

ATTACHMENT A

Findings of Fact for Development Application #599-26 -- Durham Estates Addition Middle Housing Land Division and Site & Design Review

Public Services

The necessary public services such as water, sanitary sewer, storm drainage, and utilities are available to serve the existing legal lots. The City Engineer and public service providers offer the following comments related to utilities and public services.

- A. Engineering: The City's contract engineer provided the following comments:
1. In early May 2026, the applicant constructed an unpermitted retaining wall in the SW Cambridge Lane right-of-way, two-foot private water easement, and eight-foot public utility easement. This wall bisects the applicant's planned location for a pedestrian walkway and may interfere with private water improvements. To ensure that the applicant may still construct the required pedestrian walkway and also construct a retaining wall to protect the sidewalk along SW Cambridge Lane from slope instability associated with Lots 1-4, the applicant shall obtain right-of-way and building permits to remove and relocate the retaining wall outside of the planned pedestrian walkway area and the proposed water service lines in the new water easement. The relocated retaining wall shall be constructed and receive final inspection from the City of Durham prior to receiving the first building or grading permit in connection with construction or grading on Lots 1-4. Staff have included this information in a condition of approval.
- B. Water: Water service is available to the site from Durham's contract water provider, the City of Tigard. The applicant is proposing only service for each parent lot. At time of construction, the applicant can work with the City of Tigard and the Tualatin Building Department (Durham's contract building inspection service) to ensure private lines are installed to each unit from the single service from each parent lot in way that meets Building Code. Water services can be provided to the site through conditions of approval.
- C. Sanitary Sewer, Storm Water, and Water Quality: Clean Water provides sanitary sewer, storm water, and water quality services to the City of Durham. The proposed Middle Housing Land Division concept was previously reviewed as part of the application and approval for Durham Estates, a 9-lot subdivision, identified as CWS Project No. 10232. Sanitary and stormwater design meeting current CWS standards was incorporated into the construction of this project.

Application #599-26 may receive plat approval if it remains consistent with the previously approved design for the nine-lot subdivision. In order to create additional properties in Application #599-26 and distribute SDCs, the application must file a Site Development Permit for CWS review and approval. In the event of inconsistencies with the prior concept approval, or should additional requirements be needed for the construction of

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this project, this application will need to be made in accordance with the requirements of the current Design and Construction Standards, Resolution and Order No. 19-5 as amended by R&O 19-22 (CWS Standards), or prior standards as meeting the implementation policy of R&O 18-28, and is to include:

1. Compliance with all provisions of CWS Standards.
 2. A drainage report addressing stormwater design may be required for project modifications from the original concept approval.
 3. Detailed plans showing each lot within the development having direct access by gravity to public storm and sanitary sewer.
 4. Show all existing and proposed easements on plans. Any required storm sewer, sanitary sewer, and water quality related easements must be granted to Clean Water Services.
 5. Any proposed changes to the prior approval, or offsite construction activities, will require an update to the current Service Provider Letter for this project.
- D. Fire Protection: Tualatin Valley Fire and Rescue (TVFR) provided comments on the application. Oregon Fire Code (OFC) Section 503.2.1 specifies the minimum dimensions for fire apparatus access roads, requiring an unobstructed width of **not less than 20 feet**. These dimensions ensure that fire apparatus can access buildings and infrastructure while maintaining safety and maneuverability. Proposed private two-way asphalt driveways serving Lots 5-26 are 18 feet wide with one-foot concrete wedge curbs on each side. While the two-way asphalt driveway serving Lots 1-4 is 12 feet wide with wedge curbs on both sides. TVFR finds that the 18-foot-wide two-way driveways with wedge curbs meet the intent of OFC Section 503.2.1 because fire apparatus can still access the driveways using the one-foot wedge curbs on each side of the driveway. This results in a 20-foot-wide unobstructed width.
- The existing hydrants meet distance requirements from the Oregon Fire Code and TVFR's New Construction Fire Code Applications Guide for One- and Two-Family Dwellings and Townhouses. The site plan must show the fire flow calculation from Appendix B of the Oregon Fire Code, and a flow test must be obtained from one of the hydrants on SW Taylor Road (more recent than five years old) showing that the hydrants can provide no less than the amount of water required in Appendix B of the Oregon Fire Code. Fire flow and flow test requirements can be met with conditions.
- E. Solid Waste Disposal: Pride Disposal (Durham's service provider) states that vehicle access ways for all 32 lots are not wide enough to service individual properties. All garbage totes will need to be placed either on SW Taylor or SW Cambridge on solid waste/recycling collection day. The applicant must work with Pride Disposal

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should find an acceptable solution for solid waste disposal.

