

PLANNING DEPARTMENT
DEVELOPMENT SERVICES DIVISION
600 2nd Street NW, Ground Floor, 87102
P.O. Box 1293, Albuquerque, NM 87103
Office (505) 924-3946

OFFICIAL NOTICE OF DECISION

Wilke LTD Company
2416 W Cerro Road
Artesia, NM 87122

Project #PR-2024-011129
Application#
VA-2024-00313 SIDEWALK WAIVER

LEGAL DESCRIPTION:

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)**

On July 30, 2025, the Development Hearing Officer (DHO) held a public meeting concerning the above referenced application and **denied** the request, based on the following Findings:

1. 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.
2. On November 20, 2024, the Development Hearing Officer (DHO) approved this Waiver.
3. The Waiver got appealed to the Land Use Hearing Officer (LUHO) per AC-24-30, and on February 13, 2025, the LUHO remanded the Waiver back to the DHO for a new hearing for a de novo review, with instructions for a thorough review under the analyses required per 6-6(P)(3)(a) of the IDO, and with the parties supplanting the record with additional evidence consistent with the discussion from the LUHO hearing for AC-24-30 and the requirements of 6-6(P)(3)(a) of the IDO.

Per the LUHO's instructions, the applicant has since supplanted the record with additional evidence, including: an updated justification letter; a visual assessment of sidewalk connectivity in the North Albuquerque Acres subdivision; statistics on the issuance of building permits and financial guaranty's (or lack thereof) in the vicinity of the subject property; a letter of support for the request from the neighboring property owner at 8921 Modesto; drainage calculations and a Preliminary Drainage Plan; and with evidence and testimony verbally presented at hearings on the application. Development Facilitation Team (DFT) staff and the City Engineer have since supplanted the record with their written and verbal responses to the applicant's additional evidence.

4. Based on the analysis of additional evidence submitted by the applicant, as well as DFT staff and City Engineer responses to the additional evidence, this request does not comply with 6-6(P)(3)(a)(1)(a) of the IDO, as the criterion that "there are pre-existing obstructions that cannot be easily or economically relocated or should not be altered" has not been met.

Based on the analysis of additional evidence submitted by the applicant, as well as DFT staff and City Engineer responses to the additional evidence, this request does not comply with 6-6(P)(3)(a)(1)(c) of the IDO, as the criterion that "the established neighborhood character or landscaping on the site would be damaged to a degree that outweighs the public interest in the City's normal technical standards in that location" has not been met.

Based on the analysis of additional evidence submitted by the applicant, as well as DFT staff and City Engineer responses to the additional evidence, this request does not comply with 6-6(P)(3)(a)(2) of the IDO, as the criterion that "the Waiver will not be material contrary to the public safety, health, or welfare" has not been met.

Based on the analysis of additional evidence submitted by the applicant, as well as DFT staff and City Engineer responses to the additional evidence, this request does not comply with 6-6(P)(3)(a)(5) of the IDO, as the criterion that "the Waiver will not conflict significantly with the goals and provisions of any City, County, or AMAFCA adopted plan or policy, this IDO, or any other City code or ordinance" has not been met.

Based on the analysis of additional evidence submitted by the applicant, as well as DFT staff and City Engineer responses to the additional evidence, this request does not comply with 6-6(P)(3)(a)(7) of the IDO, as the criterion that "the Waiver will not materially undermine the intent and purpose of this IDO, the applicable zone district, or any applicable Overlay Zone" has not been met.

Based on the analysis of additional evidence submitted by the applicant, as well as DFT staff and City Engineer responses to the additional evidence, this request does not comply with 6-6(P)(3)(a)(9) of the IDO, as the criterion that "The Waiver approved is the minimum necessary to provide redress without being inconsistent with the provisions of the IDO" has not been met.

Official Notice of Decision

Project PR-2024-011129 Application# VA-2024-00313

Page 3 of 3

APPEAL: If you wish to appeal this decision, you must do so within 15 days of the DHO's decision or by **AUGUST 15, 2025**. The date of the DHO's decision is not included in the 15-day period for filing an appeal, and if the 15th day falls on a Saturday, Sunday or Holiday, the next working day is considered as the deadline for filing the appeal.

For more information regarding the appeal process, please refer to Section § 14-16-6-4(U) of the Integrated Development Ordinance (IDO). Appeals should be submitted electronically to [ABQ-PLAN](#) (*place mouse cursor over hyperlink, right-click, choose "open hyperlink"*). A Non-Refundable filing fee will be calculated by staff in the Development Review Services Division of the City of Albuquerque Planning Department and will be payable online at [ABQ-PLAN](#) (*place mouse cursor over hyperlink, right-click, choose "open hyperlink"*). The appeal fee must be paid in full no later than 48 hours after the appeal deadline, or the appeal will be rejected as untimely.

Sincerely,

Brennon Williams
Development Hearing Officer

BW/jr

Tierra West, LLC, 5571 Midway Mark Pl. NE, Albuquerque, NM 87109