

**RESOLUTION NO. 2009-12**

**PROVIDING FOR THE ENCROACHMENT OF A PORTION OF THE  
CORBIN STREET RIGHT-OF-WAY**

**WHEREAS**, a property survey determined that a portion of a residence and walls that already exist on property located on Lots 1 and 3, Block 109 of the Fraser Survey addressed as 401 N. Corbin Street are encroaching into the Corbin Street right-of-way; and

**WHEREAS**, the residence was built prior to the implementation of the current regulations; and

**WHEREAS**, the Community Development Department and other Town Staff recommend approval of the request for an Encroachment Permit for approximately 350 square feet into the Corbin Street right-of-way; and

**WHEREAS**, the Council accepts such recommendation;

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE TOWN OF SILVER CITY, GRANT COUNTY, NEW MEXICO, THAT:**

**Section 1.** The Town grants the applicant with an Encroachment Permit for the portions of the structures that are encroaching into the Corbin Street right-of-way. This provision has the following conditions:

- a) No further encroachments shall occur; and
- b) The Town may require removal of all or part of any encroaching structures or use after 90 days written notice to the property owners.

**Section 2.** The Town retains ownership of and reaffirms its need for the entire Corbin Street right-of-way.

**Section 3.** The Town only addresses the Town's consideration of the Corbin Street right-of-way and not those of other utilities that may be entitled to use the street right-of-way.

**Section 4.** The Encroachment Permit meets all criteria required in Section 151.092 (I)(3) of the Land Use Code based on the following Findings:

**Findings**

1. The requested permit conforms to the Town's 2004 Comprehensive Plan, the 1999 Land Use Code and relevant policies adopted by the Town. The Comprehensive Plan does not specifically address encroachments; however, the request does not violate the plan. The request is in compliance with the Land Use Code criteria for approval and Town policy to retain right-of-ways.
2. The encroachment permit does not endanger the health, safety or welfare of the community as most of the encroachment has existed on a portion of the Corbin Street

right-of-way for a substantial amount of time and has not impaired the use of that right-of-way.

3. The proposed encroachment permit allows the property owner to continue using the property, which is reasonable since most of the structures, built prior to current regulations, have not interfered with traffic and pedestrian circulation.

**PASSED, APPROVED AND ADOPTED** this 9<sup>th</sup> day of June 2009.

/s/

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James R. Marshall, Mayor

Attest:

/s/

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Ann L. Mackie, Town Clerk