- F. Semi-Public Utilities: DDC Section 3.8.3 requires electricity, natural gas, and telephone and telecommunications supply lines shall be placed underground in the designated public utility easements that abut SW Taylor Drive and SW Cambridge Lane. The applicant will need to coordinate connections to electricity, natural gas, and communication services with those utilities. Some of the semi-public utilities are not yet installed for the parent lots. All of the semi-public utilities shall be installed prior to the first building permit for either Durham Estates or Durham Estates Addition subdivisions.
- G. Transit: At time of construction, TriMet has requested that the applicant provide a traffic control plan for any traffic disruptions along Boones Ferry Road that would impact bus service during construction.

Applicable Approval Criteria from Oregon Revised Statutes:

Oregon Revised Statutes

92.031(2) *A city or county shall approve a tentative plan for a middle housing land division if the application includes:*

- (a) *Separate utilities, other than water or wastewater, for each dwelling unit;*

Finding 1: Water and wastewater are addressed directly below in item (c)(A) and under ORS 92.031(4)(g). This criterion is met.

(b) *A proposal for development of middle housing that is in compliance or must comply with the Oregon residential specialty code and land use regulations under ORS 197A.420 (5) that are applicable to the original lot or parcel and which may consist of: (A) A single duplex, triplex, quadplex, cottage cluster or structure containing townhouses; (B) Additional units as allowed by section 3 (3) of this 2025 Act; and (C) Retained or rehabilitated existing units allowed under ORS 197A.420 (4), if any;*

Finding 2: ORS 197A.420(5) permits the City to regulate siting and design of middle housing that is required to be permitted within the city limits. Acceptable siting and design standards are further adopted by the state in OAR 660-046. The City has adopted siting and design standards for middle housing development within its development code, as further outlined below. These standards comply with the applicable state laws and administrative rules. This criterion is addressed below.

- (c) *Proposed easements necessary for each dwelling unit on the plan for:*
 - (A) *Locating, accessing, replacing, and servicing all utilities;*

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- (B) Pedestrian access from each dwelling unit to a private or public road;*
- (C) Any common use areas or shared building elements;*
- (D) Any dedicated driveways or parking; and*
- (E) Any dedicated common area;*

Finding 3: The individual sections of this criterion are addressed below:

- (A) Utility Easements. The City of Tigard is the City's water provider. Tigard staff do not have any water-related comments on this application. If utility easement locations or dimensions change from the original Durham Estates nine-lot subdivision, the applicant shall submit those utility easement changes to the City of Durham for review prior to submitting the final plat for review.

Clean Water Services (CWS) states that if the proposed easements for sanitary sewer and stormwater are the same as the nine-lot Durham Estates, then this proposal is likely to receive approval from CWS. In order to confirm whether CWS can approve this proposal, prior to submitting the final plat to the City of Durham, the applicant shall apply and receive approval for a CWS Site Development Permit. The CWS Site Development Permit package shall include:

1. Evidence showing compliance with all provisions of CWS Standards.
2. A drainage report addressing stormwater design may be required for project modifications from the original concept approval.
3. Detailed plans showing each lot within the development having direct access by gravity to public storm and sanitary sewer.
4. A plat showing all existing and proposed easements on plans. Any required storm sewer, sanitary sewer, and water quality related easements shall be granted to Clean Water Services.
5. Any proposed changes to the prior approval, or offsite construction activities will require any update to the current Service Provider Letter for this project.

This criterion can be met with conditions prior to submitting the final plat to the City.

- (B) Pedestrian Access. To meet the Durham Development Code and this statutory criterion, the applicant is required to provide pedestrian access from a public street to each individual dwelling unit. On April 6, 2026, the applicant submitted a revised Sheet 2.0 "Preliminary Plat" showing an additional pedestrian access easement allowing for pedestrian access to Lots 1-4. Prior to final plat approval, the applicant

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must delineate this pedestrian access easement, identified as number 13 on the “Easement Notes.”

