

## DEVELOPMENT HEARING OFFICER - **HYDROLOGY SECTION**

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DRB Project Number: 2024-011129

Hearing Date: **03-26-2025**

Project: LOT 018 TRACT 1,  
BLOCK 17, UNIT 3,  
9001 MODESTO AVE NE

Agenda Item No: **6**

<input type="checkbox"/> Minor Preliminary / Final Plat	<input type="checkbox"/> Preliminary Plat	<input type="checkbox"/> Final Plat, with ROW Dedication
<input type="checkbox"/> Temp Sidewalk Deferral	<input checked="" type="checkbox"/> Sidewalk Waiver/Variance	<input type="checkbox"/> Bulk Land Plat
<input type="checkbox"/> DPM Variance	<input type="checkbox"/> Vacation of Public Easement	<input type="checkbox"/> Vacation of Public Right of Way

### ENGINEERING COMMENTS:

- Hydrology objects to the Sidewalk Waiver action due to essential roadway curb, gutter, and sidewalk improvements needed to mitigate or prevent adverse effects from stormwater drainage or runoff onsite and/or in the public R/W.
- Prior to submitting for a Grading Permit or a Building Permit for any site upgrades, a licensed New Mexico civil engineer will need to submit a Grading & Drainage Plan to Hydrology for review & approval if one of these conditions is met: (500 cy of grading, 1,000 sf of proposed building, or 10,000 sf of proposed paving).

☐ APPROVED  
☐ DENIED

DELEGATED TO: ☐ TRANS ☐ HYD ☐ WUA ☐ PRKS ☐ PLNG  
Delegated For: \_\_\_\_\_  
SIGNED: ☐ I.L. ☐ SPSP ☐ SPBP ☐ FINAL PLAT  
DEFERRED TO \_\_\_\_\_

DEVELOPMENT HEARING OFFICER

TRANSPORTATION DEVELOPMENT

DRB Project Number: 2024-011129  
9001 Modesto

AGENDA ITEM NO: 6

SUBJECT: Sidewalk Waiver

ENGINEERING COMMENTS:

1. Modesto is a minor collector and requires curb, gutter, 6' sidewalk with a 5' to 6' landscape buffer. Transportation is not in support of the waiver of sidewalk in this area.

2. Transportation does not find that the following criteria have been met:

6-6(P)(3)(1)(a)(1)a. There are no pre-existing obstructions to the addition of sidewalk, curb and gutter. What grading that would be required is not extensive and within the normal amount of grading sidewalk, curb and gutter would require. There is no evidence that storm drain modification would be required with this and consultation with City Hydrology confirms no storm drain modification would be required.

6-6(P)(3)(1)(a)(1)b. The explanation provided by applicant does not meet the requirement that there is any City, State or Federal recognition of any historical, archeological or architectural significance.

6-6(P)(3)(1)(a)(1)c. The arroyo mentioned flows ~70' north of the roadway through the property and would not be impacted by the addition of the sidewalk, curb and gutter. The drainage master plan calls for storm drain to be installed in the intersection of Ventura and Modesto and routed north to Glendale which will cut off most of the flows west of the intersection. The building permits listed without financial guarantee are houses built pre-IDO. The permits issued after the IDO was in place were minor additions to these houses that were not reviewed by Transportation or Hydrology, except for BP-2020-05185 and BP-2023-36389. BP-2020-05185 on 8527 Modesto has sidewalk, curb and gutter. BP-2023-05185 on 8400 Florence has a waiver approved by the applicant which was strongly opposed by Transportation. The only reason an appeal was not made on this case was that there was an ordinance change working through City Council at the time that would assess fronting properties for infrastructure improvements which would have made the waiver moot. The ordinance did not pass council.

6-6(P)(3)(1)(a)(1)d. There is no open space involved on this site and this is a single residential lot, not a subdivision. This does not apply.

6-6(P)(3)(1)(a)(2). The claim that City would be required to install storm drain if the waiver is not allowed is not supported by evidence and is contrary to City Hydrology.

6-6(P)(3)(1)(a)(5). Allowing the waiver would be contrary to the policy of the City to require infrastructure IDO 1-7(B)(2)(e). It would in fact create de facto policy where the City would not be able to enforce sidewalk, curb and gutter construction as any applicant would simply cite this case where there is obviously no overarching reason to grant the waiver other than the applicant did not want to build it. The City has been consistent with applying the IDO 1-7(B)(2)(e) unless there is substantial reason for the waiver.

