



Case# LUP-8
Public Hearing Dates:
PC: 07-03-18
BOC: 07-17-18

Cobb County Community Development Agency
Zoning Division
1150 Powder Springs St. Marietta, Georgia 30064

SITE BACKGROUND

Applicant: Jeffery C. Smith

Phone: (770) 443-4077

Email: jefferycsmith@bellsouth.net

Representative Contact: Jeffery C. Smith

Phone: (770) 443-4077

Email: jefferycsmith@bellsouth.net

Titleholder: Jeffery C. Smith and Julian W. Smith

Property Location: Northeast side of Austell
Powder Springs Road, south of McKay Road

Address: 4509 Austell Powder Springs Road

Access to Property: Austell Powder Springs Road

QUICK FACTS

Commission District: 4-Cupid

Current Zoning: R-20

Current use of property: Single-family house

Proposed use: LUP (Land Use Permit)-Renewal-
Selling of Produce

Future Land Use Designation: CAC (Community
Activity Center) and MDR (Medium Density
Residential)

Site Acreage: 1.331 ac

District: 19

Land Lot: 1054

Parcel #: 19105400390

Taxes Paid: Yes

FINAL ZONING STAFF RECOMMENDATION: (Zoning staff member: Tannessa Bates)

Based on the analysis of this case, Staff recommends **APPROVAL** for 24 months of the applicant's request, subject to:

1. Fruit stand to be maintained at the side of the primary structure;
2. Off-street parking and turn around space to be provided to the side and rear of the existing structures;
3. Business activity limited to spring and summer months; and
4. Department of Transportation comments and recommendations.

LUP-8
(2018)

PLAT OF SURVEY FOR
JEFFERY C. SMITH
JULIAN W. SMITH
LOCATED IN LAND LOT 1054, 19TH DISTRICT,
2ND SECTION, COBB COUNTY, GEORGIA
4509 AUSTELL POWDER SPRINGS ROAD

AREA = 1.331 ACRES
57,985 SQ. FT.

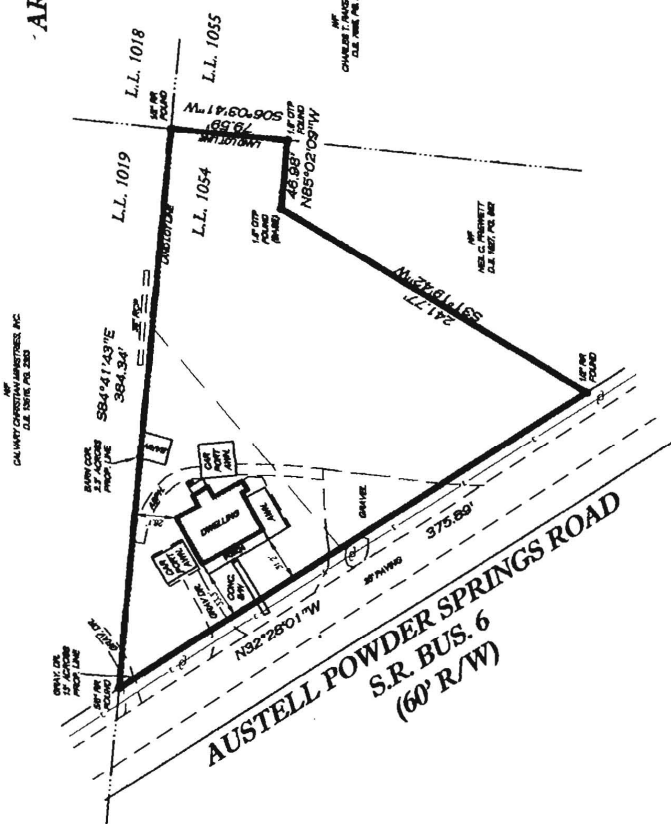
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APR 2 - 2018
COBB COUNTY DEPARTMENT OF PLANNING AND ZONING DIVISION



DATE	REVISIONS

THE RUSSELLE COMPANY
PROFESSIONAL LAND SURVEYORS
1000 W. BENTLEY AVENUE, SUITE 100
ALPHARETTA, GEORGIA 30201
(770) 842-8888
E-MAIL: BRUNSON@RUSSELLE.COM