- (C) Common Use Areas or Shared Building Elements. The applicant’s narrative states that all notations and easements for common use areas will be included on the final plat for this MHL. Staff will include this as a condition of approval. This criterion is met with the condition of approval.
- (D) Dedicated Common Driveways. Sheet 2.0 “Preliminary Plat” includes all easements for required common driveways. This criterion is met.
- (E) Dedicated Common Area. The nine-lot Durham Estates subdivision parent lot plat already required a dedicated common area identified as “Tract A” on the recorded plat (located at the southeast corner of SW Taylor Lane and SW Cambridge Lane). For the proposed replat of this subdivision -- Durham Estates Addition Middle Housing development – the applicant must obtain permits, construct, and receive final inspection unfinished improvements on the approved Tract A from the nine-lot subdivision and the same proposed Tract A on this MHL. These improvements shall be completed and approved prior to obtaining the first building or grading permit associated with the proposed MHL. This criterion is met with a condition.

(d) Exactly one dwelling unit on each resulting lot or parcel, except for (A) lots, parcels or tracts used as common areas; and

Finding 4: One dwelling unit will exist on each lot resulting from this middle housing land division, except for Open Space “Tract A” and common areas. This criterion is met.

(e) Evidence demonstrating how buildings or structures on a resulting lot or parcel will comply with applicable building codes provisions relating to new property lines and, notwithstanding the creation of new lots or parcels, how structures or buildings located on the newly created lots or parcels will comply with the Oregon residential specialty code.

Finding 5: The applicant’s narrative on Page 19 demonstrates that building permit applications and plans will address this criterion. This criterion is met with the condition that the applicant demonstrates to the City that the building plans will comply with applicable Oregon Residential Specialty Code, and all other applicable building codes.

92.031(4) *In reviewing an application for a middle housing land division, a city or county:*

(a) shall apply the procedures applicable to an expedited land division under ORS 197.365, if requested by the applicant and without regard to the criteria in ORS 197.360 (1).

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Finding 6: The applicant requested the expedited land procedures contained within ORS 197.365 in its land use application. Accordingly, the City proceeded with this application in accordance with those statutory requirements. This criterion is met.

(b) May require street frontage improvements where a resulting lot or parcel abuts the street consistent with land use regulations implementing ORS 197A.420.

Finding 7: Page 20 of the applicant's narrative states:

The subject site has frontage to SW Cambridge Lane, SW Taylor Lane, and SW Upper Boones Ferry Road. Each frontage received appropriate right-of-way dedication to meet the applicable City road design and construction standards, including associated frontage improvements, as part of the approval given to the initial Durham Estates Subdivision. No additional right-of-way dedication or frontage improvements are required.

The final plat for the Durham Estates Subdivision was recorded by Washington County in June 2025. Some of the improvements associated with that subdivision remain unfinished. Those unfinished items will be applied to this middle housing replat of the original nine-lot Durham Estates subdivision, as appropriate. The applicant must complete these improvements prior to the first building permit for any lots within this proposed MHL.

(c) May not subject an application to approval criteria except as provided in this section, including that a lot or parcel require driveways, vehicle access, parking or minimum or maximum street frontage.

Finding 8: The City only subjected this application to the approval criteria provided in Oregon Revised Statute Section 92.031 and its siting and design standards locally adopted as permitted by ORS 197A.420(5), and no other approval criteria. This criterion is met.

(d) May not subject the application to procedures, ordinances or regulations adopted under ORS 92.044 or 92.046 that are inconsistent with this section or, only if requested by the applicant, ORS 197.365 [ORS 197.360 to 197.380].

Finding 9: The City applied the decision-making process set forth in ORS 197.365 to this decision and, to the extent that it did not conflict with ORS 197.365, the City's local development code. These procedural requirements are further outlined below. This criterion is met.

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(e) Shall allow the submission of an application for a tentative plan for a middle housing land division before, after or at the same time as the submission of an application for building permits for the middle housing.

Finding 10: The City has allowed the applicant to submit building permit applications. This criterion is met.

(f) May require the dedication of right-of-way if the original parcel did not previously provide a dedication.

Finding 11: The contracted City Engineer states that all right-of-way dedication occurred during the review and approval of the nine-lot Durham Estates subdivision. This criterion is met.

(g) May require separate water and wastewater utilities for each dwelling unit.

Finding 12: The applicant proposes separate utilities, except for water. The applicant is proposing to only serve each parent lot with water. Staff find that the applicant's proposal to serve each parent lot with water and each lot on a parent lot from private submeters. Staff find that this criterion is met.

(h) Shall allow any existing units allowed under ORS 197A.420 (4) to be considered a single middle housing unit and allow for the unit to be allocated its own lot or parcel by the division.

Finding 13: The development does not contain any existing units. This criterion is inapplicable.

