

**RESOLUTION 2008-03**

**PROVIDING FOR THE ENCROACHMENT OF A PORTION  
OF THE 14<sup>TH</sup> STREET RIGHT-OF-WAY**

**WHEREAS**, a property survey determined that portions of canopies and parking stalls that already exist on property located on Lots 2 and 4, Block 265 of the Fraser Addition addressed as 201 E. 14<sup>th</sup> Street are encroaching into the 14<sup>th</sup> 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 410 square feet into the 14<sup>th</sup> 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 14<sup>th</sup> 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; and
- c) Any signage should be placed so as not to impede with visibility; and
- d) Sonic will participate in the construction of sidewalks along the frontage of the property; and
- e) The Town shall be named as co-insured on Sonic's liability insurance policy which provides for coverage of the encroachment area.

**Section 2.** The Town retains ownership of and reaffirms its need for the entire 14<sup>th</sup> Street right-of-way.

**Section 3.** The Town only addresses the Town's consideration of the 14<sup>th</sup> 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 granting of the encroachment permit does not endanger the health, safety or welfare of the community.
3. The proposed encroachment permit allows the property owner continued reasonable use of the property.

**PASSED, APPROVED AND ADOPTED** this 8<sup>th</sup> day of January 2008.

(Seal)

/s/  
James R. Marshall, Mayor

Attest:

/s/  
Ann L. Mackie, Town Clerk