PROJ. NO. 00177480
DATE: 04/02/2018
PLAT DATE: 04/02/2018
SCALE: 1" = 50'



SURVEY NOTES:
1. THIS PLAT WAS PREPARED FOR INCLUDE THE ONE OF THE ABOVE AND/OR THE OTHERS. THE PLAT IS SUBJECT TO THE RECORDS OF THE SURVEYOR.
2. ALL DISTANCES ARE IN FEET AND DECIMALS THEREOF.
3. ALL BEARINGS ARE TRUE BEARINGS.
4. THIS PLAT WAS PREPARED FOR INCLUDE THE ONE OF THE ABOVE AND/OR THE OTHERS. THE PLAT IS SUBJECT TO THE RECORDS OF THE SURVEYOR.
5. ALL DISTANCES ARE IN FEET AND DECIMALS THEREOF.
6. ALL BEARINGS ARE TRUE BEARINGS.
7. THIS PLAT WAS PREPARED FOR INCLUDE THE ONE OF THE ABOVE AND/OR THE OTHERS. THE PLAT IS SUBJECT TO THE RECORDS OF THE SURVEYOR.
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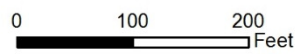
LEGEND
CONCRETE CURB WITH 4\"/>



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LUP-8 2018-Aerial Map



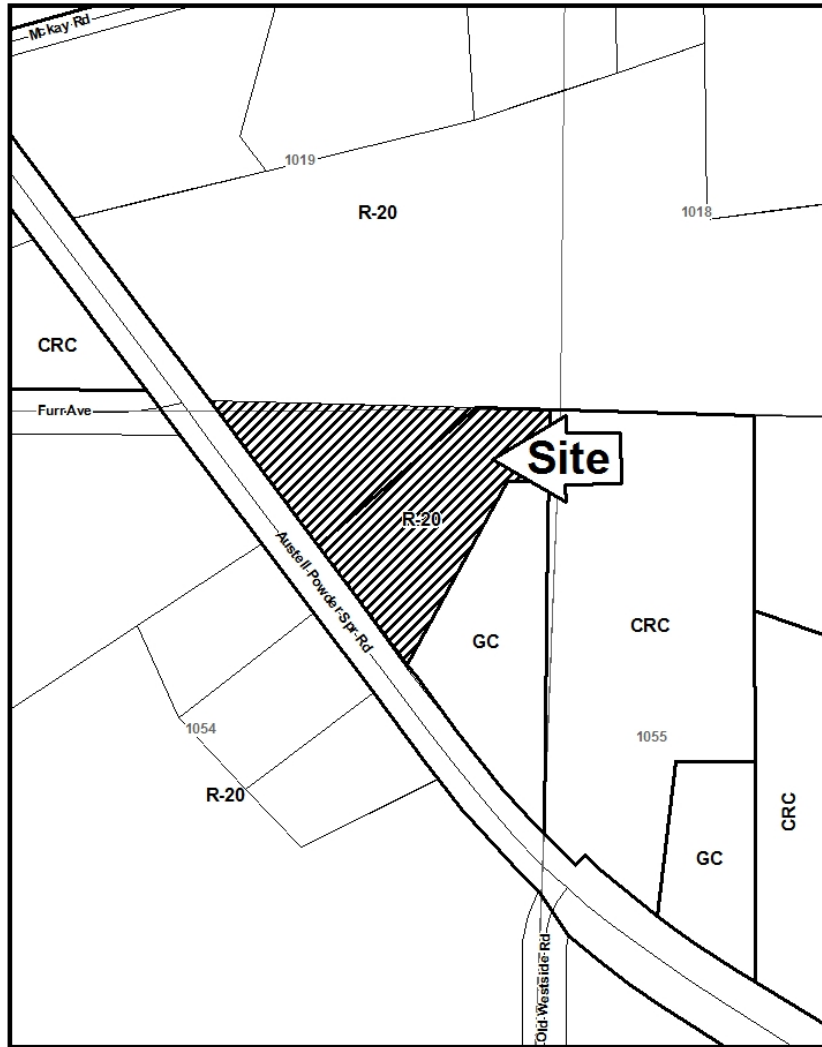
This map is provided for display and planning purposes only. It is not meant to be a legal description.