Applicable City of Durham Development Code Sections:

Section 2.8 Single Dwelling Residential (SDR) District.

2.8.1 Uses permitted outright in the SDR district include:

2.8.1.6 Middle housing

Finding 14: The subject property is at the southwest corner of SW Boones Ferry Road and SW Taylor Lane within the Single Dwelling Residential (SDR) Zoning District. The proposed uses fit the definition of Middle Housing from Section 12.2.22 which states that, "Middle Housing means duplexes, triplexes, quadplexes, cottage clusters, and townhouses." This development is composed of 32 townhouse lots. This criterion is met.

Section 3 Site and Design Standards

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3.1 **Standard Site Design in Residential Zones.**

3.1.1 *The minimum density for residential development when averaged city-wide shall be maintained at no less than six dwelling units per buildable acre. The minimum density base density for the SDR district shall be 10,000 square feet per dwelling. The minimum lot area in the SDR district shall be 10,000 square feet except in a Planned Residential Development. The minimum lot area for townhouses is 1,500 square feet. Townhouses must comply with the supplemental standards in 7.12, and land division for townhouses must comply with provisions in Chapter 8.*

Finding 15: Lots 1-32 of the proposed Durham Estates Addition subdivision all exceed the minimum 1,500 square foot lot size for townhouse lots. Compliance with Section 7.12 and land division standards for townhouses will be addressed later in the document. This criterion is met.

3.1.5 The minimum lot frontage on a public or private street shall be 20 feet for all residential uses.

Finding 16: Proposed lots 1-4, 10, 11, 18, and 19-26 all have frontage on public streets – either SW Cambridge Lane, SW Taylor Lane, or SW Boones Ferry Road. Lots 1-4, 10, 18, 19, 23, and 26 all meet or exceed the 20-foot minimum lot frontage requirement. Lots 20, 21, 24, and 25 provide 18 feet of street frontage on SW Boones Ferry Road and therefore do not meet the minimum 20-foot-wide lot frontage on a public street. The Hearing's Officer decision for application #595-25 (issued on January 13, 2026) approved the 18-foot lot frontages on Lots 20, 21, 24, and 25. The application meets this criterion.

3.7 **On-Site Access and Off-Street Parking**

3.7.1 *Access to Public Right of Way. A land use in any zoning district shall provide for vehicle and pedestrian paved access to public rights constructed and maintained within the boundaries of the property or by use of written and recorded property interest allowing use of property owned by another for such access. The form of any such interest in another's property for use for such access shall be acceptable to the City Attorney.*

Finding 17: This criterion requires both vehicle paved access and pedestrian paved access. The plan sheets show private sidewalk and vehicle paved access ways and easements provided on two shared private driveways, offering access to Lots 5-32. A system of separate pedestrian access sidewalks, and easements are provided for Lots 1-4. This criterion is met.

3.7.1.1 *In a residential zoning district, vehicle access to an occupiable structure shall extend to no less than 50 feet from a ground level access to that structure. Pedestrian access shall extend from each ground level entry to the public right of way.*

Finding 18: All vehicle access ways to individual structures and individual units shall be no less than 50 feet from a ground level access to that structure or unit. This criterion is met.

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3.7.1.2 *In any zoning district, pedestrian access ways between the right of way and any occupiable structure other than a single unit detached residence shall be visually prominent and visually separated from any paved surface that is also used for motor vehicle access or parking by use of color, paving materials or marking, signage, striping or similar feature.*

Finding 19: The application package shows private sidewalk and shared access driveways offering access to Lots 5-14 and Lots 15-26. These two shared driveway access ways clearly delineate between the driveway and the sidewalk by using two different material types: asphalt and concrete. The applicant will provide separate pedestrian pathways to Lots 1-4, accessible from Cambridge Lane and Taylor Drive. This criterion is met.

3.7.1.3 *A vehicle access way to a single, detached residential structure shall be 10 feet to 18 feet wide or as wide as 35 percent of the lot frontage, whichever is greater, up to a maximum of 30 feet wide. Access width shall be measured at the property line.*

Finding 20: This criterion is not applicable because this project serves attached residential units.

