific to the operating license.
 - g. The City of Newport official logo.
4. Emergency Information. Owner or designee shall provide information within the dwelling unit to inform and assist renters in the event of a natural disaster, power outage, or other emergency. Required information includes, but is not limited to:
 - a. A tsunami evacuation map produced by Lincoln County Emergency Services, Oregon Department of Geology and Mineral Industries or other agency with similar authority.
 - b. Phone numbers and addresses for emergency responders and utility providers.
 - c. Other information as established by resolution of the City Council.

5. Noise. Noise levels shall conform to the requirements of Chapter 8.15 of the Newport Municipal Code.
6. Nuisance. The short-term rental shall not be used in a manner that creates a public nuisance as defined in Chapter 8.10 of the Newport Municipal Code.
7. Required Parking. Off-street parking spaces approved for short-term rental use shall be available and are to be used by tenants at all times that the unit is rented. A parking diagram illustrating the location of the approved parking spaces shall be provided to tenants and be available in a prominent location within the short-term rental dwelling.
8. Occupancy. Maximum occupancy shall be limited to that which is specified in the Land Use Authorization.
9. Landscaping. Required landscaping shall be maintained. Changes may be made to the type and location of required landscaping as long as 50% of the front yard, and 40% of the total lot area remains landscaped.
10. Solid Waste Management. Weekly solid waste disposal service shall be provided while the dwelling is occupied as a short-term rental. The owner or authorized agent shall provide for regular garbage removal from the premises, and trash receptacles shall be stored or screened out of plain view of the street. City may require that an owner or authorized agent utilize solid waste collection valet service in circumstances where there have been verified complaints that a short-term rental is not adhering to these requirements. For the purpose of this section, valet service means the collection driver retrieves the cart from where it is stored, rolls it out for service, and then places it back in its original location.
11. Liability Insurance. Liability insurance is required that expressly covers vacation rental operations on the subject property in the amount of \$1,000,000 combined single limit for bodily injury and property damage.

12. Group Events. Company retreats, weddings, rehearsal dinners, family reunions and similar gatherings are permitted on the premises of a short-term rental during periods of transient use provided the total number of individuals does not exceed occupancy limits at any time during the rental period.

4.25.035 Inspections

Dwelling units for which a short-term rental business license endorsement is being sought, or has been obtained, shall be subject to initial inspection, and periodic re-inspection, by the City to ensure compliance with the provisions of this chapter. The timeframe for such inspections is subject to the City's discretion and available resources.

4.25.040 Appeals

A decision on a new short-term rental business license endorsement application, renewal of an endorsement, or the revocation of an endorsement may be appealed as provided in NMC 4.05.075.

4.25.045 Violations

Penalties, as specified in section 4.25.050, shall be imposed for one or more of the following violations:

- A. Advertising; renting; using; or offering for use, occupancy or rent; a short-term rental where the owner does not hold a valid endorsement issued pursuant to this section.
- B. Advertising; renting; using; or offering for use, occupancy or rent; a short-term rental in a manner that does not comply with the endorsement requirements of NMC Chapter 4.25.
- C. Failure to comply with the endorsement standards and operational requirements of NMC Chapter 4.25.
- D. Failure by the owner to pay the transient room tax required by NMC Chapter 3.05.
- E. Failure of the owner or owner's representative to respond to tenant, citizen or City complaints or inquiries. "Failure to

respond” occurs if City staff is unable to reach the owner or designated representative after three attempts within a 48-hour period, using the information that the owner or designee has on file with the City.

4.25.050 Penalties

Penalties for a violation of subsection 4.25.040(A) shall be a civil infraction to be enforced pursuant to the provisions listed in NMC Chapter 2.15. Where the owner possesses a valid short-term rental endorsement, the penalties for violations of subsections 4.25.040 (B-E) shall be as follows:

- A. For the first violation within a 12-month period, City shall issue a written warning to owner.
- B. For the second violation within a 12 month period, City shall suspend owner’s short-term rental endorsement for 30 days.
- C. For the third violation within a 12-month period: 1) City shall revoke owner’s short-term rental endorsement; and 2) where an endorsement includes a Conditional Use Permit, city shall also initiate the revocation procedure as outlined under section 14.52.150.

CHAPTER 14.25 SHORT-TERM RENTAL LAND USE REGULATIONS

14.25.005 Purpose

This chapter establishes criteria by which short-term rental uses may be permitted in order to ensure the safety and convenience of renters, owners, and neighboring property owners; protect the character of residential neighborhoods; protect the City's supply of needed housing; and address potential negative effects such as excessive noise, overcrowding, illegal parking, and nuisances (e.g. accumulation of refuse, light pollution, etc.).

It is the intent of these regulations to strike a reasonable balance between the need to limit short-term rental options within neighborhoods to ensure compatibility, while also recognizing the benefits of short-term rentals in providing recreation and employment opportunities, as well as transitional housing for tourists, employees of businesses, and others who are in need of housing for a limited duration.

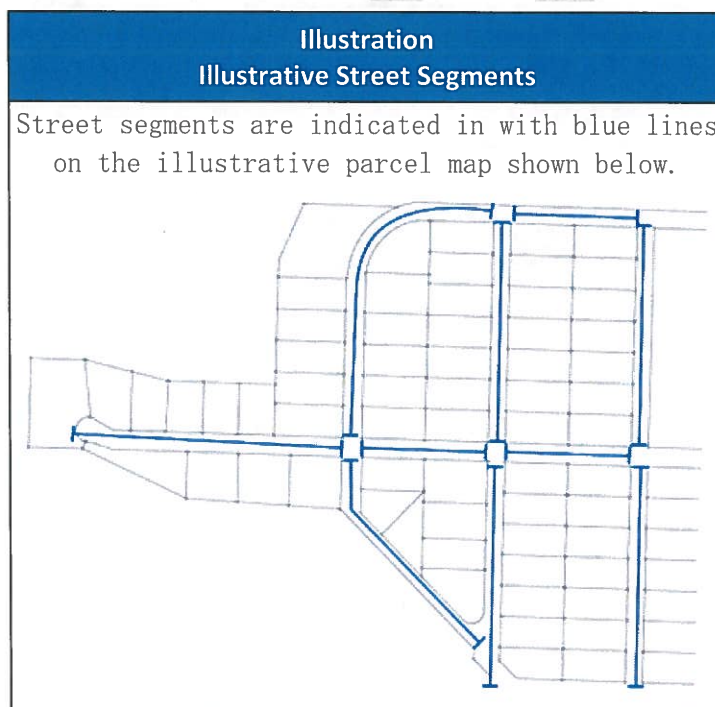
(Staff note: the following definitions will be added to, or will update terms defined in Chapter 14.01. They are included here for reference.)

14.01.010 Definitions

The following definitions apply in this chapter.

- A. Authorized Agent. A property management company or other entity or person who has been designated by the owner to act on their behalf. An authorized agent may or may not be the designated point of contact for complaints.
- B. Bed and Breakfast Facility. An owner occupied, single-family dwelling where meals are provided for a fee on a daily or weekly room rental basis, not to exceed 30 consecutive days.
- C. Bedroom. A habitable room that (a) is intended to be used primarily for sleeping purposes; (b) contains at least 70-square feet; and (c) is configured so as to take the need for a fire exit into account.
- D. Dwelling Unit. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

- E. Home share. A short term rental, other than a Bed and Breakfast Facility, where a portion of a dwelling unit is rented while the homeowner is present. For the purposes of this definition, “present” means the homeowner is staying in the dwelling overnight.
- F. Owner. Means the natural person(s) or legal entity that owns and holds legal or equitable title to the property.
- G. Short Term Rental. A dwelling unit that is rented to any person on a day to day basis or for a period of less than thirty (30) consecutive nights.
- H. Street Segment. A portion of a local or collector street which is located between two intersections, or between an intersection and the end of a cul-de-sac or dead-end. *See Illustration: Illustrative Street Segments, below.*



- I. Transfer. Means the addition or substitution of owners not included on the original business license endorsement application, whether or not there is consideration. If multiple owners exist on a license, individual owners may be removed from the license without constituting a transfer.
- J. Vacation Rental. A short term rental, other than a Bed and Breakfast Facility, where the entire dwelling unit is rented for less than 30 consecutive days.

14.25.010 Approval Authority

- A. Upon receipt of a request by an owner or authorized agent to complete a land use compatibility statement for a short-term rental the Community Development Director, or designee, shall determine if the request satisfies the standards of section 14.25.030. If the request satisfies the standards, then the Director shall sign the statement confirming that short-term rental is a permitted use. Such action is ministerial and, as a non-discretionary act, is not subject to appeal.
- B. In the event that the Community Development Director or designee, determines that an application does not meet one or more of the standards of section 14.25.030, then the land use compatibility statement shall not be signed.
- C. If one or more of the standards under section 14.25.030 cannot be met, an owner may seek relief from those standards through a conditional use permitting process, pursuant to section 14.34.010. Such an application is subject to review by the Planning Commission via a Type III decision making process, consistent with section 14.52.010, and is to be limited in scope to those standards that cannot be satisfied.
- D. A Conditional Use Permit may authorize more than one vacation rental on street segments where ten or more lots or parcels front the street. In such cases, no more than one vacation rental may be permitted for every five lots or parcels fronting the street.
- E. An approved Conditional Use Permit that grants relief from, or provides alternative requirements to, one or more of the standards of section 14.25.030 shall serve as evidence that standards have been satisfied so that the Director can sign the land use compatibility statement.