-  Land Lot
-  City Boundary

North
Zoning: R-20 (Single Family Residential)
Future Land Use: PI (Public Institutional)

LUP-8 2018-GIS



WEST
Zoning: R-20
(Single Family Residential)

Future Land Use: CAC
(Community Activity Center)

EAST
Zoning: GC
(General Commercial)

Future Land Use: CAC
(Community Activity Center)

SOUTH
Zoning: GC (General Commercial)
Future Land Use: CAC (Community Activity Center)

DEPARTMENT COMMENTS- Zoning Division

Current zoning district for the property

The R-20 district is established to provide locations for single-family residential uses or residentially compatible institutional and recreational uses which are within or on the edge of properties delineated for any residential category as defined and shown on the Cobb County Comprehensive Plan: A Policy Guide, adopted November 27, 1990. When residentially compatible institutional and recreational uses are developed within the R-20 district, they should be designed and built to ensure intensity and density compatibility with adjacent single-family detached dwellings and otherwise to implement the stated purpose and intent of this chapter. Acreage within floodplains or wetlands shall be excluded when calculating the overall density of the development.

Request for a Temporary Land Use Permit

The Board of Commissioners may permit temporary land use permits for uses that are uniquely located and are considered compatible with adjoining zoning districts and nearby uses for designated periods of time for uses, exceptions or professions in areas, along roadways and within districts where the zoning regulations would otherwise prohibit such operations. Customary home occupations as defined in this chapter, do not require a temporary land use permit.

Summary of the applicant's proposal

The applicant is requesting to renew a Land Use Permit that has been in existence for years operating as a fruit stand at the home. The hours of operation are 8 a.m. to 6 p.m. Monday through Saturday. The applicant has indicated that there will be 15-20 customers per day and parking is provided on the property to accommodate customers.

DEPARTMENT COMMENTS- Fire Department

No comment.

DEPARTMENT COMMENTS- Site Plan Review (County Arborist)

No comment.

DEPARTMENT COMMENTS- Cemetery Preservation

No comment.

DEPARTMENT COMMENTS- School System

No comment.

DEPARTMENT COMMENTS- Stormwater Management

No comment.

DEPARTMENT COMMENTS- Transportation

1. Recommend driveways on Austell Powder Springs Road be paved with a treated hardened surface for a minimum of 25' from the edge of pavement or to the County right-of-way, whichever is greater in length.
2. Recommend GDOT permits for all work that encroaches upon State right-of-way.
3. Recommend driveway on Austell Powder Springs Road be upgraded per Section 402.08, Non-Residential Driveways, of the Cobb County Development Standards.

DEPARTMENT COMMENTS- Planning Division

No comment.

DEPARTMENT COMMENTS- Water and Sewer

No comments. Powder Springs water and sewer service area

STAFF ANALYSIS

There are twelve criteria that must be considered for a Temporary Land Use Permit. The criteria are below in bold, with the staff analysis following:

(1) Safety, health, welfare and moral concerns involving the surrounding neighborhood.

The request to renew the fruit stand business should not affect the safety, health or welfare of the surrounding properties.

(2) Parking and traffic considerations.

All parking will be on the driveway on the property.

(3) Number of nonrelated employees.

There will be no other employees.

(4) Number of commercial and business deliveries.

The applicant has indicated there will be no commercial deliveries for the business.

(5) The general presumption of the board of commissioners that residential neighborhoods should not allow noncompatible business uses.

The business has been in operation for years at the single - family residence because of continuance approvals by the Board of Commissioners for the temporary land use permit.

(6) Compatibility of the business use to the neighborhood.

The area contains a mixture of single-family residential and commercial uses.

(7) Hours of operation.

The hours of operation are 8 a.m. to 6 p.m., Monday through Saturday.

(8) Existing business uses in the vicinity.

There are auto sales, auto repair, office and retail uses.

(9) Effect on property values of surrounding property.

This request should not affect the property values in the area.

(10) Circumstances surrounding neighborhood complaints

This request is not the result of a Code Enforcement complaint.

(11) Intensity of the proposed business use.

This request is for a produce fruit stand that has been in business for several years.

STAFF ANALYSIS (Continued)

(12) Location of the use within the neighborhood.

The property is not located within a recorded subdivision.

The staff analysis and recommendation made by the Planning and Zoning Staff are only the opinions of the Planning and Zoning Staff and are by no means the final decision. The Cobb County Board of Commissioners makes the final decisions on all Rezoning and Land Use Permits at an advertised public hearing.