3.7.1.4 *A vehicle access way to a multi-unit residential development shall have the following minimum dimensions, with at least 80% of the required width to be paved:*

3.7.1.4.1 *for 1-2 dwelling units, 1 access at least 20 feet wide, no sidewalk or curb required.*

3.7.1.4.2 *for 3 to 49 units, 1 two-way at least 30 feet wide or 2 one-way at least 30 feet wide, 5-foot sidewalk one side only, no curb required.*

Finding 21: The Hearings Officer decision for application number 595-26 stated that State law precludes the City from applying the design standards like those listed above on a preliminary plat review for middle housing. Further, the Hearings Officer found that it would be illogical to impose access standards such as these during Site and Design Review if the standard would require an adjustment to the previously approved tentative plat. Therefore, these standards do not apply to the proposal.

Table 3.7.5 Required Off Street Parking per Land Use (see table below)

TABLE 3.7.5: REQUIRED OFF STREET PARKING PER LAND USE (Per 1000 Sq Ft Gross Floor Area for Non-Residential Uses)	
Type of Use	Min/Max Spaces
Single Dwelling and Middle Housing, Attached or Detached	1 / No maximum

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Finding 22: The proposed building elevations show single garages for each of the townhouse units. Staff find that the application meets this criterion.

3.9 Street Design

3.9.3.3 *On-site facilities shall be provided for safe and convenient pedestrian and bicycle access from land divisions, multi-unit and planned residential developments, and by identified access ways in land uses in the BPO, IP, and OP Districts.*

Finding 23: The terms “safe and convenient” are not objective or measurable. This standard does not apply to the proposal because it is not written in a clear and objective manner for required housing, as required by State law.

3.9.5 *Private Streets. The City may allow private streets if designed and constructed to standards published by the City Engineer.*

Finding 24: The applicant is not proposing to build private streets, but instead private driveways (known as “vehicle access ways” in the Durham Development Code.

3.9.5.1 *Private streets providing access to more than six dwelling units may be permitted only within Planned Residential Developments, mobile or manufactured home parks and multi-dwelling residential developments.*

Finding 25: The applicant is not proposing private streets – only two private, shared driveways or vehicle access ways. Staff find this standard inapplicable.

Chapter 5 Tree Protection

Finding 26: The narrative states that the applicant will obtain Tree Protection and Removal permits prior to construction. These criteria are met on the condition that the applicant apply for tree removal permits for any additional tree removal from the site at the time the applicant applies for a building permit.

Chapter 7 Supplemental Land Use Regulations

7.12 Townhouse Design and Development Standards

7.12.1 *Townhouses are permitted in the Single Family (SDR) District*

Finding 27: The applicant is proposing a townhouse development on property zoned SDR. This is a permitted use in the (SDR) zone. This criterion is met.

7.12.3 *New lots or parcels. Creation of new lots or parcels as a part of a townhouse project must comply with provisions in Chapter 8.*

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Finding 28: This criterion was addressed during the MHL #595-25. The criterion was met.

7.12.4 *The maximum number of townhouses allowed to be attached shall be four.*

Finding 29: The application proposes nine new townhouse buildings with either three or four attached units. This criterion is met.

7.12.5 *The minimum distance between adjacent sets of townhouses shall be 20 feet.*

Finding 30: According to the plan sheets submitted, the distance between proposed townhouse buildings ranges meet or exceed 20 feet. This criterion is met.

7.12.6 *The minimum lot size for a townhouse shall be 1,500 square feet. A townhouse project may apply separate minimum lots for internal, external, and corner townhouse lots provided that they average 1,500 square feet, or less.*

Finding 31: The minimum proposed lot size is 1,764 square feet in the project. This criterion is met.

7.12.7 *The maximum density for townhouses shall be 18 dwelling units per gross acre.*

Finding 32: The applicant states that development is proposed to be approximately 13.79 dwelling units per gross acre. This criterion is met.

7.12.8 *All townhouse lots shall meet the same front and rear yard setbacks as for the SDR District. External and corner lots shall meet the same side setbacks as for the SDR District. Internal side yards shall be zero feet. All other Site and Design Standards shall be the same as for the SDR zone.*

Finding 33: DDC Section 3.1.3 requires that the minimum setback from the edge of the street right of way shall be 20 feet in all residential districts and shall be 10 feet from the side and 20 feet from the corner of a residential structure in the SDR district. The minimum setback from the rear property line shall be 15 feet for attached units. The submitted plan sheets show that all buildings meet required setbacks. This criterion is met.