14.25.015 Submittal Requirements

Land use compatibility statements shall be submitted on a form provided by the Community Development Department, and shall include the following:

- A. Site plan, drawn to scale, showing the dimensions, property lines, existing buildings, landscaped area, and off-street parking locations.
- B. Floorplan of the dwelling unit that identifies the rooms dedicated to short-term rental use.

- C. If the dwelling unit is within a residential zone, a calculation of the percentage of front yard and total lot area maintained in landscaping.
- D. If the dwelling unit relies upon shared parking areas, a copy of a covenant or other binding legal instrument detailing unit owner rights and responsibilities related to the parking areas.

14.25.020 Establishment of a Vacation Rental Overlay Zone

~~(Staff note: this subsection is only required if one of the four map alternatives, or a variation of one of the maps, is selected as the basis of an overlay. It will be removed if policy makers decide that an overlay is not needed.)~~

~~A Vacation Rental Overlay Zone is hereby established identifying areas within the city limits where vacation rentals have been identified as compatible uses and areas where they are prohibited in order to protect the City's supply of needed housing and character of residential neighborhoods. The sole purpose of the Vacation Rental Overlay Zone is to identify where vacation rentals are permitted uses and does not alleviate a vacation rental from having to satisfy requirements that are otherwise applicable under the Newport Municipal Code.~~

Staff: We recommend that the Commission not adopt a zoning overlay at this time as a tight license cap, coupled with spacing standards for low density areas is likely to be more effective at protecting the character of neighborhoods and the City's supply of needed housing, which are the policy objectives that could support an overlay.

All four map alternatives would prohibit vacation rentals from areas where they have been historically allowed, with alternatives #3 and #4 impacting 25% to 30% of the existing licensed vacation rentals. Uses should be prohibited only if it can be shown that less restrictive measures cannot achieve policy objectives, because the end result is the elimination of a property right that many have relied upon when purchasing and investing in their properties. Map alternatives #1 and #2 are of limited value because they apply to areas that are far enough away from the beach and tourist-oriented commercial districts that they are not attractive for vacation rental use. Map alternatives #3 and #4, prohibit vacation rental uses in some residential neighborhoods and not others without a clear explanation as to why the character of some neighborhoods need to be protected through such a prohibition and others do not. This is problematic if the policy

objective is to protect the character of all residential neighborhoods. Concerns expressed by several Nye Beach area residents relate to this issue, as they are rightfully concerned that the adoption of one of these alternatives will lead to further concentration of vacation rentals in their neighborhoods.

With respect to needed housing, map alternatives #3 and #4 appear to favor the prohibition of vacation rental use of higher priced dwellings while allowing them to continue on residential properties that are more affordable (see attached summary of Vacation Rental Market Values). A fair amount of testimony has been submitted expressing concern that vacation rentals are taking away units that would otherwise be available as month to month rentals or as homes that would be available to the local workforce. Vacation rentals in R-1 and R-2 zoned areas, which these map alternatives are largely directed at, have a median market value of \$418,821 (per Zillow estimate). This is a very narrow slice of the City's needed housing, as this price point is outside of the range of what most of the City's workforce can afford, and may be most attractive to dual income working professionals and persons retiring to Newport from more affluent markets.

If map alternative #3 or #4 is adopted, then roughly 60 vacation rental operators could be required to wind down their operations, most of which have been renting their properties without documented complaints. It is likely that the City would need to invest in additional code enforcement staff, in addition to a third-party contract, both to ensure that the rentals are taken off the market and to police the areas on an ongoing basis. An additional code enforcement staff person, with benefits, could cost the city around \$100,000 a year. Elimination of up to 60 vacation rentals, without some other off-set, is likely to result in a reduction in room tax collections in the amount of \$125,000 to \$150,000. Fiscal impacts of this nature, where costs are added at the same time revenues are constricted is a significant considerations for city policymakers.

14.25.025 Allowed Locations

POLICY ALTERNATIVES

A.1.a. Home share and Bed & Breakfast Facility use of a dwelling unit is permitted in all residential and commercial zone districts.

and

A. 1.b. Vacation rental use of a dwelling unit is permitted in those areas where they are identified as allowed uses on the Vacation Rental Overlay Map (Select Map Alternative).

or

A.2. Short-term rental use of a dwelling unit is permitted in all residential and commercial zone districts.

Staff: For the reasons noted above, we are not recommending that one of the map alternatives be adopted; therefore, alternative A.2. would be the appropriate option to select.

14.25.030 Approval Standards

POLICY ALTERNATIVES

A.1. Density. The total number of vacation rentals shall be capped at level not to exceed five (5) percent of the dwelling units within the city. A specific cap number shall be established by City Council resolution.

or

A.2. Density. The total number of vacation rentals shall be capped at level not to exceed four (4) percent of the dwelling units within the city. A specific cap number shall be established by City Council resolution.

or

A.3. Density. The total number of vacation rentals shall be capped at level not to exceed three (3) percent of the dwelling units within the city. A specific cap number shall be established by City Council resolution.

(Staff Note: The density limit alternatives are specific to vacation rentals and would not apply to home shares or bed and breakfast facilities. The Ad-hoc work group discussed establishing a hard cap between 200 and 300, which is roughly 4- 5% of the City's housing stock. This option allows the Council to specify the specific number and adjust it from time to time as additional housing units are constructed. At its 10/22/18 work session, the

Planning Commission put forth a third option of 3%, which is about 165 units or 80% of the number of short-term rentals currently licensed in the city. Alternative approaches include adjusting the percentage, applying the cap to specific geographic areas, or not imposing a density limit.)

Staff: We recommend the Planning Commission pursue Alternative A.1. but suggest it recommend the Council, by resolution, set the cap number at a figure equivalent to the number of vacation rentals currently licensed, or in the process of being licensed. That initial cap number would be less than the 5% maximum that could be established by resolution, and if adopted at the same time the Council acts on Ordinance No. 2144, would effectively put in place a moratorium until a new resolution is adopted. This would give the City time to roll out the new rules. Once the new rules are in place, the Council could, over time, incrementally increase the cap number to account for new residential development. This type of active management will prevent rapid increases in the number of vacation rentals being licensed and allows the Council to link increases in the number of vacation rental licenses to the health of the housing market, consistent with the policy objective of protecting the city's supply of needed housing. Additionally, a tight cap furthers the policy objective of protecting the character of residential neighborhoods because it limits the growth of vacation rentals without favoring certain neighborhoods over others.

Alternative A. 1. prohibits the Council from establishing a cap level in excess of five (5) percent of the dwelling units within the city. This provides policy makers with a reasonable amount of flexibility. The five (5) percent threshold is also in line with what other cities, with a diverse economic base, have imposed.

POLICY ALTERNATIVES

B.1 Spacing. In the R-1 and R-2 zones, not more than one vacation rental shall be located on a parcel or lot that abuts a street segment. For corner lots, this standard applies to both street segments that abut that corner lot and only one vacation rental is permitted on the corner lots that abut the intersection.

or

B.2 Spacing. In the R-1 and R-2 zones, not more than one vacation rental shall be located on a parcel or lot that abuts a street segment. For corner lots, this standard applies to both street segments that abut that corner lot and only one vacation

rental is permitted on the corner lots that abut the intersection. In R-3 and R-4 zones, where both sides of the street segment are zoned for residential use, the same standards apply as those specified for R-1 and R-2 zones with the exception being that one multi-family dwelling or single dwelling is permitted per street segment.

Staff: We recommend the Commission adopt alternative B.1. This will require a handful of vacation rentals to be phased out of R-1 and R-2 zoned areas. This policy alternative will prevent a vacation rentals from being concentrated on a particular residential street segment or block, which impacts livability and character of residential areas. The Commission received testimony from persons worried about vacation rentals being concentrated on a particular street segment or block, and this alternative addresses that concern. Alternative B.2. extends the same principal to R-3 and R-4 zone districts; however, this method of trying to disperse units is not as effective when applied to mixed density areas and could prohibit townhouse and condo developments that were specifically designed for use as short term rentals (see problem street segment example on the street spacing maps).

POLICY ALTERNATIVES

C.1. Occupancy. Maximum occupancy for a short-term rental shall be two (2) persons per bedroom, plus two additional persons per property.

or

C.2. Occupancy. Maximum occupancy for a short-term rental shall be two (2) persons per bedroom, excluding children under three (3) years of age.

or

C.3. Occupancy. Maximum occupancy for a short-term rental shall be two (2) persons per bedroom.

Staff: We recommend that the Planning Commission select alternative C.1. in light of the fact that this standard is now the maximum occupancy of the unit at any time, as opposed to just maximum overnight occupancy. Most concerns raised related to occupancy were related to potential nuisance impacts attributed to large parties, which would exceed the occupancy allowance under C. 1.

- D. Guestroom Limitations. The following limitations apply to the number of bedrooms within a dwelling unit that may be occupied by guests staying at a short-term rental.
1. Vacation Rentals. A maximum of five (5) bedrooms.
 2. Home shares. A maximum of two (2) bedrooms.

POLICY ALTERNATIVES

E.1. Parking Standards. One (1) off-street parking space per bedroom that is dedicated to short-term rental use. Parking spaces shall comply with the dimensional standards of subsection 14.14.090(A). Off-street parking on driveways that extend into underdeveloped rights-of-way may be used to satisfy this requirement provided a stipulation is placed on the endorsement that the authorization may be revoked if the street is improved and driveway shortened.

or

E.2. Parking Standards. One (1) off-street parking space per bedroom that is dedicated to short-term rental use, unless the dwelling unit is within a parking district as defined in section 14.14.100, in which case on-street parking may be used to meet the one (1) space per bedroom requirement provided the parking is allocated in accordance with the requirements of the parking district. Parking spaces shall comply with the dimensional standards of subsection 14.14.090(A). Off-street parking on driveways that extend into underdeveloped rights-of-way may be used to satisfy this requirement provided a stipulation is placed on the endorsement that the authorization may be revoked if the street is improved and driveway shortened.

