

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

August 26, 2026

Kyle Nelson and James Gonzales
9112 Lexington Ave
Albuquerque, NM 87112

Project# PR-2026-000122
Application#
DHOWVR-2026-00011 DHO WAIVER
DHOWVR-2026-00014 DHO WAIVER

LEGAL DESCRIPTION:

For all or a portion of: **MAP 35 TRACT 306**
CONT zoned R-1, located at 955
MONTOKA ST NW between MOUNTAIN
and MONTOKA containing approximately
2.70 acre(s). (H-12)

On August 26, 2026, the Development Hearing Officer (DHO) held a public hearing concerning the above referenced applications and approved the requests based on the following Findings:

1. This is a request for waivers to the sidewalk and curb and gutter requirements for the property located at 955 Montoya St. The subject property is located within the unincorporated lands within the City of Albuquerque. The waiver requests are for 154.08' of sidewalk and curb and gutter which is within the City of Albuquerque's R.O.W.
2. The waiver requests were heard and decided upon by the DHO, but any subsequent platting or site plan projects will need to move forward through the Bernalillo County processes.
3. The request was previously reviewed at a DFT sketch plat meeting on 7/22/26, and comment memos from DRS staff were provided to the applicants team.
4. All public notice requirements per 6-6-1 of the IDO have been met.
5. Per 6-6(P)(3)(a) An application for a Waiver – DHO shall be approved if it complies with all of the following criteria.

1. Any of the following criteria applies.

- a. There are pre-existing obstructions that cannot be easily or economically relocated or should not be altered, such as grades, fills, water courses, natural topographic features, man-made obstructions, or utility lines.

The subject property features extreme natural topographical and drainage limitations that make sidewalk construction physically impracticable and unsafe. Specifically, an existing arroyo runs directly adjacent to the right-of-way, creating steep grades, fills, and complex water course drainage conditions. There is no flat, structurally sound surface available within the right-of-way to safely install a stable pedestrian pathway without severely disrupting the natural water course or requiring structurally unfeasible retaining walls.

- b. The area or site has been recognized as having historical, archeological, and/or architectural significance by the City, State, or federal government, and a Waiver is needed and appropriate to maintain such historical, archeological, and/or architectural significance.

- c. 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.

There are currently no other public sidewalks anywhere along this street or within the immediate vicinity. Forcing the installation of a concrete sidewalk on this property would disrupt the established rural, low-intensity neighborhood character of Montoya St NW. The resulting technical installation would severely damage local natural landscape features to a degree that heavily outweighs the public interest in a non-contiguous standard technical sidewalk.

- d. Varying from the normal requirements and standards will encourage flexibility, economy, effective use of open space, or ingenuity in design of a subdivision, in accordance with accepted principles of site planning.

Varying from the normal requirements encourages a more effective use of open space and site-planning ingenuity. It preserves the natural arroyo buffer intact rather than forcing a fragmented infrastructure project that conflicts with the physical traits of the lot.

2. The Waiver will not be materially contrary to the public safety, health, or welfare.

The Waiver will not be materially contrary to the public safety, health, or welfare. Montoya St NW is a low-intensity, low-volume residential roadway serving a sparse number of properties. Pedestrian demand is accommodated safely via existing low-speed shared roadway conditions, and public safety is not compromised.

3. The Waiver does not cause significant material adverse impacts on surrounding properties.

The Waiver does not cause significant material adverse impacts on surrounding properties. On the contrary, maintaining the existing grade preserves natural drainage routing, preventing artificial stormwater runoff or ponding from being deflected onto adjacent residential tracts.

4. The Waiver will not hinder future planning, public right-of-way acquisition, or the financing or building of public infrastructure improvements.

The Waiver will not hinder future planning, public right-of-way acquisition, or the financing or building of public infrastructure improvements. Should the City of Albuquerque choose to develop a comprehensive, district-wide pedestrian network for Montoya St NW in the future, this waiver does not restrict or alter the existing public right-of-way boundaries.

5. 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.

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. Preserving natural drainage topography aligns directly with low-impact development principles and local stormwater management policies.

6. The Waiver will not allow, encourage, or make possible undesired development in the 100-year Floodplain.

The Waiver will not allow, encourage, or make possible undesired development in the 100-year Floodplain. The waiver request is limited strictly to pedestrian infrastructure at the property frontage and does not authorize or facilitate any structural expansion or building development.

