

Memorandum

To: Honorable Mayor Bill Agan and members of the Richland Hills City Council
From: Jason Moore, Assistant to the City Manager
Date: January 19, 2016
Subject: Request for an SUP to allow outside storage at 7350 Baker Boulevard

Council Action: Consider an ordinance granting a Specific Use Permit (SUP) to permit operation of a general contracting business with outside storage (Smith Lawn & Tree) for property zoned Light Commercial (LC) and located at 3200 Handley Ederville Road.

Background Information: Smith Lawn and Tree has been in Richland Hills for just over two years now. Their current location, 3200 Handley Ederville Road, was greatly enhanced when they purchased the property and moved in. They are a landscape installation and maintenance contractor and currently use a portion of their property for outside storage. They obtained their Certificate of Occupancy prior to the May 2014 Zoning and Comprehensive Plan update, so their property zoning preceded the requirement for an SUP concerning outside storage. Their operation is currently considered legal, non-conforming because the current ordinance does not allow outside storage without an SUP in light commercial districts. The zoning ordinance does not provide a method to expand a non-conforming use, so their need to expand the outside storage yard will require an SUP for the existing site along with the proposed expansion area. That is what the applicant is here tonight to request; an expansion to their storage yard.

The Planning and Zoning Commission heard the case in November and recommended approval based on conditions as presented by staff (see Board/Citizen Input below). The applicant has met the conditions requested by the Planning and Zoning Commission by providing staff with the necessary documents.

Staff would recommend approval of this SUP request with the condition that the Screening/Fencing Ordinance be met for the expanded property. The Planning and Zoning Commission stated that a wood fence would be appropriate for screening; however, staff would remind the Council that the 2014 Zoning Ordinance specifically prohibits the use of wood as a fence material for non-residential districts. The Council may consider the use of wood fencing with a vegetative screen as an extension of the applicant's existing fence, but staff would recommend against that.

Board/Citizen Input: The Planning and Zoning Commission heard the Specific Use Permit case #15-32 and recommends approval with the following conditions:

1. The SUP process requires a survey plat with the metes and bounds description and the legal description be submitted for review.
2. The SUP process requires that a site plan be drawn to scale and submitted for review by city staff and the Planning and Zoning Commission. It is a good idea to show any additional landscaping on the plan.
3. Approval with contingencies of add site lighting to storage areas, provide an emergency access gate with Knox lock at north property line, masonry or vinyl screening wall is required.

Planning and Zoning stated wood fence would be appropriate as screening fence.

Financial Impact: N/A

Staff Contacts: Jason Moore, Assistant to the City Manager, jmoore@richlandhills.com

Attachments: Subject Property Aerial; SUP Ordinance; Exhibit A, Exhibit B, & Exhibit C



ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 90 OF THE CITY CODE, AS AMENDED, THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF RICHLAND HILLS, BY GRANTING A SPECIFIC USE PERMIT PERMITTING THE OPERATION OF A LANDSCAPING BUSINESS WITH OUTSIDE STORAGE ON CERTAIN PROPERTY LOCATED AT 3200 HANDLEY EDERVILLE ROAD, RICHLAND HILLS, TEXAS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Richland Hills is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, pursuant to Chapter 211 of the Local Government Code, the City has adopted a comprehensive zoning ordinance, codified as Chapter 90 of the City Code, and a comprehensive zoning map, regulating the location and use of buildings, other structures and land for business, industrial, residential or other purposes, and providing for a method to amend said ordinance and map for the purpose of promoting the public health, safety, morals and general welfare, all in accordance with a comprehensive plan; and

WHEREAS, in accordance with the Comprehensive Zoning Ordinance, the owner of the property referenced below has filed an application for a Specific Use Permit for a Landscaping Business with Outside Storage in the "Light Commercial" (LC) Zoning District; and

WHEREAS, a public hearing was duly held by the Planning and Zoning Commission of the City on November 9, 2015, and by the City Council of the City on January 19, 2016 with respect to the use changes described herein; and

WHEREAS, all requirements of law dealing with notice to other property owners, publication and all procedural requirements have been complied with in accordance with the comprehensive zoning ordinance and Chapter 211 of the Local Government Code; and