Staff: We recommend the Planning Commission select alternative E.2. The City has established a handful of parking districts where it provides public parking in lieu of requiring businesses construct off-street parking. In such cases, vacation rentals should have a right to use on-street spaces in the same manner as other commercial uses.

-
- F. Shared Access. Short-term rentals that rely upon use of shared access and parking areas may only be permitted if a covenant or other binding legal instrument establishes that the owner of the unit maintains exclusive use of the required parking space(s).

- G. Landscaping. For short-term rentals situated on individual lots or parcels in residential zones, at least 50% of the front yard and 40% of the total area shall be landscaped. No more than 50% of the front yard landscaping may be impervious surfaces, such as patios and decks. Driveway and parking areas shall not satisfy any portion of these landscaping requirements.

14.25.035 Non-Conforming Short Term Rentals

POLICY ALTERNATIVES

A.1. *The non-conforming use provisions of NMC Chapter 14.32 shall apply to all short-term rentals that received endorsements prior to the effective date of this ordinance.*

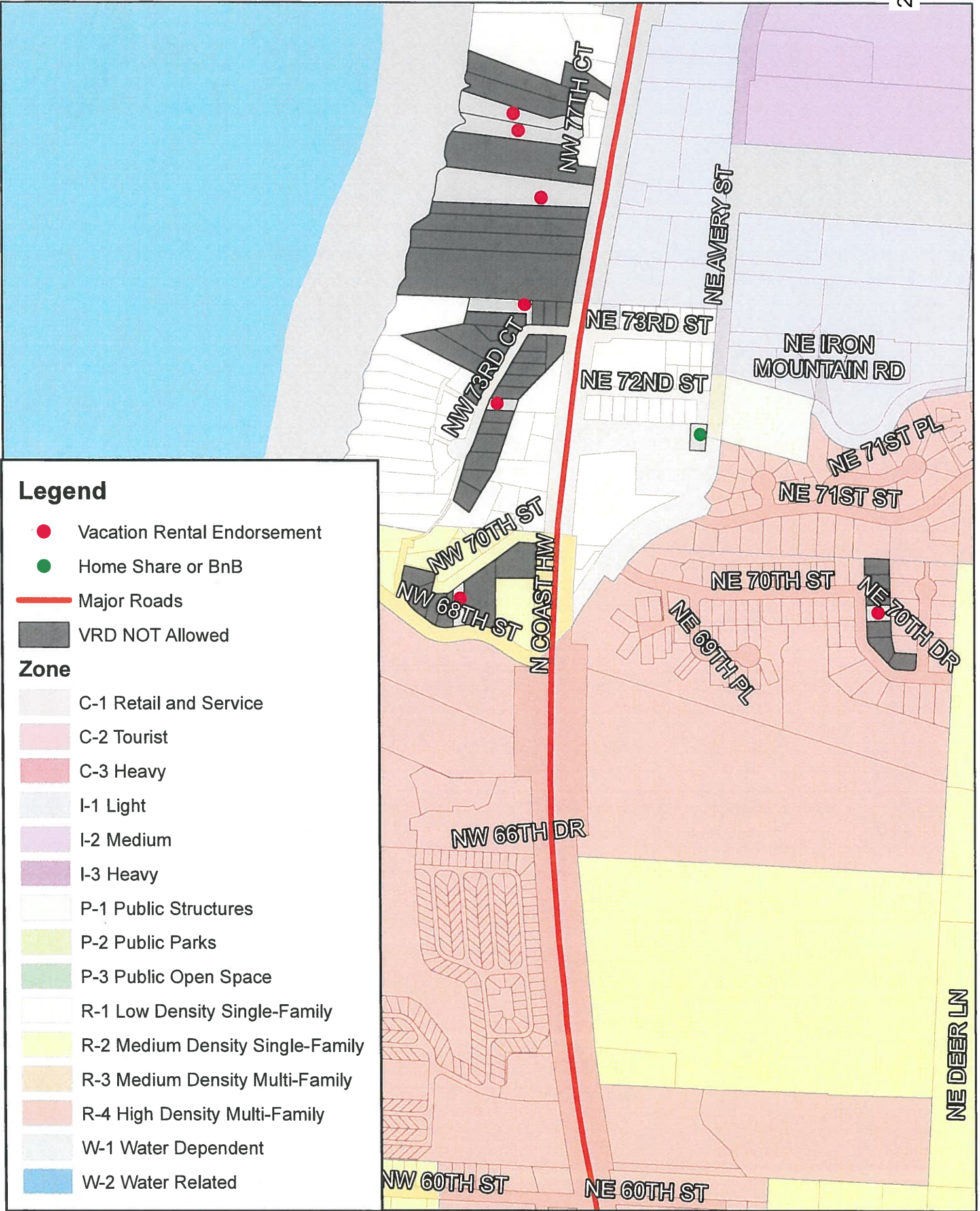
or

A.2. *The non-conforming use provisions of NMC Chapter 14.32 shall apply to all short-term rentals licensed prior to the effective date of this ordinance for a period of five (5) years, after which dwelling units shall comply with all applicable provisions of this chapter, except the spacing requirements of subsection 14.25.030(B).*

or

A.3. *The non-conforming use provisions of NMC Chapter 14.32 shall apply to all short-term rentals licensed prior to the effective date of this ordinance for a period of five (5) years, after which dwelling units shall comply with all applicable provisions of this chapter. In cases where there are two or more vacation rentals along a street segment, the vacation rental with the oldest endorsement date shall be acknowledged as satisfying the spacing requirement of subsection 14.25.030(B).*

Staff: Alternative A.3. provides existing vacation rental operators a reasonable amount of time to bring their units into full compliance with the new rules, and addresses the handful of units that would need to be phased out because there is more than one vacation rental on a particular street segment. The other options either allow existing vacation rentals to operate indefinitely under old rules, or they exempt rentals from having to meet the spacing standards, neither of which is as consistent with the policy objectives of Ordinance No. 2144.



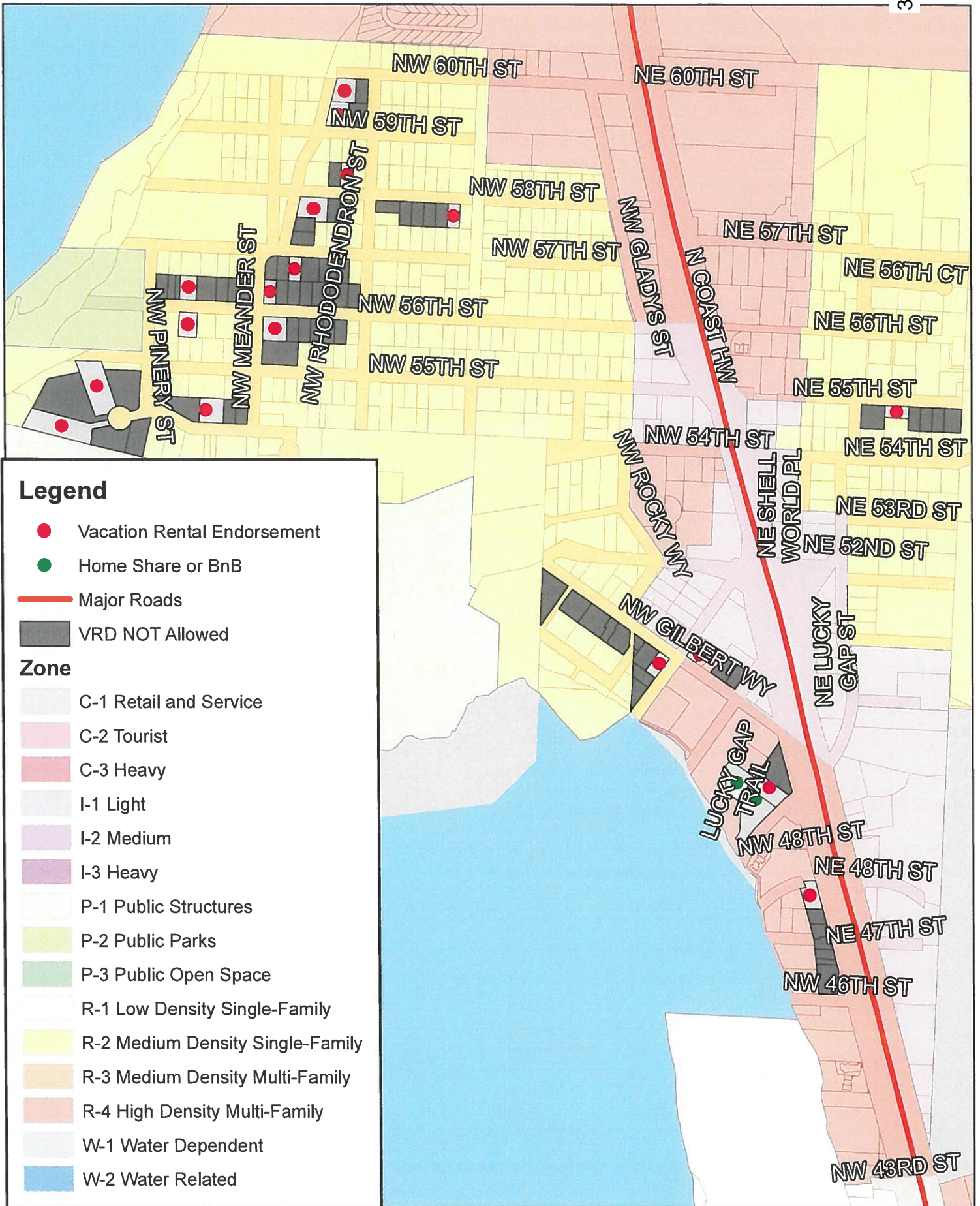
Legend

- Vacation Rental Endorsement
- Home Share or BnB
- Major Roads
- VRD NOT Allowed