7. The Waiver will not materially undermine the intent and purpose of this IDO, the applicable zone district, or any applicable Overlay Zone.

The Waiver will not materially undermine the intent and purpose of this IDO, the applicable zone district, or any applicable Overlay Zone. The request respects the unique zone context of the area by preserving the natural constraints of the site while avoiding a non-functional, disconnected "island" of sidewalk.

8. The Waiver does not allow a lot or type of development that does not meet the applicable Development Standards for the zone district where the lot is located, unless a deviation to such standards is within the thresholds established by § 14-16-6-4(N) (Deviations) and is granted by the DHO as part of this approval.

The Waiver does not allow a lot or type of development that does not meet the applicable Development Standards for the zone district where the lot is located. No additional deviations under § 14-16-6-4(N) are required or requested as part of this application.

9. The Waiver approved is the minimum necessary to provide redress without being inconsistent with the provisions of this § 14-16-6-6(P).

The waiver approved is the minimum necessary to provide redress without being inconsistent with the provisions of this § 14-16-6-6(P). Because the physical obstruction impacts the entire length of the property's street frontage, a full waiver is the only viable relief.

10. Any request for a Waiver to IDO sidewalk requirements shall comply with all of the following requirements.
 - a. The area is of low-intensity land use to an extent that the normal installation of sidewalks will not contribute to the public welfare, and the absence of a sidewalk will not create a gap in an existing sidewalk system extended to 1 or more sides of the subject property.

This request complies with all specific IDO sidewalk waiver application requirements, including the submission of necessary site graphics, neighborhood notification documentation, and engineering justifications mapping the existing site constraints. For these reasons, the strict application of the sidewalk requirement creates an unnecessary hardship and yields no benefit to the public pedestrian network. We respectfully request that the Development Hearing Officer approve this waiver request.

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APPEAL: If you wish to appeal this decision, you must do so within 15 days of the DHO's decision or by **SEPTEMBER 14, 2026**. 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. You will receive notification if any person files an appeal. If there is no appeal, you can receive Building Permits at any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. Applicants submitting for building permit prior to the completion of the appeal period do so at their own risk. Successful applicants are reminded that there may be other City regulations of the IDO that must be complied with, even after approval of the referenced application(s).

Sincerely,

Brennon Williams

Brennon Williams

Development Hearing Officer

BW/jb/jr

Language Access Notice. We provide free interpretation services to help you communicate with us. If you need help, you can request interpretation at any service counter in our Department, located in the Plaza Del Sol building, 600 2nd Street NW, Albuquerque, NM 87102.

Notificación de Acceso Lingüístico. Ofrecemos servicios gratuitos de interpretación para ayudarlo a comunicarse con nosotros. Si necesita ayuda, puede solicitar servicios de interpretación en cualquier mostrador de servicio de nuestro Departamento, ubicado en el edificio Plaza Del Sol, 600 2nd Street NW, Albuquerque, NM 87102.

Saad Hadahwiis'a O'oolkaah bee dah na'astsooz. Nihi bik'inaasdzil t'aadoo baahilinigoo 'ata' hashne' tse'esgizii ach'i' dzaadi! Dzaadi! Danihi dahootahgoo bee nihi-. Daa' danihi bidin nishli dzaadi! Dzaadi! Danihi bineesh'a yinishkeed 'ata' hashne' -di t'aa biholniihgoo tse'esgizii ket'aaz -di nihihigii dah diikaah, -k'eh -di tsin Plaza Del Sol Kiniit'aagoo, 600 2nd Kiniit'aa NW, Albuquerque, NM 87102.

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Thông báo về cách Tiếp cận Ngôn ngữ. Chúng tôi cung cấp các dịch vụ thông dịch miễn phí để giúp quý vị giao tiếp với chúng tôi. Nếu quý vị cần giúp đỡ, quý vị có thể yêu cầu thông dịch tại bất kỳ quầy dịch vụ nào trong Sở của chúng tôi, tọa lạc tại tòa nhà Plaza Del Sol, 600 2nd Street NW, Albuquerque, NM 87102.

語言輔助通知。我們提供免費口譯服務，以幫助你與我們溝通。如果你需要幫助，你可以在我們部門的任何服務台請求口譯，服務台位於Plaza Del Sol大樓, 600 2nd Street NW, 阿爾伯克基, NM 87102.

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Final Audit Report

2026-08-29

Created:	2026-08-28
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