



**Item:** Resolution 9803 for Conditional Use Permit to allow a Contractor Yard, Type I on Lot 3, Block 754, Great Falls Tenth Addition (1308 6<sup>th</sup> Avenue South)

**From:** Charles Sheets, Planner 1

**Initiated By:** Norris' Wall Covering & Painting, L.L.C., Kirk Norris (Owner)

**Presented By:** Benjamin Rangel, Planning Director

**Action Requested:** City Commission set public hearing for Resolution 9803.

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**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission set a public hearing for January 6, 2009, to consider adoption of Resolution 9803.”

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

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**Zoning Commission Recommendation:** At the conclusion of a public hearing held November 25, 2008, the Zoning Commission passed a motion recommending the City Commission grant a conditional use permit to allow Lot 3, Block 754, Great Falls Tenth Addition, addressed as 1308 6<sup>th</sup> Avenue South, to serve as a contractor yard, type I.

**Background:** Norris' Wall Covering & Painting intends to buy subject Lot 3 and accompanying shop building, addressed as 1308 6<sup>th</sup> Ave S, from Viann D. Stimac. The owner and purchaser have applied for a conditional use permit to allow a contractor yard, type I. (See attached application.)

For additional information, please refer to the attached Vicinity/Zoning Map

Subject property is surrounded on three sides by single-family residences and a duplex on the fourth side. Subject property is zoned R-3 Single-family high density district wherein a contractor yard, type I is not permitted. However, the property has a legal nonconforming designation upon it from the previous land use of vehicle repair (First Class Autobody). The change of the current nonconforming use to another nonconforming use could not be approved administratively, as all three criteria cited in Code for such a procedure, could not be met. However, Code provides that a legal nonconforming use may be changed to another nonconforming use upon processing and approval of a conditional use permit.

The definition in the Unified Land Development Code for contactor yard, type I is “a place and/or building, or portion thereof, that is used or is intended to be used by a contractor/builder with one or more of the following: construction material storage, machinery storage or repair, including trucks and heavy equipment, shops, and office space.”

The attached site plan shows the size and configuration of subject property together with the location of the primary structure and parking upon the property. The existing 36 foot x 75 foot structure was constructed in 1979 to accommodate the exchange of parts, storage and restoration of antique vehicles. When this structure was built the property was zoned “C” Area, “LB” Use which did allow vehicle repair.

The applicant has stated that his contracting business has 5 employees, including himself. He would remodel an office area within the existing structure and use the remaining portion of the building for vehicle and material storage. Employees drive the company vehicles to and from work sites throughout the area. One employee would work at the office most days. The subject property has a fenced storage area along the west side of the building in which the applicant intends to store scaffolding and trailers.

Attached is a letter circulated by Norris’ Wall Covering & Painting, dated October 27, 2008, and signed by the contacted neighbors.

Attached is a Memorandum from the City Planning Department, Transportation Section, dated September 3, 2008, stating the proposed use would not generate more traffic than the previous nonconforming use.

Neighborhood Council No. 9 discussed the subject conditional use permit on November 13, 2008. The Council Chairman, Gareth Schoenthal, provide the attached memo.

The procedure for processing a conditional use is identical to that for a City zone change. Following a public hearing and recommendation by the Planning Board, the City Commission shall conduct a public hearing and arrive at a final decision regarding the conditional use application. The City Commission may, through a written agreement with the applicant, establish such conditions and restrictions upon the construction, maintenance and operation of the conditional use as is deemed necessary for the protection of the public interest and to secure compliance with standards and requirements.

The City Zoning Code lists the seven following criteria to be applied to a request for a conditional use for evaluation purposes.

1. The conditional use is consistent with City’s growth policy and applicable
2. That the establishment, maintenance or operation of the conditional use will not be detrimental to, or endanger the health, safety, morals, comfort or general welfare.
3. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the neighborhood.
4. The conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

5. Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.
6. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
7. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the City Commission.

A goal in the land use element of the Growth Policy is “to preserve and enhance the character, quality, and livability of existing neighborhoods”. The Growth Policy states proposed land use changes should be evaluated according to the type of neighborhood affected, which in this case, is established and stable. Land use changes should be compatible with the type, scale, and physical character of the neighborhood.

Staff concludes no significant negative aspects, associated with the seven above mentioned criteria, should result from the approval of the conditional use permit, provided the property otherwise stays in compliance with City Code.

During the public hearing Mr. Jose Martinez, 1317 7<sup>th</sup> Avenue South, stated that the traffic in the alley has been a problem. If the contractor yard, type I, continues to generate this amount of traffic, he was against the conditional use. A representative of the applicant stated that the business is performed at clients premises and the clients do not come to the shop. Therefore, traffic is limited to employees.

**Concurrences:** The Community Development Department has been involved throughout the review and approval process for this project.

**Fiscal Impact:** Granting the conditional use permit will not result in any changes to providing City services to the area.

**Alternatives:** The City Commission could decide not to set the public hearing on Resolution 9803. However, such action would deny the applicant due process and consideration of a public hearing, as provided for in City Code and State Statute.

**Attachments/Exhibits:**

1. Resolution 9803
2. Vicinity/Zoning Map
3. Development Review Application for Conditional Use Permit
4. Site Plan provided by applicant
5. Letter circulated by Norris’ Wall Covering & Painting, dated October 27, 2008
6. Memo from City Transportation Section, dated September 3, 2008
7. Memo/Fax from Neighborhood Council #9, dated November 13, 2008
8. Memo from City Parking Supervisor, dated November 17, 2008

Cc: Mike Rattray, Community Development Director  
Kim McCleary, City Parking Supervisor  
Viann D. Stimac, 757 33A Ave NE, Great Falls, MT 59404  
Norris’ Wall Covering & Painting, P.O. Box 2749, Great Falls, MT 59403