Zone

- C-1 Retail and Service
- C-2 Tourist
- C-3 Heavy
- I-1 Light
- I-2 Medium
- I-3 Heavy
- P-1 Public Structures
- P-2 Public Parks
- P-3 Public Open Space
- R-1 Low Density Single-Family
- R-2 Medium Density Single-Family
- R-3 Medium Density Multi-Family
- R-4 High Density Multi-Family
- W-1 Water Dependent
- W-2 Water Related

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Legend

- Vacation Rental Endorsement
- Home Share or BnB
- Major Roads
- VRD NOT Allowed

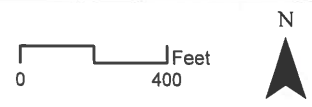
Zone

- C-1 Retail and Service
- C-2 Tourist
- C-3 Heavy
- I-1 Light
- I-2 Medium
- I-3 Heavy
- P-1 Public Structures
- P-2 Public Parks
- P-3 Public Open Space
- R-1 Low Density Single-Family
- R-2 Medium Density Single-Family
- R-3 Medium Density Multi-Family
- R-4 High Density Multi-Family
- W-1 Water Dependent
- W-2 Water Related

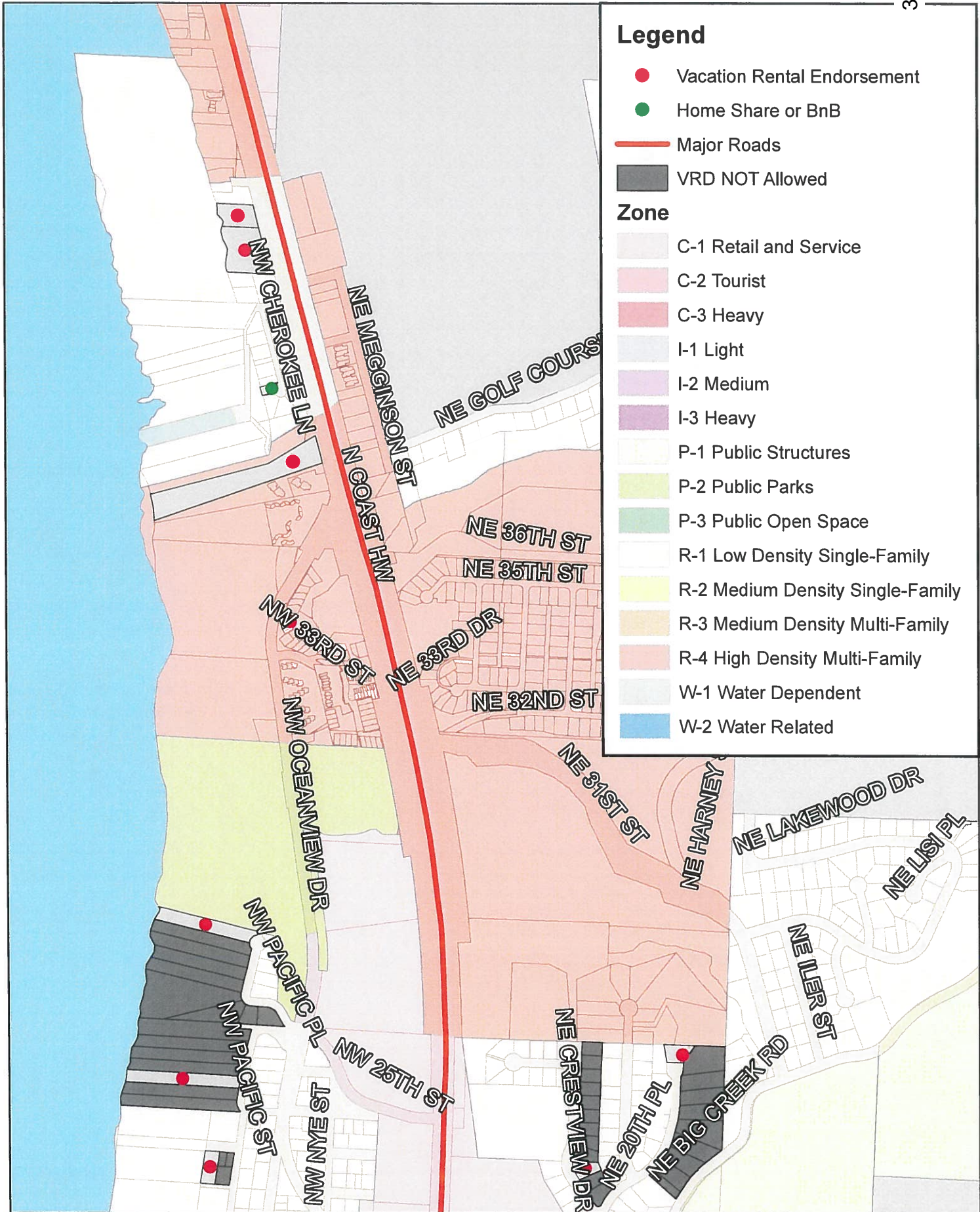


City of Newport
 Community Development Department
 169 SW Coast Highway
 Newport, OR 97365
 Phone: 1.541.574.0629
 Fax: 1.541.574.0644

Residential Zones # 2 - VRD Allowances

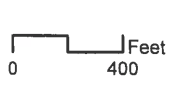


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Residential Zones # 3 - VRD Allowances



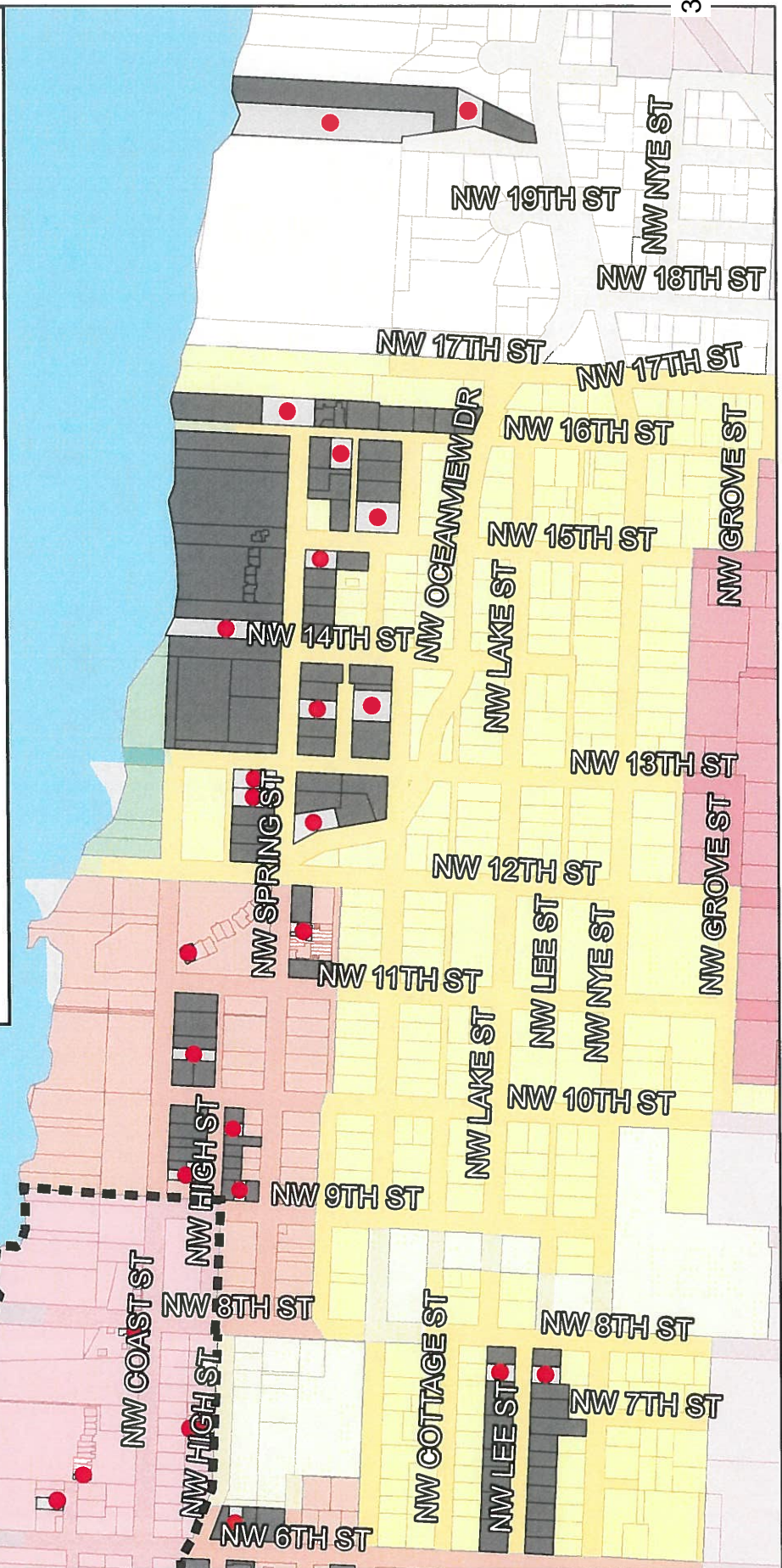
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Legend

