

**RESOLUTION 2005-09**

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

**WHEREAS,** A property survey determined that portions of an existing house and shed located on Lots 4 and 6 of Block 263 of the Fraser Addition, addressed 1315 Georgia Street, are encroaching into the Gordon Street right-of-way; and

**WHEREAS,** The house and shed were 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 99 square feet into the Gordon 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 Gordon Street right-of-way as long as the buildings stand. This provision has the following conditions:

- a) No further encroachments shall occur; and
- b) Should the Town determine that Gordon Street requires widening for reasons of traffic or drainage, the Town can require removal of the encroaching portions of the structures after 90-days notice to the owners.

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

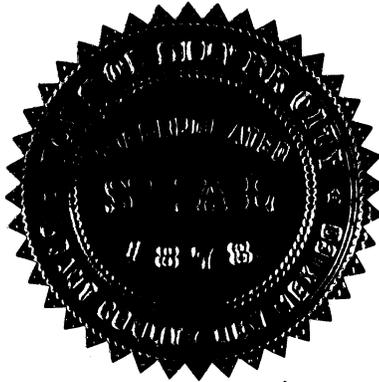
**Section 3.** The Town only addresses the Town's consideration of the Gordon Street right-of-way and not those of other utilities that may be entitled to use the street right-of-way.

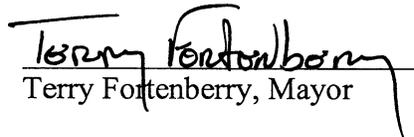
**Section 4.** The Encroachment Permit meets all criteria required in Section 6.3.9 (C) of the Land Use Code based on the following **Findings:**

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.

1. The encroachment permit does not endanger the health, safety or welfare of the community as the encroachment area is the unimproved portion of the Gordon Street right-of-way and has existed without impairing the use of that right-of-way.
2. 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 22<sup>nd</sup> day of February 2005.



  
Terry Fortenberry, Mayor

Attest:

  
Jane Toomajian, Town Clerk