



Development Facilitation Team (DFT) – Review Comments

Reviewer: David G. Gutierrez, P.E. | **Phone:** 505-289-3381 | **dggutierrez@abcwua.org**

Project No: PR-2024-011129 **Date:** 6/25/2025 **Agenda Item:** #6 **Zone Atlas Page:** B-20

Legal Description: Lot 018 Tract 1, Block 17, Unit 3

Request: Requesting a Sidewalk waiver request for the property legally described as 018 017TR 1 unit 3 No Albuquerque Acres, Acres: 0.8864. The property is in an area that used to be unincorporated by the city and has predominantly rural in character. The request is to waive the standard street section of sidewalk, curb, and gutter for a rural roadway.

Location: 9001 Modesto Ave NE

☒ **No Conditions**

☐ **Approved W/Conditions**

☐ **Not Approved**

Application For: – VA-2024-00313 – SIKEWALK WAIVER

Comment: (Provide written response explaining how comments were addressed)

1. No objection to the sidewalk waiver.



DEVELOPMENT HEARING OFFICER

Parks and Recreation Department

PR-2024-011129

VA-2024-00313 – SIDEWALK WAIVER

TIERRA WEST, LLC agent for WILKE LTD COMPANY requests the aforementioned action(s) for all or a portion of: LOT 018 TRACT 1, BLOCK 17, UNIT 3 zoned PD, located at 9001 MODESTO AVE NE containing approximately 0.8864 acre(s). (B-20) [Deferred from 3/26/25w, 4/23/25W, 5/7/25w]

PROPERTY OWNERS: TAYLOR SETH & ARGI

REQUEST: Requesting a Sidewalk waiver request for the property legally described as 018 017TR 1 UNIT 3 NO ALBUQ ACRES, Acres: 0.8864. The property is in an area that used to be unincorporated by the city and has predominantly rural in character. The request is to waive the standard street section of sidewalk, curb and gutter for a rural roadway

SKETCH PLAT 11-6-24 (DFT)

IDO – 2023

Comments:

6.24.2025

Parks and Recreation has no objections to this request.

5.20.2025

Parks and Recreation has no objections to this request.

DEVELOPMENT HEARING OFFICER - HYDROLOGY SECTION
Anthony Montoya, Jr., PE, Senior Engineer | 505-924-3314 amontoya@cabq.gov

DRB Project Number: 2024-011129 Hearing Date: 06-25-2025
Project: 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
<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 new supplemental submittal with building permits listed without financial guarantees for curb, gutter and sidewalk do not represent what the applicant hoped. 2 of the 7 were permits for interior alterations and generated no site plans for review, 3 were additions smaller than 1000 sf so no new G&D's required (so no review of sites by DRS), 1 shows an incorrect address (8600 Modesto when permit is for 8527 Modesto) has sidewalk and 1 was the Florence address 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. 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

DATE: June 25, 2025

ACTION:

APPROVED __; DENIED __; DEFERRED __; COMMENTS PROVIDED __; WITHDRAWN __

DELEGATED: _____ TO: (TRANS) (HYD) (WUA) (PRKS) (CE) (PLNG)



DEVELOPMENT HEARING OFFICER

Planning - Case Comments

HEARING DATE: 6/25/25 -- **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

**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 20th, 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)*

- 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 they don't find all the review and decision criteria per 6-6(P)(3)(a) of the IDO having been met per their (Transportation's) analysis:**

2. **Items in Compliance**

- Per Table 6-1-1 of the IDO, public notice requirements have been satisfied by the Applicant prior to this submittal.
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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: 6/24/25