- Vacation Rental Endorsement
- Home Share or BnB
- Major Roads
- VRD NOT Allowed
- C-2 Zone

Zone

- C-1 Retail and Service
- C-2 Tourist
- C-3 Heavy
- I-1 Light
- I-2 Medium
- I-3 Heavy
- P-1 Public Structures
- P-2 Public Parks
- P-3 Public Open Space
- R-1 Low Density Single-Family
- R-2 Medium Density Single-Family
- R-3 Medium Density Multi-Family
- R-4 High Density Multi-Family
- W-1 Water Dependent
- W-2 Water Related



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Residential Zones # 4 - VRD Allowances



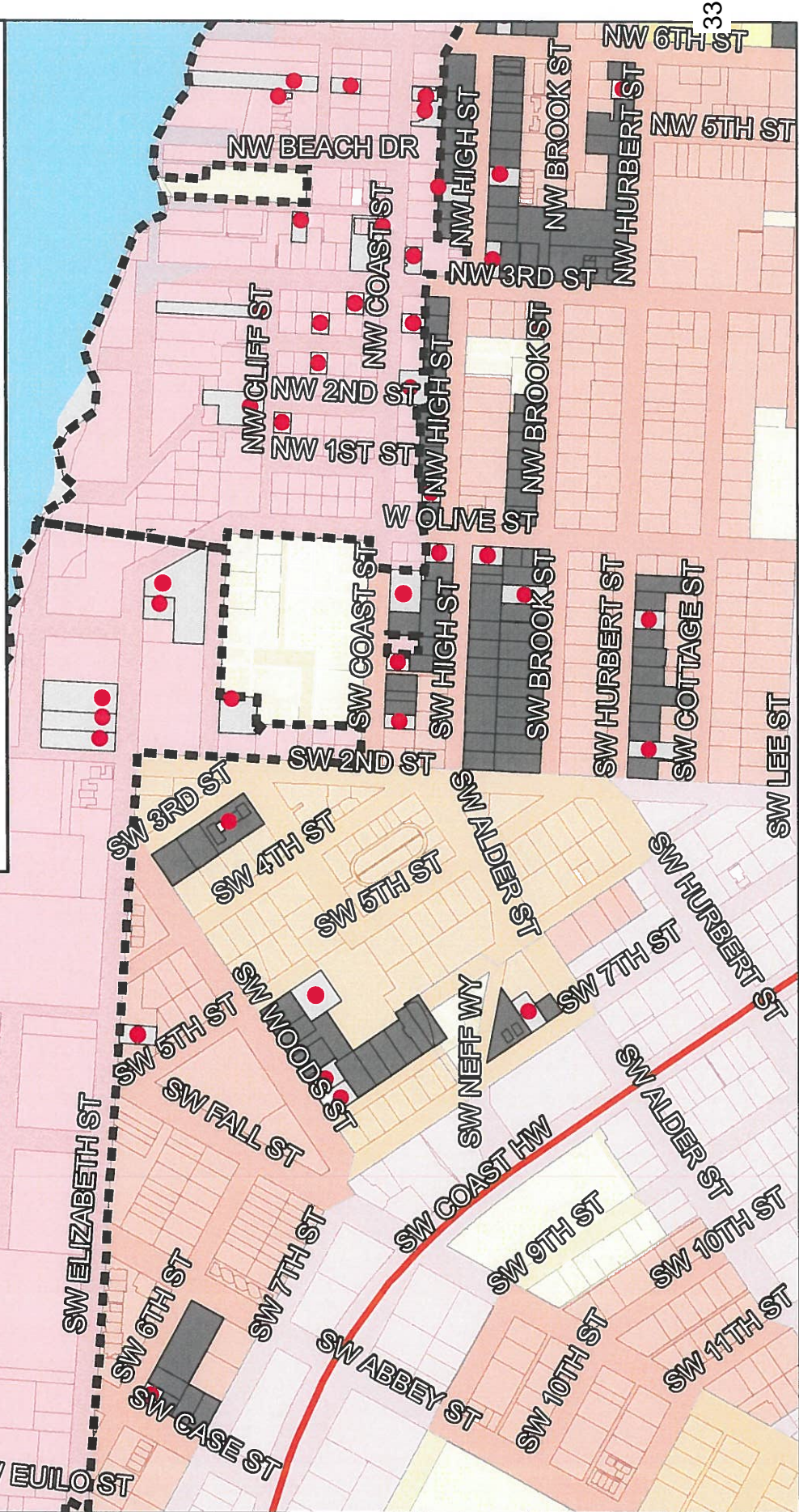
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Legend

- Vacation Rental Endorsement
- Home Share or BnB
- C-2 Zone
- Major Roads
- VRD NOT Allowed

Zone

- C-1 Retail and Service
- C-2 Tourist
- C-3 Heavy
- I-1 Light
- I-2 Medium
- I-3 Heavy
- P-1 Public Structures
- P-2 Public Parks
- P-3 Public Open Space
- R-1 Low Density Single-Family
- R-2 Medium Density Single-Family
- R-3 Medium Density Multi-Family
- R-4 High Density Multi-Family
- W-1 Water Dependent
- W-2 Water Related

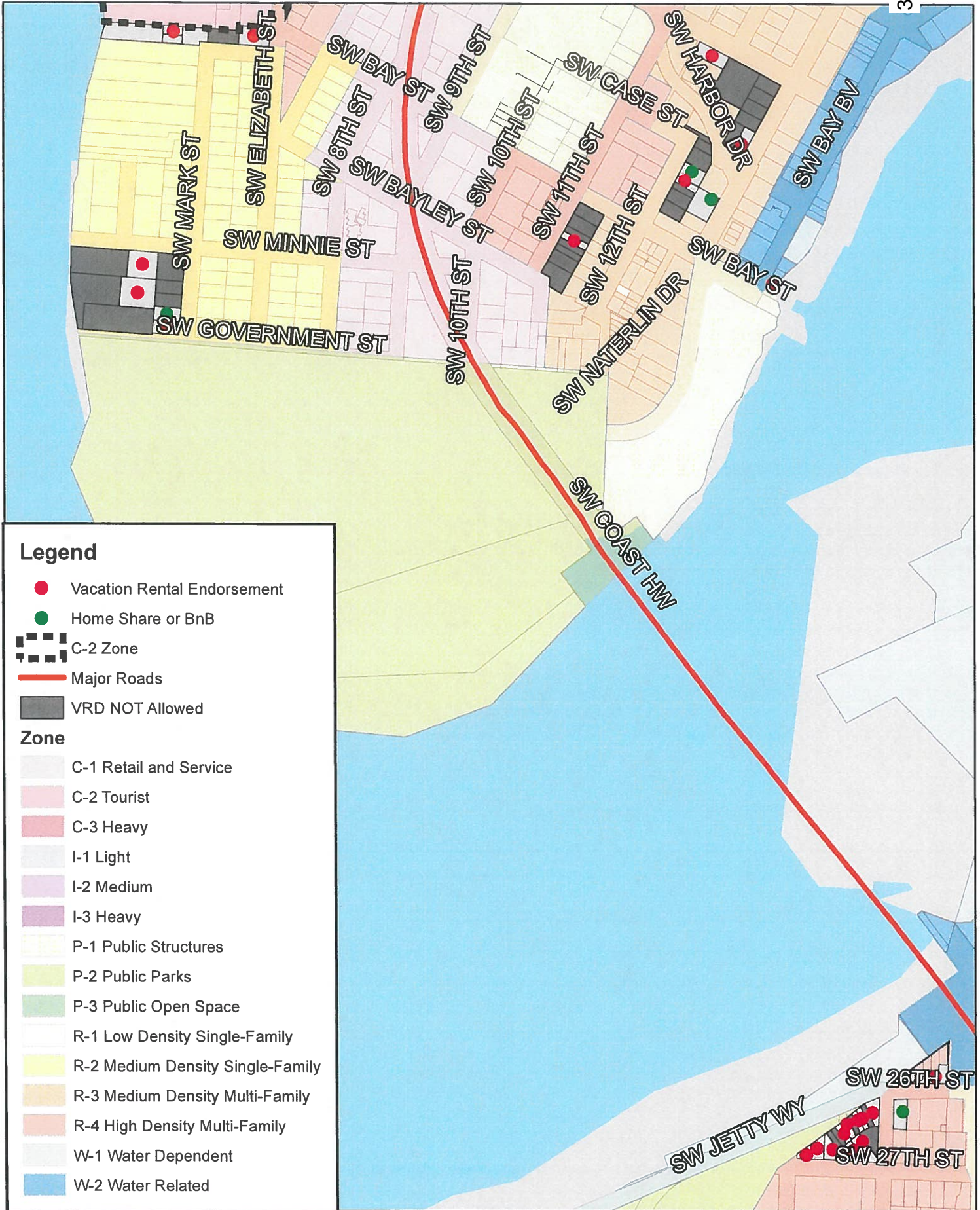


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Residential Zones # 5 - VRD Allowances