WHEREAS, the City Council of the City does hereby deem it advisable and in the public interest to grant such permit on the terms and conditions described herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RICHLAND HILLS, TEXAS:

**SECTION 1
SPECIAL USE PERMIT GRANTED**

Chapter 90 of the City Code, as amended, is hereby amended so that a specific use permit is granted as shown and described below:

- Applicant: Paul Warner Investments, LLC
- Property Address: 3200 Handley Ederville Road, Richland Hills, Texas
- Legal Description: Hamilton Bennett Survey, A138, Tract 1d01, as more particularly described on the attached Exhibit A; and a portion of Block 6, Lot 4, Midway Place Addition, City of Richland Hills, Texas, as more particularly described and depicted on the attached Exhibit B.
- Zoning Change: The property shall remain located in the “Light Commercial” (LC) Zoning District, and a Specific Use Permit permitting the operation of a Landscaping Business with outside storage (which storage shall be incidental to the primary use of the Landscaping Business) is hereby granted subject to the terms and conditions provided herein.

**SECTION 2
ACCORDANCE WITH COMPREHENSIVE PLAN AND PURPOSES OF ZONING**

The zoning districts, boundaries and uses as herein established herein have been made in accordance with the comprehensive plan for the purpose of promoting the health, safety, morals and general welfare of the community. They have been designed to lessen congestion in the streets, to secure safety from fire, panic, flood and other dangers, to provide adequate light and air, to prevent overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provisions of transportation, water, sewerage, parks and other public requirements. They have been made after a full and complete hearing with reasonable consideration among other things of the character of the district and its peculiar suitability for the particular uses and with a view of conserving the value of the buildings and encouraging the most appropriate use of land throughout the community.

**SECTION 3
ZONING ORDINANCE AND SPECIAL TERMS AND CONDITIONS APPLICABLE**

The use of the property described herein shall be subject to all the applicable regulations contained in the Comprehensive Zoning Ordinance and all other applicable and pertinent ordinances of the City, for the zoning district into which they have been assigned. In addition, use of the property described above shall be subject to all restrictions, terms and

conditions contained in the site plan and conditions attached as Exhibit C, which is incorporated herein by reference.

SECTION 4
ORDINANCE CUMULATIVE

This Ordinance shall be cumulative of all other Ordinances of the City of Richland Hills affecting zoning and land use, as amended, and shall not repeal any of the provisions of such ordinances except in those instances where provisions of such ordinances are in direct conflict with the provisions of this ordinance.

SECTION 5
PENALTY

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense. In addition, any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance may be subjected to such civil penalties as authorized by law.

SECTION 6
RESERVATION OF RIGHTS AND REMEDIES FOR ACCRUED VIOLATIONS

All rights or remedies of the City are expressly saved as to any and all violations of Chapter 90, as amended, or any other ordinance affecting zoning and land use that have accrued at the time of the effective date of this Ordinance and as to such accrued violations and all pending litigation, both civil and criminal, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the Courts.

SECTION 7
SEVERABILITY

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION 8
PUBLICATION**

The City Secretary is hereby directed to publish in the official newspaper of the City the caption, penalty clause, publication clause, and effective date clause of this ordinance as required by law.

**SECTION 9
EFFECTIVE DATE**

This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON THIS _____ DAY OF _____, 2016

THE HONORABLE BILL AGAN, MAYOR

ATTEST:

CATHY BOURG, CITY SECRETARY

APPROVED AS TO FORM AND LEGALITY:

BETSY ELAM, CITY ATTORNEY

EXHIBIT A

EXHIBIT B

Beginning at the southeast corner of the tract granted to Maria Artemia Adame by General Warranty Deed and recorded as Instrument No. D215009041 of the Tarrant County deed records (the "Ortega Tract") and then directly south approximately 159.70 feet to the northern boundary of the tract granted to Paul Warner Investments, LLC by Special Warranty Deed and recorded as Instrument No. D213129226 (the "Smith Tract");

Then west approximately 137.30 feet along the common boundary line between the Smith Tract and Lot 4, Block 6 Midway Place Addition, City of Richland Hills Texas, as shown on the plat recorded in Volume 388-181, page 13 of the Tarrant County Plat Records ("Lot 4") until the southeast corner of a tract granted to GS&J Properties by General Warranty Deed and recorded as Instrument No. D200095920 (the "GSJ Tract");

Then north along the common boundary line between the GSJ Tract and Lot 4 approximately 159.7 feet until the southwest corner of the Ortega Tract;

Then approximately 137.30 feet east along the common boundary line of Ortega Tract and Lot 4 until the southeast corner of the Ortega Tract.