DEVELOPMENT HEARING OFFICER

TRANSPORTATION DEVELOPMENT

6-6(P)(3)(1)(a)(7). This waiver would be directly contrary to IDO 1-7(B)(2)(e) and 6-6(p)(3) as waivers should only be granted in cases where there is substantial evidence that all criteria have been met. What the applicant has provided are arguments for policy change in the North Albuquerque Acres area, which should be done through Council by creating a Character Protection Overlay rather than trying to create a precedence through the waiver process, which can create more far-reaching problems than what is trying to be established.

6-6(P)(3)(1)(a)(9). The granting of a waiver is not the minimum necessary to address issues presented by the applicant. The applicant has not provided any analysis or design to be reviewed by staff where any design solutions could possibly be worked out to address any concerns by the applicant. The lack of effort to seek out any other solutions to applicant's concerns appears to indicate that the overarching reason for the waiver request is the applicant opposes construction of sidewalk, curb and gutter not that there is any substantial problem that the requirement would cause.

3. For platting, please confirm ROW limits as many of the roadways in North Albuquerque Acres area have the roadways in easement where ROW dedication would be required.

Disclaimer: The comments provided are based upon the information received from the applicant. If new or revised information is submitted, additional comments may be provided by Transportation Development.

FROM: Ernest Armijo, P.E.  
Transportation Development  
505-924-3991 or [earmijo@cabq.gov](mailto:earmijo@cabq.gov)

DATE: March 26, 2025

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ACTION:

APPROVED \_\_; DENIED \_\_; DEFERRED \_\_; COMMENTS PROVIDED \_\_; WITHDRAWN \_\_

DELEGATED: \_\_\_\_\_ TO: (TRANS) (HYD) (WUA) (PRKS) (CE) (PLNG)



## DEVELOPMENT HEARING OFFICER

### Planning - Case Comments

**HEARING DATE:** 3/26/25 -- **AGENDA ITEM:** # 6

**Project Number:** PR-2024-011129

**Application Number:** VA-2024-00313

**Project Name:** Lot 18, Tract 1, Block 17, Unit 3, North Albuquerque Acres @ 9001 Modesto Ave. NE

**Request:**

*Sidewalk/DHO Waiver*

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*\*These are preliminary Planning comments. Additional reviews and/or revised comments may be needed for any modifications and/or supplemental submittals.*

**COMMENTS:**

**Background**

- This is a request for a DHO Waiver from the requirement to construct sidewalk, curb and gutter along Modesto Avenue NE, which is required per the IDO/DPM for the construction of a proposed single-family residential dwelling on the site in question at 9001 Modesto Ave. The Applicant is requesting that the noted required improvements along Modesto Ave. be waived as the area is of low-intensity land use to an extent that the normal installation of sidewalks will not contribute to the public welfare.
- On November 20<sup>th</sup>, 2024, the Development Hearing Officer (DHO) approved the Waiver.
- The Waiver got appealed to LUHO per AC-24-30, and the LUHO remanded the Waiver back to the DHO for a new hearing.

**1. Items Needing to be Completed or Corrected and IDO/DPM Comments**

- Per 6-6(P)(2)(e) of the IDO, any Waivers granted that are associated with a Site Plan (the proposed single-family residential dwelling would require a Site Plan Administrative approval with a Building Permit(s)) shall be noted on the approved Site Plan.
- Transportation in their memo notes that ROW dedication could potentially be required. If ROW dedication is required, this would require a platting application to be submitted for DHO approval.

*\*(See additional comments on next page)*

## 2. Items in Compliance

- The Applicant provided justification criteria for the Waiver request per 6-6(P)(3) of the IDO. Planning staff defer to Transportation staff regarding the justification criteria; Transportation in their memo note that they are not in support of the waiver of sidewalk in this area, noting that the following review and decision criteria per 6-6(P)(3)(a) of the IDO were not justified by the applicant and are not met per their (Transportation's) analysis:

6-6(P)(3)(a)(1)(a)

6-6(P)(3)(a)(1)(b)

6-6(P)(3)(a)(1)(c)

6-6(P)(3)(a)(1)(d)

6-6(P)(3)(a)(2)

6-6(P)(3)(a)(5)

6-6(P)(3)(a)(7)

6-6(P)(3)(a)(9)

- Per Table 6-1-1 of the IDO, public notice requirements have been satisfied by the Applicant prior to this submittal.



*Disclaimer: The comments provided are based upon the information received from the applicant/agent. If new or revised information is submitted, additional comments may be provided by Planning.*

FROM: Jay Rodenbeck  
Planning Department

DATE: 3/25/25

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