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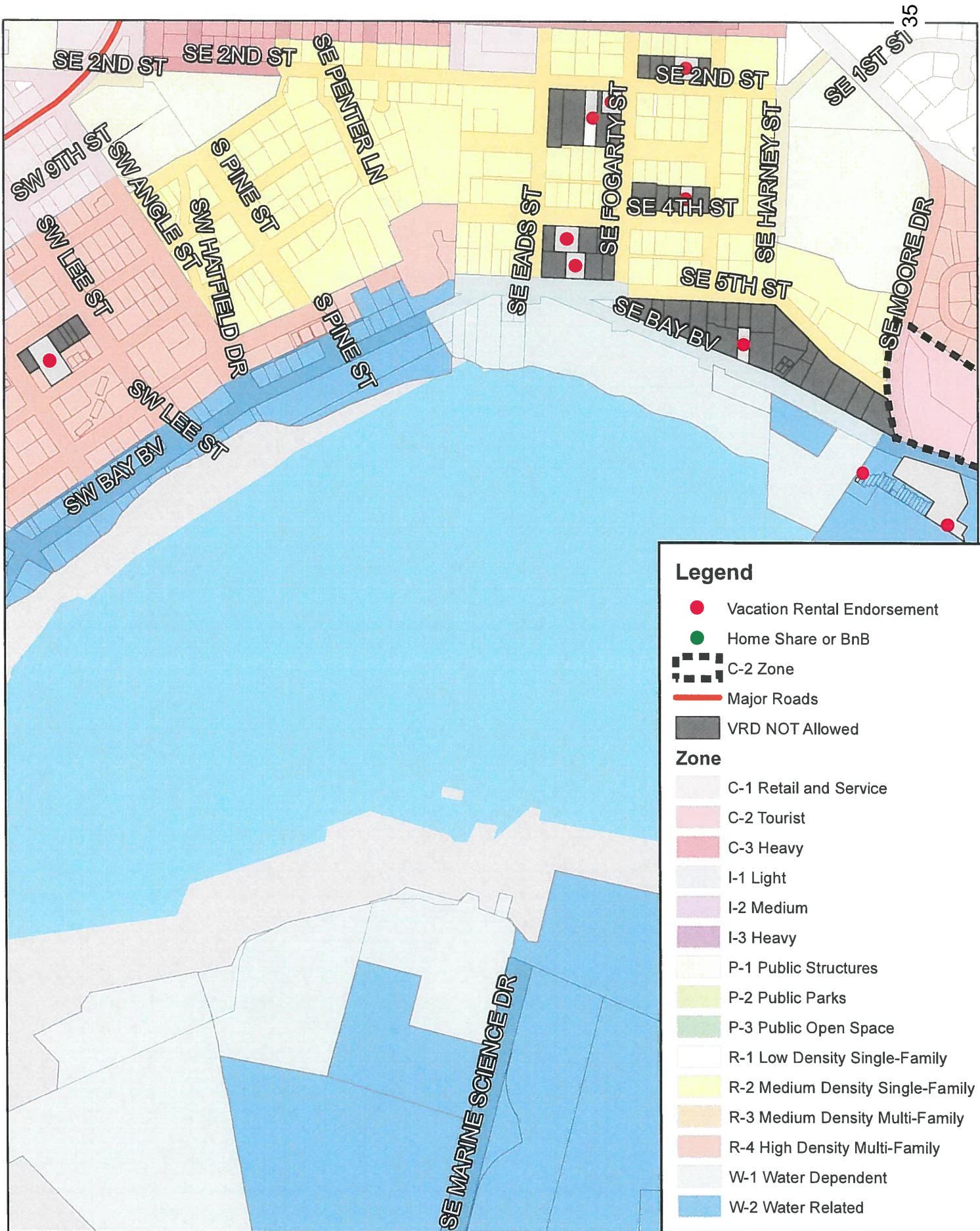
Legend

- Vacation Rental Endorsement
- Home Share or BnB
- C-2 Zone
- Major Roads
- VRD NOT Allowed

Zone

- C-1 Retail and Service
- C-2 Tourist
- C-3 Heavy
- I-1 Light
- I-2 Medium
- I-3 Heavy
- P-1 Public Structures
- P-2 Public Parks
- P-3 Public Open Space
- R-1 Low Density Single-Family
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- R-3 Medium Density Multi-Family
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- W-1 Water Dependent
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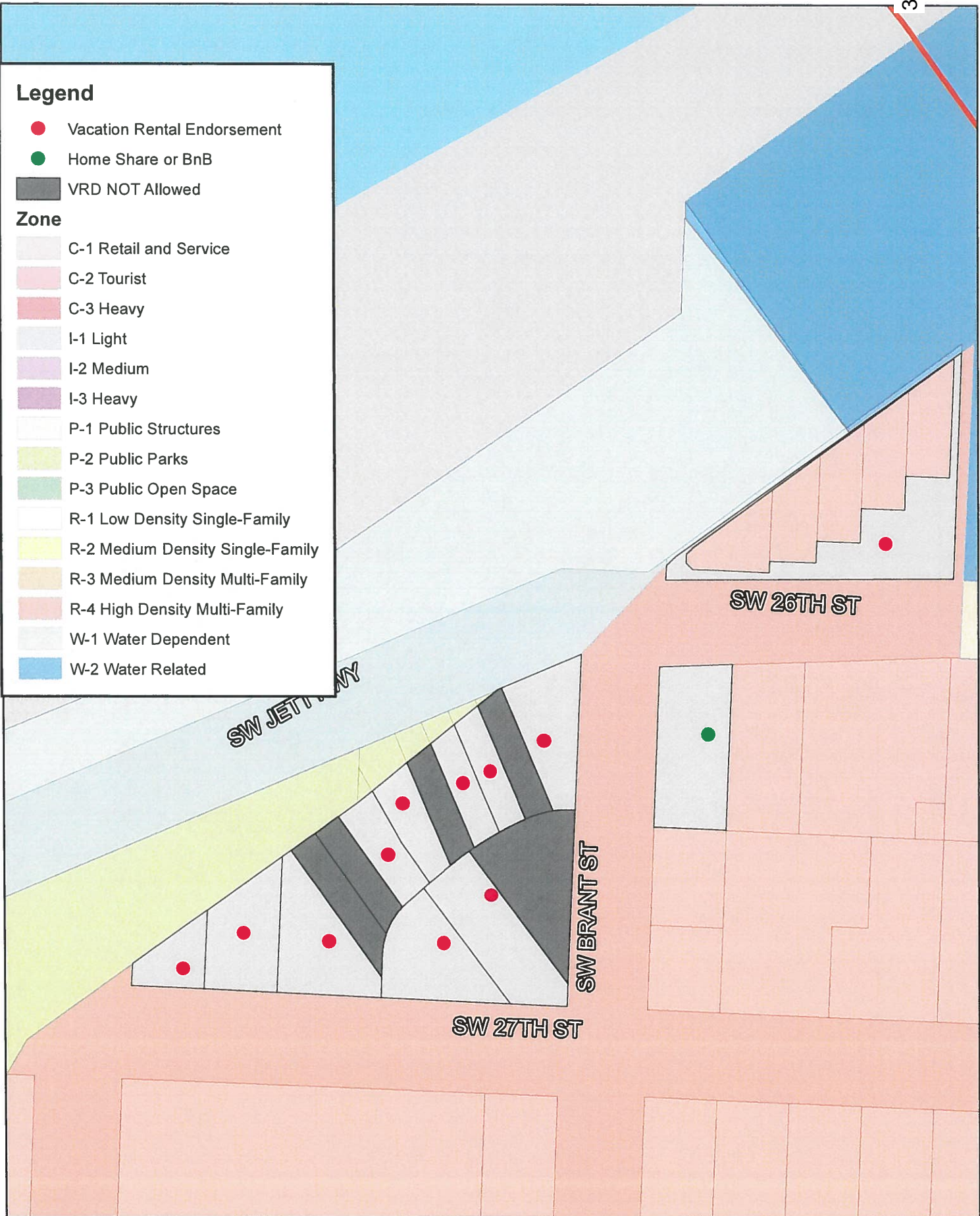
Residential Zones # 7 - VRD Allowances