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COBB CO. COMM. DEV. AGENCY
ZONING DIVISION



Revised October 1, 2009

Application #: LVP 8

PC Hearing Date: 7-3-18

BOC Hearing Date: 7-17-18

TEMPORARY LAND USE PERMIT WORKSHEET
(FOR BUSINESS USE OR FOR A USE NOT PERMITTED)

1. Type of business, or request? PRODUCE
2. Number of employees? 1
3. Days of operation? MONDAY - SATURDAY
4. Hours of operation? 8:00 AM - 6:00 PM
5. Number of clients, customers, or sales persons coming to the house per day? 15-20 ; Per week? 90-120
6. Where do clients, customers and/or employees park?
Driveway: ; Street: _____ ; Other (Explain): _____
7. Signs? No: ; Yes: _____. (If yes, then how many, size, and location): _____
8. Number of vehicles related to this request? (Please also state type of vehicle, i.e. dump truck, bobcat, trailer, etc.): 0
9. Deliveries? No ; Yes _____ (If yes, then how many per day or week, and is the delivery via semi-truck, USPS, Fedex, UPS, etc.)
10. Does the applicant live in the house? Yes ; No _____
11. Any outdoor storage? No ; Yes _____ (If yes, please state what is kept outside): _____
12. Length of time requested (24 months maximum): 24 MONTHS
13. Is this application a result of a Code Enforcement action? No ; Yes _____ (If yes, attach a copy of the Notice of Violation and/or tickets to this form).
14. Any additional information? (Please attach additional information if needed): _____

Applicant signature: Jeffery C. Smith Date: 3/13/2018

Applicant name (printed): JEFFERY C. SMITH

Existing On-site Sewage Management System Performance Evaluation Report Form

Applicant: JEFFERY SMITH		Reason for Existing Sewage System Evaluation:		
Property/System Address: 4508 AUSTELL POWDER SPRINGS RD POWDER SPRINGS, GA 30127		<div style="border: 1px solid black; padding: 5px; display: inline-block;"> TEMP USE R ECEIVED APR 2 - 2018 COBB CO. COMM. DEV. & ZONING DIVISION </div>		
Subdivision Name:	Lot:			Block:
Existing System Information: Water Supply (circle)	Number of Bedrooms/GPD:			Garbage Grinder: (circle)
<input checked="" type="radio"/> Public <input type="radio"/> Private Well <input type="radio"/> Community	2/0	<input type="radio"/> Yes <input checked="" type="radio"/> No		

*** One of Section A, B, or C should be Completed ***
SECTION A - System on Record

<input checked="" type="radio"/> Yes <input type="radio"/> No	Existing On-site Sewage Management System inspection records indicate that all components of the system were properly constructed and installed at the time of the original inspection.	Comments: OKAY FOR PRODUCE STAND
<input checked="" type="radio"/> Yes <input type="radio"/> No	A copy of the original On-site Sewage Management System Inspection Report is attached.	
<input checked="" type="radio"/> Yes <input type="radio"/> No	Maintenance records indicate that the system has been pumped out or serviced within the last five (5) years or the system was installed within that time frame.	
<input checked="" type="radio"/> Yes <input type="radio"/> No	A site evaluation of the system on this date revealed no evidence of system failure or of conditions which would adversely affect the functioning of the system.	

Evaluating Environmentalist: <i>J. Deluca</i>	Title: <i>EHS I</i>	Date: 16-Mar-18	I verify this data to be correct at the time of the evaluation. This verification shall not be construed as a guarantee of the proper functioning of this system for any given period of time. No liability is assumed for future damages that may be caused by malfunction.
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SECTION B - System Not on Record

<input type="radio"/> Yes <input type="radio"/> No	No inspection records are on file showing the On-site Sewage Management System was inspected and approved at the time of the installation	Comments:
<input type="radio"/> Yes <input type="radio"/> No	The septic tank was uncovered at the time of the evaluation and it appears to meet the required design, construction and installation criteria.	
<input type="radio"/> Yes <input type="radio"/> No	Documentation from a Georgia Certified Installer has been provided as to the condition of the septic tank and its respective components, certifying its design, construction, and installation criteria. A copy is attached.	
<input type="radio"/> Yes <input type="radio"/> No	Maintenance records indicate that the system has been pumped out or serviced within the last five (5) years or the system was installed within that time frame.	
<input type="radio"/> Yes <input type="radio"/> No	A site evaluation of the system on this date revealed no evidence of system failure or of conditions which would adversely affect the functioning of the system; however, appropriateness of the sizing and installation cannot be verified since no initial inspection records exist.	

