

RESOLUTION NO. 2009-18

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

WHEREAS, The Silver City Town Council received a request from Peggy Q. and Ramon S. Gomez, of Silver City, New Mexico, to erect a fence on property they own located on Lots 1, 3, 5, 7, and part of Lots 2, 4, 6, and 8, Block 85 of the Fraser Survey addressed as 307 N. Silver Street that would encroach into the Yankee Street right-of-way; and

WHEREAS, The Community Development Department and other Town Staff recommend approval of the request for an Encroachment Permit for approximately 2,145 square feet into the Yankee 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 structure encroaching into the Yankee 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 Yankee Street right-of-way.

Section 3. The Town only addresses the Town's consideration of the Yankee 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.

3. The proposed encroachment is the minimum necessary to make reasonable use of the applicant's property.

PASSED, APPROVED AND ADOPTED this 28th day of July 2009.

(Seal)

Approved:

/s/

James R. Marshall, Mayor

Attest:

/s/

Ann L. Mackie, Town Clerk