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Legend

- Vacation Rental Endorsement
 - Home Share or BnB
 - VRD NOT Allowed
- Zone**
- C-1 Retail and Service
 - C-2 Tourist
 - C-3 Heavy
 - I-1 Light
 - I-2 Medium
 - I-3 Heavy
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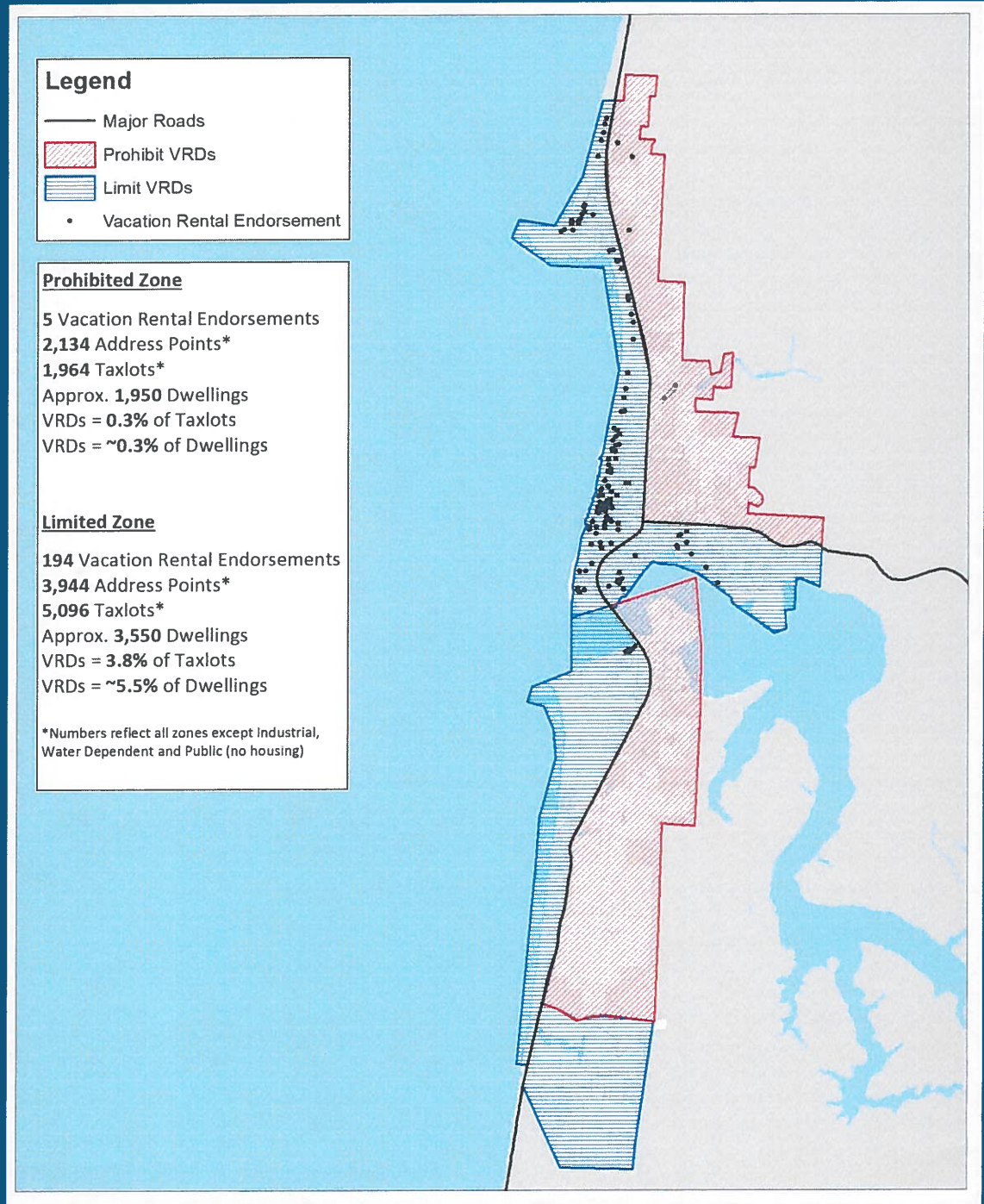
South Beach - R-4 Problem Street Segment Example



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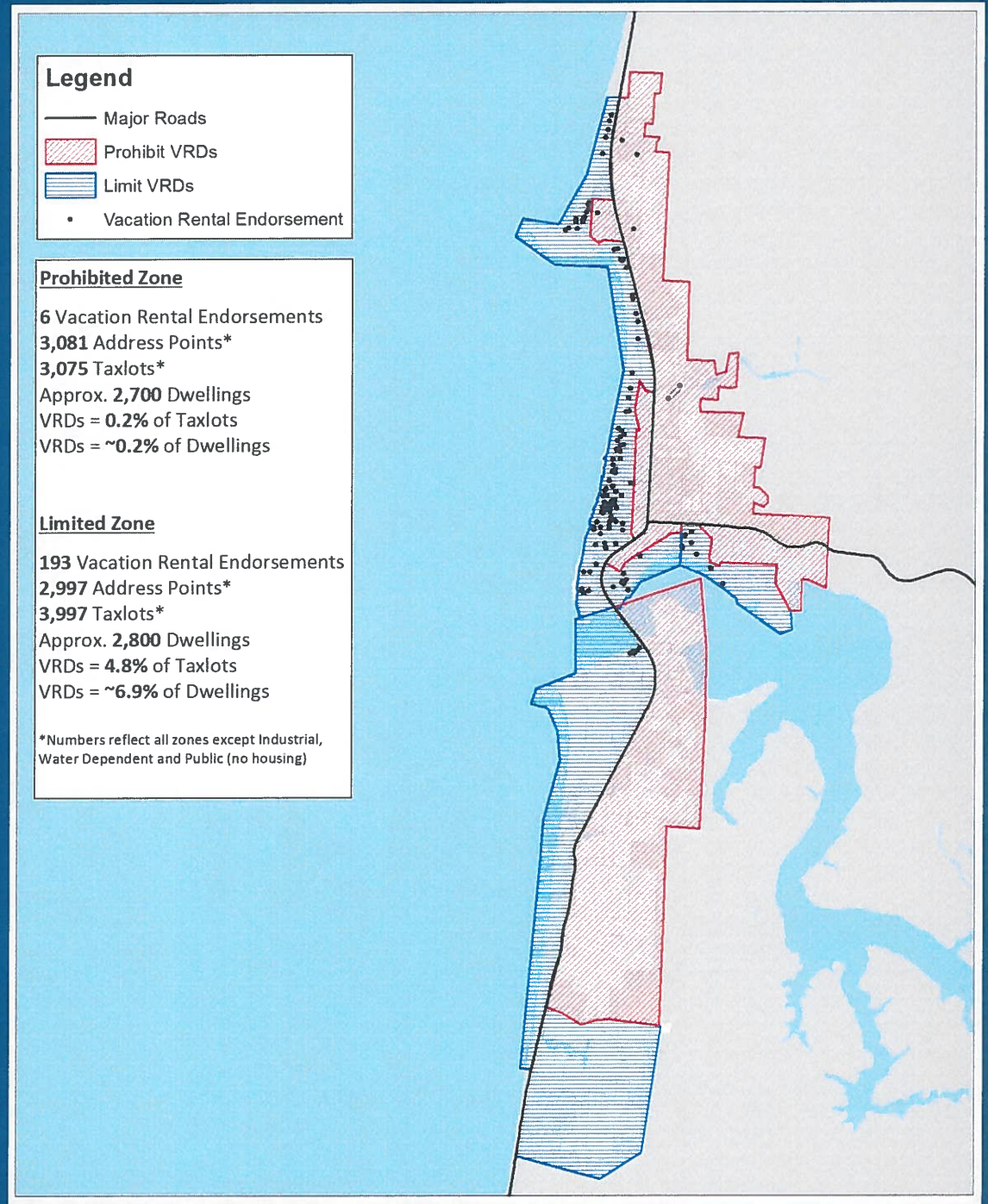
MAP ALTERNATIVE I

- VRDs ALLOWED WEST OF US 101 AND SOUTH OF US 20
- UNITS IN PROHIBITED AREAS TO BE PHASED OUT OVER TIME
- CAP TO BE IMPOSED ON MAXIMUM NUMBER OF VRDs IN LIMITED AREAS
- SPACING REQUIREMENTS FOR VRDS IN RESIDENTIAL ZONES



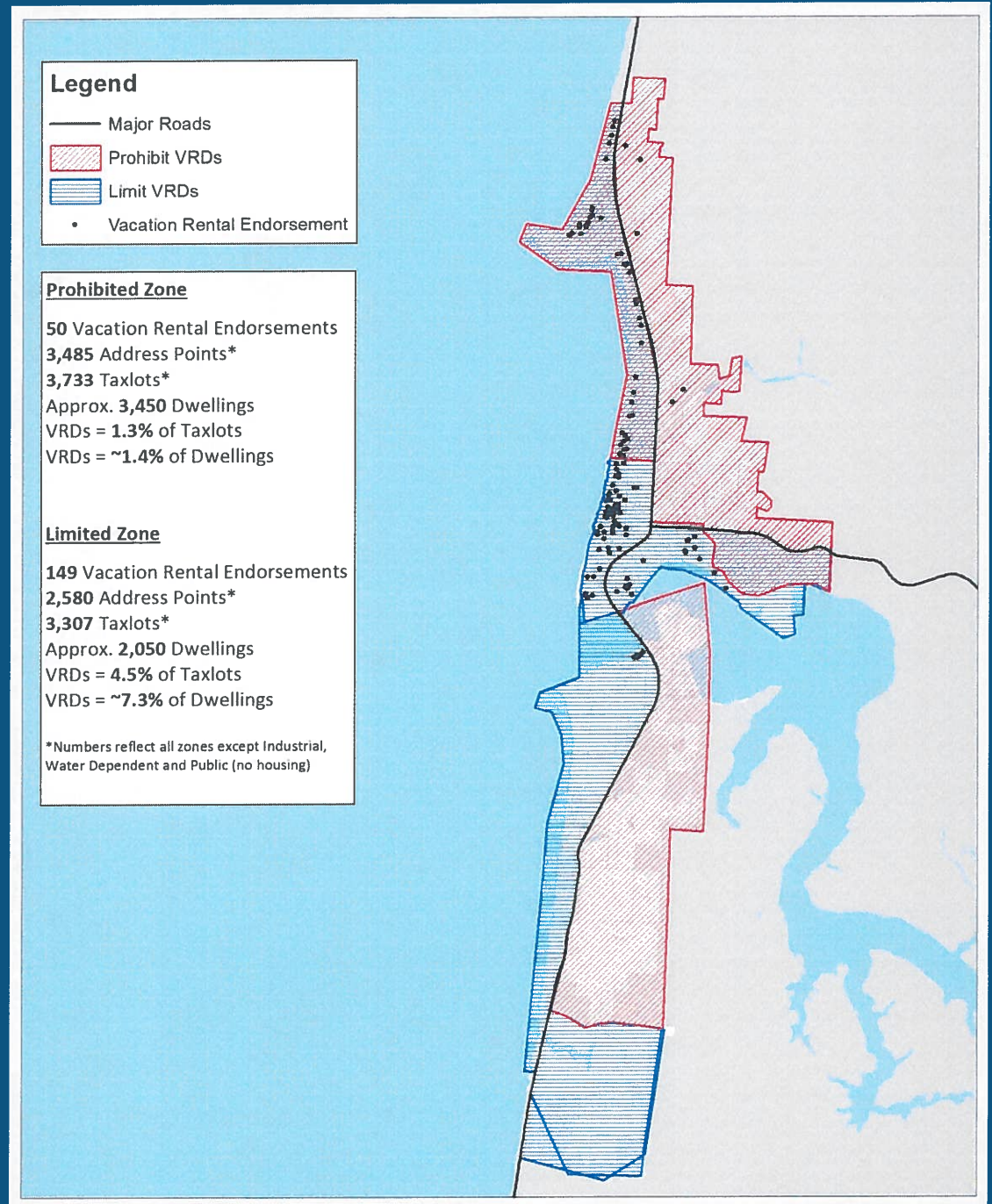
MAP ALTERNATIVE II

- HIGHWAY ORIENTATION SIMILAR TO MAP ALTERNATIVE I
- EXTENDS WEST OF US 101 AND SOUTH OF US 20 WHERE NEIGHBORHOODS LACK VRDs OR VRD AMENITIES
- CAP AND SPACING REQUIREMENTS TO BE APPLIED WHERE VRDs ARE ALLOWED



