

Memorandum

To: Honorable Mayor Bill Agan and members of the Richland Hills City Council
From: Jason Moore, Assistant to the City Manager
Date: April 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 parking area requires the ordinance and approval by Council to do so. The area they want to expand to would be an asphalt or concrete striped parking lot for their fleet vehicles and trailers. The proposed screening would match their existing cedar, board on board fence with associated landscaping out front.

The Planning and Zoning Commission heard the case on April 11th and recommended approval.

Staff recommends approval of this SUP request.

Board/Citizen Input: The Planning and Zoning Commission heard the Specific Use Permit case #16-02 and recommends approval as presented.

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 April 11, 2016, and by the City Council of the City on April 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

DELETED

LEGAL DESCRIPTION

Legal description of the tract:

All right and part of land out of the Hamilton Barnett Survey, Abstract No. 438, in Red Land Hills, Tarrant County, Texas, and being more particularly described by reference to the following:

BLU SPRING plat (see plat) in the East end of County-Ederlyle Road, said plat being 3.017 - 20' W, 538 7 feet and 8 04" - 37' E, 26.6 feet for the Northwest corner of said Bennett Survey;

FENCE N. 81° - 30' E, 111.2 feet for iron pipe corner;

FENCE S. 01° - 25' W, 282.0 feet for iron pipe corner;

FENCE N. 06° - 20' W, 87.2 feet for iron pipe in the east line of said County-Ederlyle Road;

THENCE N. 01° - 23' E, 112.2 feet to the NE corner of said tract 283.0 from the POINT OF BEGINNING, and containing 21 acres of land.

NOTE: COMPANY DOES NOT REPRESENT IT IS THE NETIVE ACRESAGE AND/OR SQUARE FOOTAGE CALC. BY COMPANY'S SYSTEMS.

SAVE AND ENLARGE

Being a 0.058 hectare (0.143 acre) tract being located in the H. Barnett Survey, Abstract No. 438, in the City of Red Land Hills, Tarrant County, Texas, and being a portion of a 0.059 hectare (0.133 acre) tract of land being lawfully being being by the Hamilton Barnett Survey, Abstract No. 438, in the City of Red Land Hills, Tarrant County, Texas, and being recorded in Volume 1200, Page 1881 of the Public Records of Tarrant County, Texas, said 0.058 hectare (0.133 acre) tract of land being more particularly described by reference to the following:

DEGINN plat (see plat) for road found in the City of Red Land Hills, Texas, and being a portion of a 0.058 hectare (0.133 acre) tract of land being lawfully being by the Hamilton Barnett Survey, Abstract No. 438, in the City of Red Land Hills, Tarrant County, Texas, and being recorded in Volume 1200, Page 1881 of the Public Records of Tarrant County, Texas, said 0.058 hectare (0.133 acre) tract of land being more particularly described by reference to the following:

- (1) THENCE South 80 degrees 35 minutes 30 seconds East, with the north line of said 0.058 hectare (0.133 acre) tract of land, and the south line of said 0.058 hectare (0.133 acre) tract of land, and a distance of 7.625 meters (25.02 feet) to a R. 0.19 meter section line proposed east right-of-way line of said Hamilton Barnett Road, said R. 0.19 meter being 106.19 feet; set of said right-of-way line to corner intersection of said County-Ederlyle Road, said right-of-way line being found for the northeast corner of said 0.058 hectare (0.133 acre) tract of land being South 65 degrees 28 minutes 33 seconds east, a distance of 87.822 meters (288.43 feet);
- (2) THENCE South 01 degrees 04 minutes 11 seconds East, with the proposed east right-of-way line of said Hamilton Barnett Road, a distance of 86.322 meters (283.17 feet) to the NE corner of said 0.058 hectare (0.133 acre) tract of land, and then with a 12.100 meter section line to the NE corner of said 0.058 hectare (0.133 acre) tract of land being South 66 degrees 40 minutes 30 seconds east, a distance of 108.828 meters (357.17 feet);
- (3) THENCE North 85 degrees 40 minutes 33 seconds West, with the south line of said 0.058 hectare (0.133 acre) tract of land, a distance of 7.625 meters (25.02 feet) to the NE corner of said 0.058 hectare (0.133 acre) tract of land being South 66 degrees 40 minutes 30 seconds east, a distance of 108.828 meters (357.17 feet);
- (4) THENCE North 01 degree 15 minutes 04 seconds East, with the proposed east right-of-way line of said Hamilton Barnett Road and the west line of said 0.058 hectare (0.133 acre) tract of land, a distance of 86.322 meters (283.17 feet) to the POINT OF BEGINNING and containing 0.058 hectare (0.133 acre) of land, the same being:

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

24' Rolling Gate with Knok Lock

Concrete

Asphalt or concrete parking for vehicles, trailers and equipment with current registration.

— New Fence
Fence will be built of of 1"X6" board on Board stained cedar.
8' Tall with a 2"X6" Cedar cap.
2 5/8" metal posts every 8'

■ Landscape Bed
12' X 139'8"

Sampe Picture of Fence/ Landscape

Sampe Picture of Fence

Landscape		
Quantity	Symbol	Description
Annuals-Perennials		
95	•	Miscanthus 3 gal
Trees		
6	⊗	Eastern Red Cedar 10-12'

Smith Lawn and Tree
3200 Handley Ederville. Rd.
Richland Hills, TX 76118
Lot 1, Block 1

Handley Ederville Rd.

SHEET: 1 of 1	SCALE: 1" = 50'	DRAWN BY: Judson P. Smith IV CHECKED BY: Judson P. Smith IV	DATE: 1-26-16	REVISIONS: #1	PROJECT: Smith Lawn and Tree (SUP Permit) 3200 Handley Ederville. Rd. Richland Hills, TX 76118.	SHEET DESCRIPTION: SITE PLAN/ LANDSCPE PLAN/ FENCE PLAN	Smith 3200 H Richlan
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