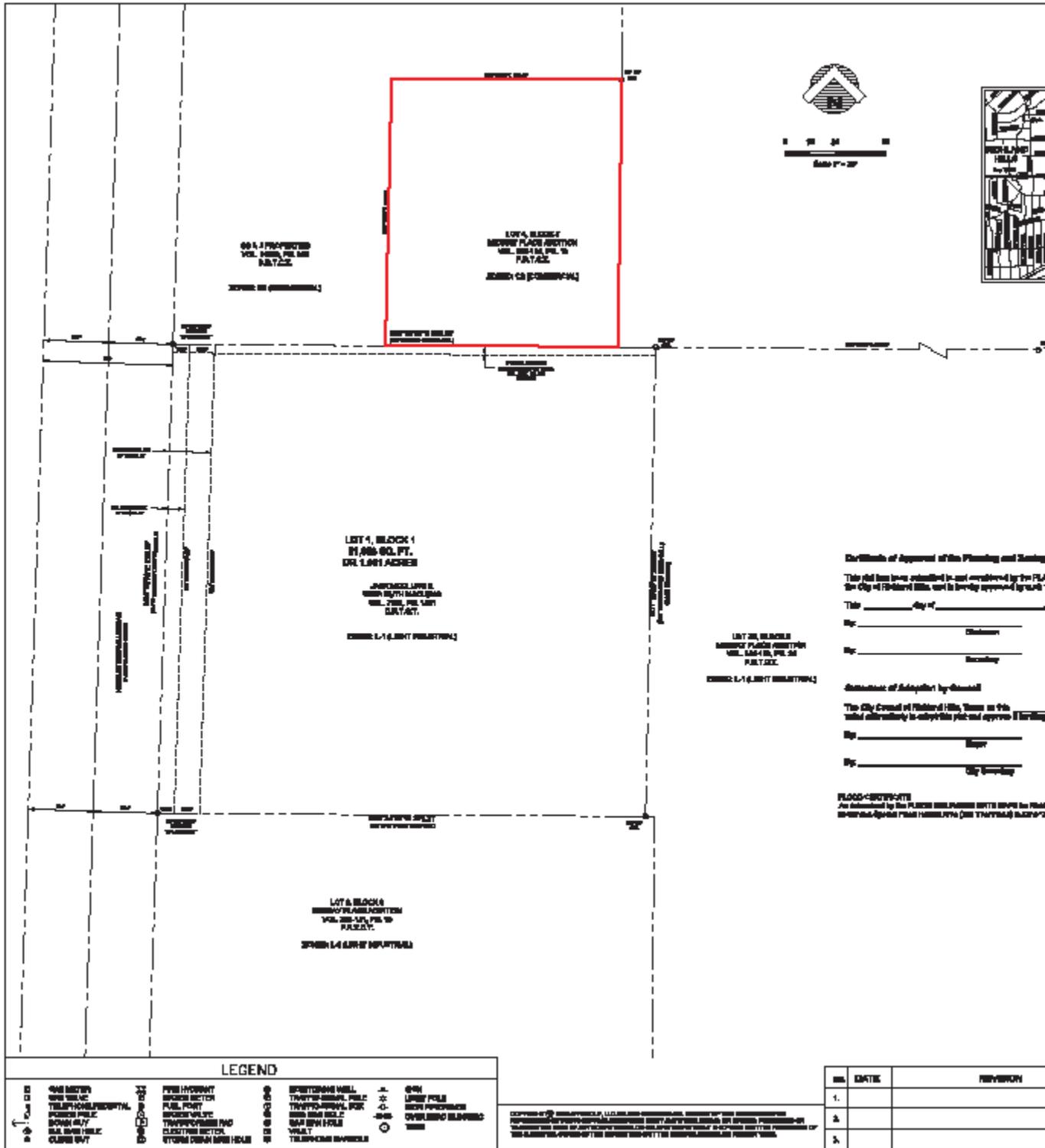
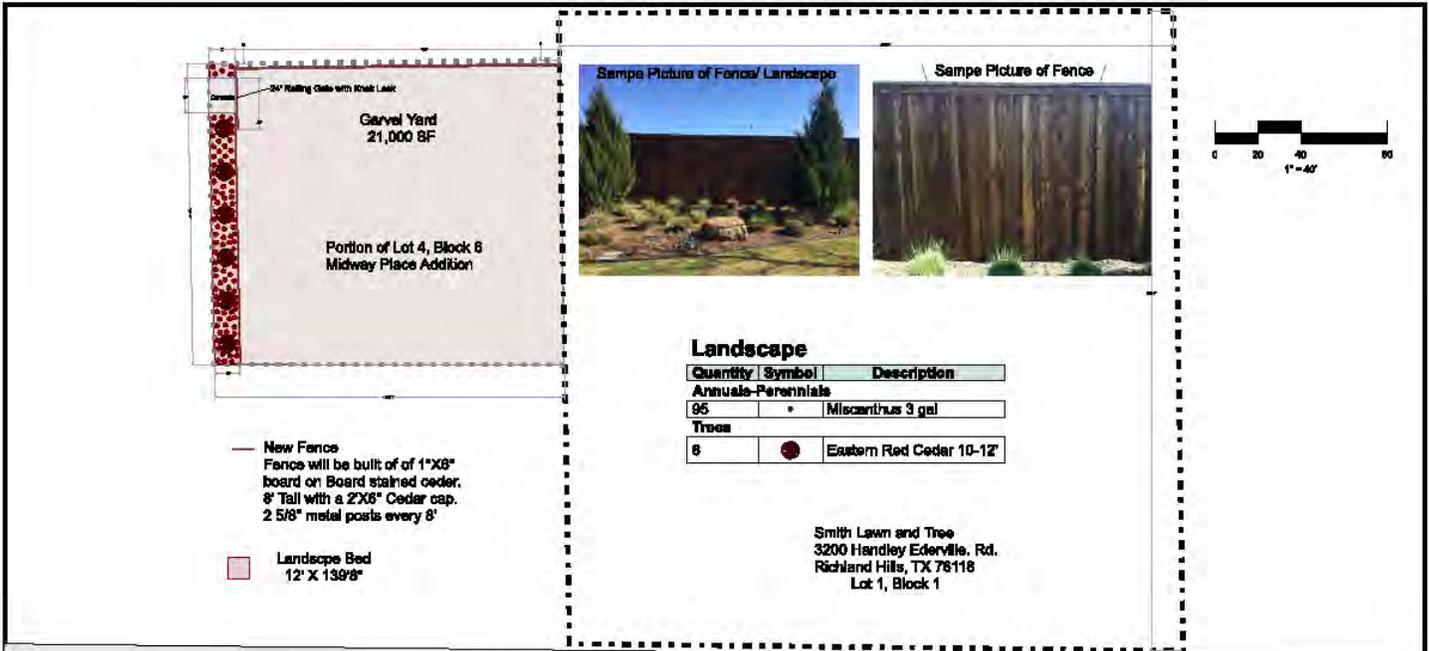


EXHIBIT C



Handley Ederville Rd.

REVISIONS: None	DATE: 1-12-18	DESIGNER: Ludson P. Smith IV CHECKED BY: Ludson P. Smith IV	PROJECT: Smith Lawn and Tree (SUP Permit) 3200 Handley Ederville. Rd. Richard Hills, TX 78118.	SHEET DESCRIPTION: SITE PLAN/ LANDSCAPE PLAN/ FENCE PLAN	Smith Lawn and Tree 3200 Handley Ederville. Rd. Richard Hills, TX 78118.
SCALE: 1" = 80'	SHEETS: 1 of 1				