Evaluating Environmentalist:	Title:	Date:	I verify this data to be correct at the time of the evaluation. This verification shall not be construed as a guarantee of the proper functioning of this system for any given period of time. No liability is assumed for future damages that may be caused by malfunction.
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SECTION C - System Not Approved

<input type="radio"/> Yes <input type="radio"/> No	The On-site Sewage Management System was disapproved at the time of the initial and is thus not considered an approved system.	Comments:
<input type="radio"/> Yes <input type="radio"/> No	Evaluation of the system revealed evidence of system failure or malfunction, and will therefore require corrective action in order to obtain approval of the system.	
<input type="radio"/> Yes <input type="radio"/> No	Evaluation of the system revealed conditions which would adversely affect the proper functioning of the system, and will therefore require corrective action in order to obtain approval of the system.	

Evaluating Environmentalist:	Title:	Date:	I verify this data to be correct at the time of the evaluation. This verification shall not be construed as a guarantee of the proper functioning of this system for any given period of time. No liability is assumed for future damages that may be caused by malfunction.
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SECTION D - Addition to Properly or Relocation of Home (section completed in conjunction with A, B, or C above)

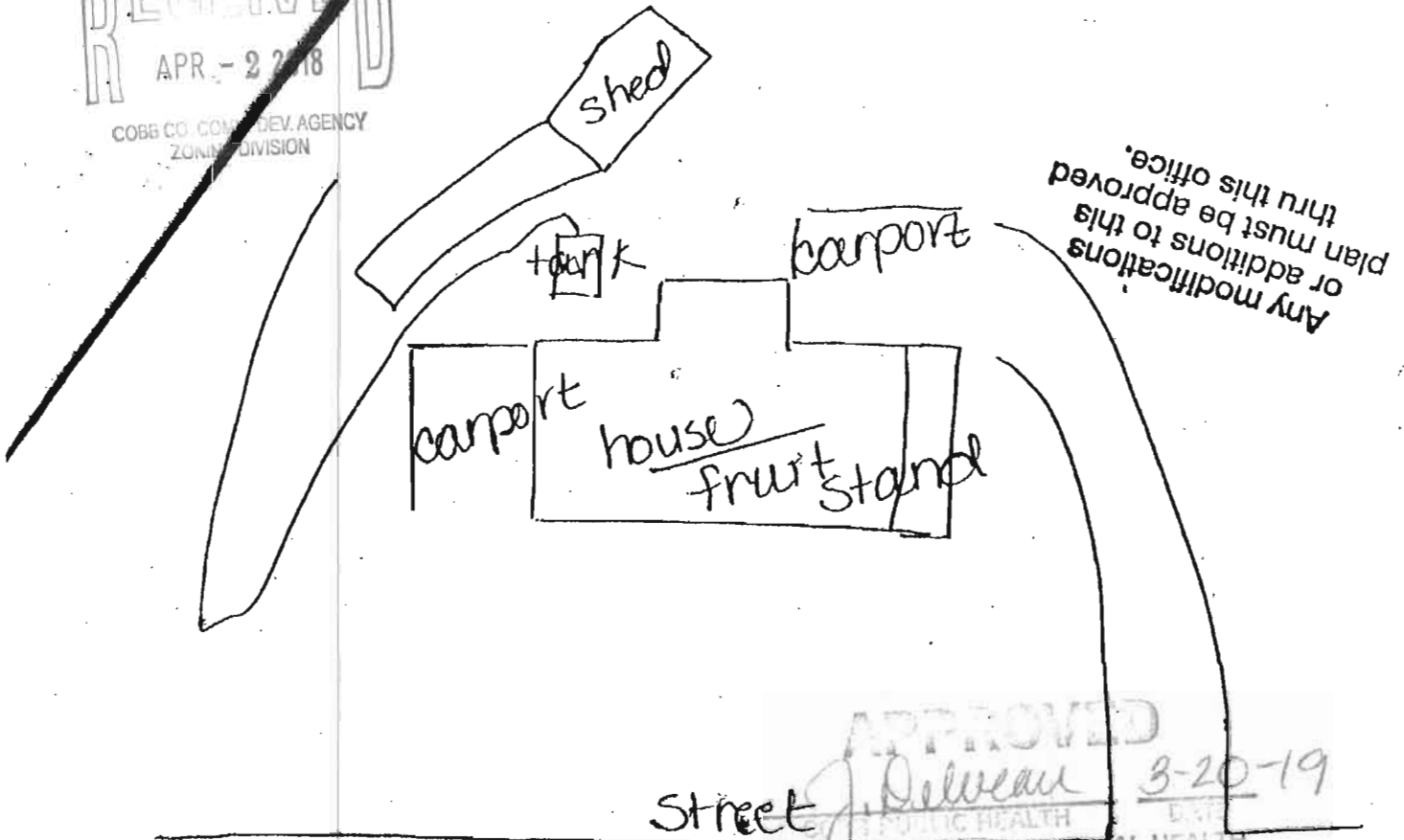
<input type="radio"/> Yes <input type="radio"/> No	An existing On-site Sewage Management System is located on the property listed above and has been evaluated in accordance with Section A or B above.	Comments:
<input type="radio"/> Yes <input type="radio"/> No	A site evaluation on this date as well as the provided information indicate that the proposed construction to home or property or that the proposed relocation of the home should not adversely affect the proper functioning of the existing system provided that no additional sewage load is added to the system for the listed size home adjacent.	
	Number of Bedrooms/GPD: 2	Garbage Grinder: (circle) <input type="radio"/> Yes <input checked="" type="radio"/> No