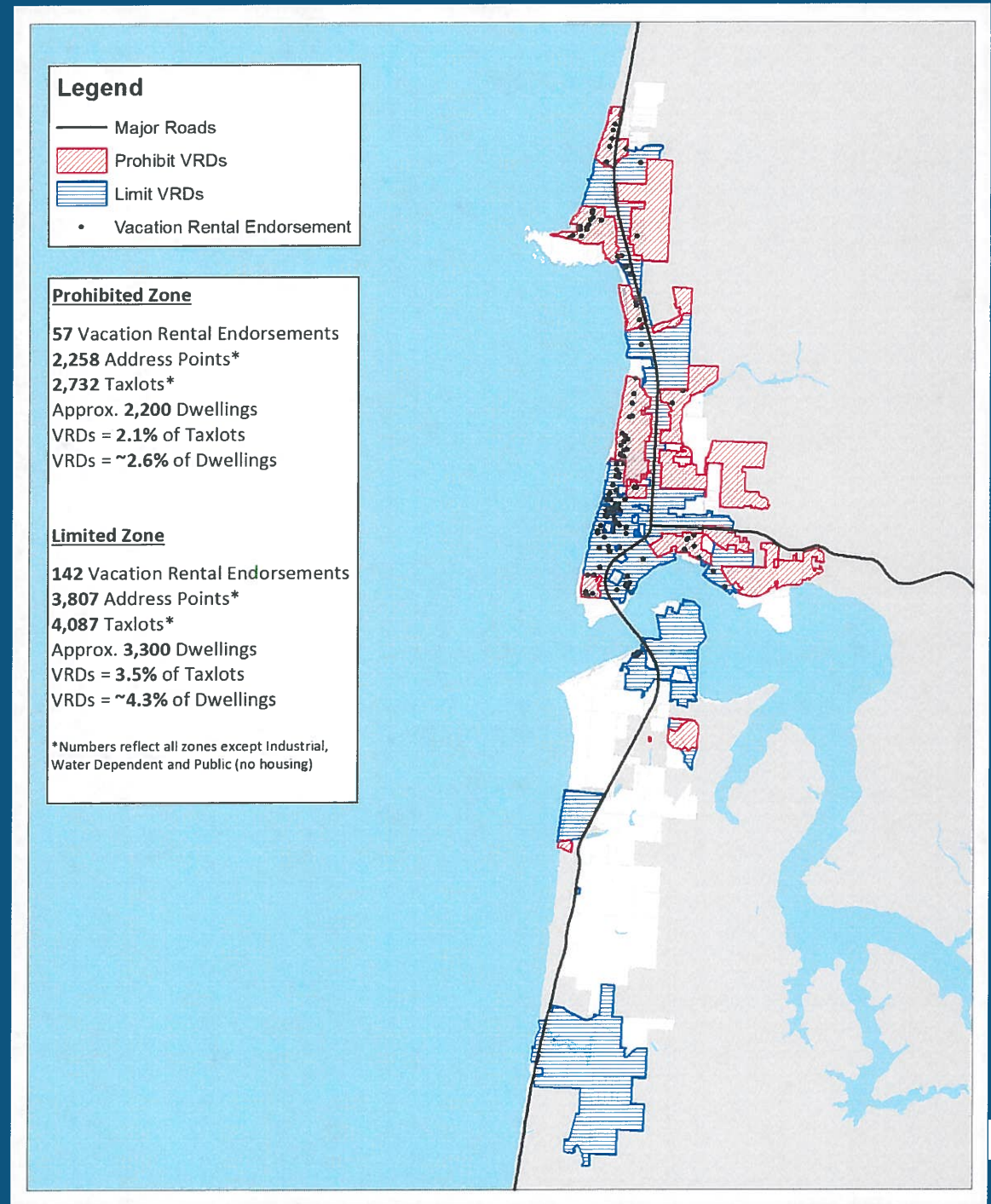
MAP ALTERNATIVE III

- LIMITS VRDs TO AREAS CLOSE TO TOURIST COMMERCIAL USES
- CAP AND SPACING REQUIREMENTS TO BE APPLIED WHERE VRDs ARE ALLOWED
- SIGNIFICANT NUMBER OF EXISTING VRDs IN PROHIBITED AREAS WHERE THEY WOULD BE PHASED OUT OVER TIME



MAP ALTERNATIVE IV

- PROHIBITS VRDs IN R-1 AND R-2 ZONED AREAS
- RATIONALE IS THAT THESE AREAS ARE THE MOST REMOVED FROM COMMERCIAL ACTIVITIES AND THE LARGER LOT SIZES MAKE THEM MORE PRONE TO NUISANCE IMPACTS FROM LARGE GATHERINGS
- CAP AND SPACING REQUIREMENTS MAY BE APPLIED WHERE VRDs ARE ALLOWED IN R-3/R-4
- SIGNIFICANT NUMBER OF EXISTING VRDs IN PROHIBITED AREAS WHERE THEY WOULD BE PHASED OUT OVER TIME



 2017 Assessor's Real Market Values for Vacation Rentals

All Rentals Count: 203	Low: \$42,438 High: \$1,714,300 Median: \$283,100	Rentals R-1/R2 Zones Count: 60	Low: \$131,340 High: \$991,720 Median: \$390,930
Single Family Dwellings Count: 108	Low: \$131,340 High: \$1,714,300 Median: \$346,680	Rentals R-3/R-4 Zones Count: 70	Low: \$42,438 High: \$1,116,420 Median: \$303,130
Condos/Duplexes Count: 95	Low: \$42,438 High: \$743,420 Median: \$195,620	Rentals C-2/W-2 Zones Count: 73	Low: \$71,780 High: \$1,714,300 Median: \$176,970
Condos/Duplexes (Excluding C-2/W-2) Count: 38	Low: \$42,438 High: \$684,410 Median: \$302,930		

 2018 Zillow Estimate of Real Market Value

All Rentals Count: 203	Low: \$42,284 High: \$1,714,300 Median: \$312,555	Rentals R-1/R2 Zones Count: 60	Low: \$142,210 High: \$1,100,852 Median: \$418,821
Single Family Dwellings Count: 108	Low: \$141,140 High: \$1,714,300 Median: \$379,240	Rentals R-3/R-4 Zones Count: 70	Low: \$42,284 High: \$1,282,223 Median: \$331,628
Condos/Duplexes Count: 95	Low: \$42,284 High: \$743,420 Median: \$232,328	Rentals C-2/W-2 Zones Count: 73	Low: \$91,446 High: \$1,714,300 Median: \$228,528
Condos/Duplexes (Excluding C-2/W-2) Count: 38	Low: \$42,284 High: \$684,410 Median: \$316,522		

Note: Real market estimates from the County Assessor or Zillow do not necessarily align with the asking price of dwellings that are listed for sale. For example, one of the vacation rentals has an assessor's real market value of \$437,120 and Zillow estimated value of \$568,002, but is being marketed for sale at \$749,000.

Zillow estimates were available for 184 of the 203 vacation rentals (91%). In those cases where an estimate was not available, the County Assessor's 2017 real market value was used.

Derrick Tokos

From: Derrick Tokos
Sent: Wednesday, November 14, 2018 1:03 PM
To: 'PaulMaguireBiz'
Cc: Sherri Marineau
Subject: RE: Ordinance 2144

Mr. Maguire,

I am sorry that you did not receive notice of this draft ordinance, as we have attempted to reach out to all persons that own property within the city limits. If you could give me your mailing address, I'll see that you receive notice of future hearings on this topic.

A copy of your email will also be provided to the Planning Commission.

Thanks for reaching out to us.

Derrick I. Tokos, AICP
 Community Development Director
 City of Newport
 169 SW Coast Highway
 Newport, OR 97365
 ph: 541.574.0626 fax: 541.574.0644
 d.tokos@newportoregon.gov

-----Original Message-----

From: PaulMaguireBiz [mailto:paulmaguirebiz@gmail.com]
Sent: Wednesday, November 14, 2018 12:31 PM
To: Derrick Tokos <D.Tokos@NewportOregon.gov>
Subject: Ordinance 2144

Dear Mr Tokos
 And City council.

I never received a notice of this potential change.

I strongly object to any limitations on rentals or property use including any restriction on transient rentals.

Such an ordinance would be a disaster for Newport, a vacation destination. It would destroy the income of many mom and pop rentals and damage the tourist industry of newport.

Sincerely

Paul
 Maguire

Property owner

Sent from my iPhone