7.12.9 *Off-street parking areas shall be accessed on the back façade or located in the rear yard. Garages on the front façade of a townhouse, off-street parking areas in the front yard, and driveway accesses in front of a townhouse are prohibited unless the following standards are met (Figure 7.12.9):*

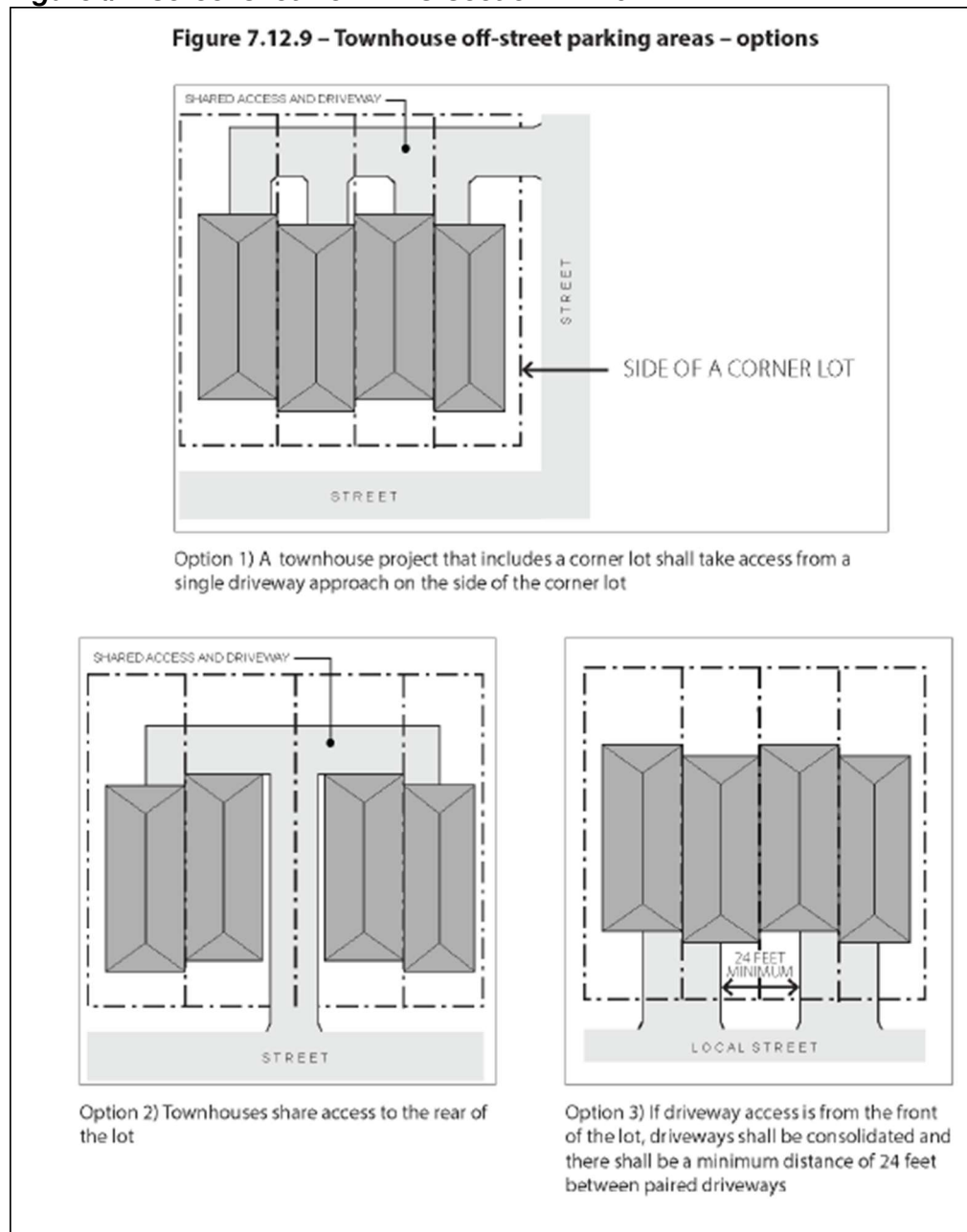
Option 1: A townhouse project that includes a corner lot shall take access from a single driveway approach on the side of the corner lot.

Option 2: Townhouses share access to the rear of the lot.

Option 3: If driveway access is from the front of the lot, driveways shall be paired and there shall be a minimum distance of 24 feet between paired driveways (See images of all Options below):

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Figure #1: Screenshot from DDC Section 7.12.9



Finding 34: The Hearings Officer decision for the MHL (application # 595-25) stated that, to remain consistent with State law, the City could not impose the standards listed above. Furthermore, the City could not impose these requirements during the Site and Design Review if it would require the applicant to revise the tentative plat approved on January 13, 2026. Therefore, these standards do not apply to this application.