Evaluating Environmentalist:	Title:	Date:	I verify this data to be correct at the time of the evaluation. This verification shall not be construed as a guarantee of the proper functioning of this system for any given period of time. No liability is assumed for future damages that may be caused by malfunction.
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ZONING DIVISION

APPROVED
J. Delveau 2-28-18
COBB PUBLIC HEALTH DATE
CENTER FOR ENVIRONMENTAL HEALTH



APPROVED
J. Delveau 3-20-19
COBB PUBLIC HEALTH DATE
CENTER FOR ENVIRONMENTAL HEALTH

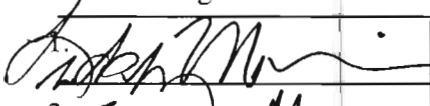
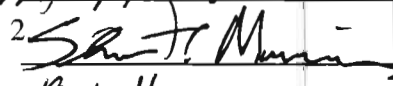
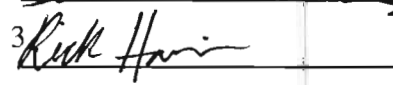


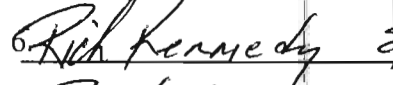
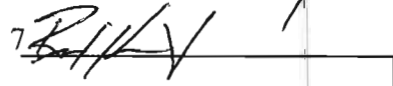
Any modifications or additions to this plan must be approved thru this office.

APPROVED
J. Delveau 4-19-16
COBB PUBLIC HEALTH DATE
CENTER FOR ENVIRONMENTAL HEALTH

**CONSENT OF CONTIGUOUS OCCUPANTS OR LAND OWNERS
TO ACCOMPANY APPLICATION FOR LAND USE PERMIT**

LUP-8 (2018)
Consent of Neighbors

By signature, it is hereby acknowledged that I give my consent/or have no objection that JEFFERY A. SMITH intends to make an application for a Land Use Permit for the purpose of SELLING OF PRODUCE on the premises described in the application.

Signature	Printed name	Address
	Lindsey Morrison	4520 Austell powder Springs Rd.
	STEVEN MORRISON	4520 Austell Powder Springs Rd.
	Rick Harris	4520 Austell Powder Springs Rd.
4. Mike Cochran		4538 Austell Powder Springs RD
5. H.W. Hilliard		4153 LEE AVE P.S. GA
	Rich Kennedy	4549 Austell Powder Springs Rd
	Roberta Kennedy	4545 Austell Powder Springs Rd
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ZONING DIVISION

