

**RESOLUTION 2007-38**

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

**WHEREAS**, A property survey determined that a portion of a residence that already exists on property located on Lot 1, Block 62 of the Fraser addition addressed as 504 W. Spring Street is encroaching into the Spring 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 45.55 square feet into the Spring 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 will not seek to have the encroaching portions of the structures removed from the Spring Street right-of-way as long as the building stands. 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 if there is any change to the status of the encroachment.

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

**Section 3.** The Town only addresses the Town's consideration of the Spring 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 the encroachment has existed on a portion of the Spring 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 the structure, built prior to current regulations, has not interfered with traffic and pedestrian circulation.

**PASSED, APPROVED AND ADOPTED** this 27<sup>th</sup> day of November 2007.

/s/

\_\_\_\_\_  
James R. Marshall, Mayor

(Seal)

Attest:

/s/

\_\_\_\_\_  
Ann L. Mackie, Town Clerk