

**JULY 17, 2012 ZONING HEARING
REGULAR CASES AGENDA
COMMISSION DISTRICT 4**

PURPOSE

To consider a motion to rescind the previous action taken June 19, 2012 regarding LUP-14 (Jeffery C. Smith) for the purpose of produce sales for property located on the northeast side of Austell Powder Springs Road, southeast of Furr Avenue in Land Lot 1054 of the 19th District.

BACKGROUND

The original application for a LUP was considered by the Board of Commissioners on June 19, 2012. The Board of Commissioners' rejected the applicant's application by a vote of 3-2 (Birrell and Thompson opposed). On June 26, 2012, Commissioner Goreham announced her intention to make a motion to rescind the action previously taken per the Board of Commissioners' Zoning and Land Use Hearing Procedures. According to the procedures this issue can be addressed at the July 17, 2012 Board of Commissioners' Zoning Hearing. The property has been posted and the person in opposition has been notified of this hearing.

RECOMMENDATION

The Board of Commissioners consider a motion to rescind the action taken on June 19, 2012 regarding LUP-14 of 2012. If the motion to rescind is adopted, a public hearing is to be conducted, after which a new motion and vote shall be taken by the Board of Commissioners'.

ATTACHMENTS

Board of Commissioners' decision and original Zoning Analysis.

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
JUNE 19, 2012**

LUP-14 **JEFFERY C. SMITH** (Jeffery C. Smith and Julian W. Smith, owners) requesting a **Land Use Permit** for the purpose of Produce Sales in Land Lot 1054 of the 19th District. Located on the northeast side of Austell Powder Springs Road, southeast of Furr Avenue (4509 Austell Powder Springs Road).

The public hearing was opened and Mr. Jeffery Smith and Ms. Annette Friant addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Thompson, second by Birrell, to approve Land Use Permit for 12 months.

VOTE: **FAILED** 2-3 (Ott, Lee, and Goreham opposed)

SUBSTITUTE MOTION: Motion by Ott, second by Goreham, to deny Land Use Permit, with deferral of Code Enforcement Action until January 1, 2013.

VOTE: **ADOPTED** 3-2 (Thompson and Birrell opposed)

Clerk's Note: Commissioner Thompson directed Community Development staff to review the ordinance as it relates to the number of renewals for land use permits.

APPLICANT: Jeffery C. Smith
(770) 443-4077

REPRESENTATIVE: Jeffrey C. Smith
(770) 443-4077

TITLEHOLDER: Jeffery C. Smith and Julian W. Smith

PROPERTY LOCATION: Northeast side of Austell Powder Springs Road, southeast of Furr Avenue
(4509 Austell Powder Springs Road).

ACCESS TO PROPERTY: Austell Powder Springs Road

PHYSICAL CHARACTERISTICS TO SITE: Existing house on site.

PETITION NO: LUP-14

HEARING DATE (PC): 06-05-12

HEARING DATE (BOC): 06-19-12

PRESENT ZONING: R-20

PROPOSED ZONING: Land Use Permit

PROPOSED USE: Produce Sales

SIZE OF TRACT: 1.331 acres

DISTRICT: 19

LAND LOT(S): 1054

PARCEL(S): 39

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 4

CONTIGUOUS ZONING/DEVELOPMENT

- NORTH:** R-20/Single-family Residential
- SOUTH:** GC/Single-family House
- EAST:** GC/Single-family House
- WEST:** R-20/Single-family House

OPPOSITION: NO. OPPOSED **PETITION NO:** _____ **SPOKESMAN** _____

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

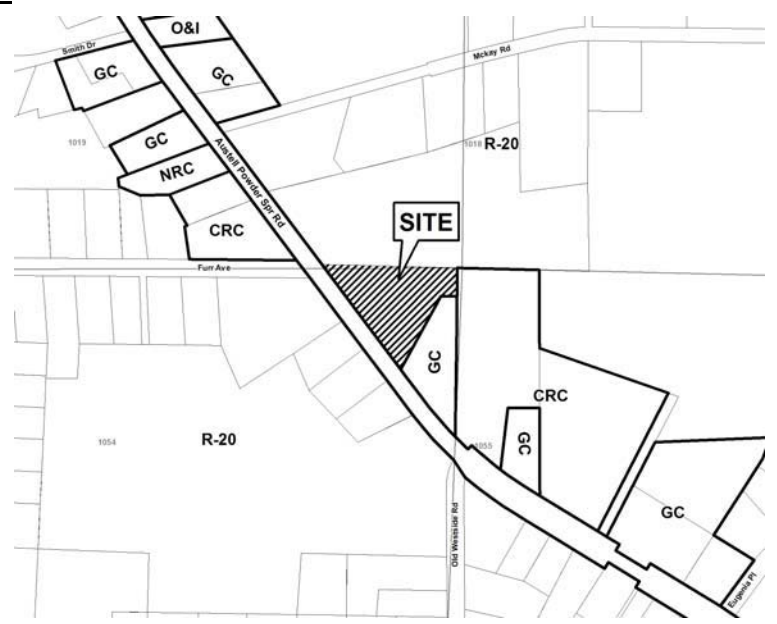
BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____

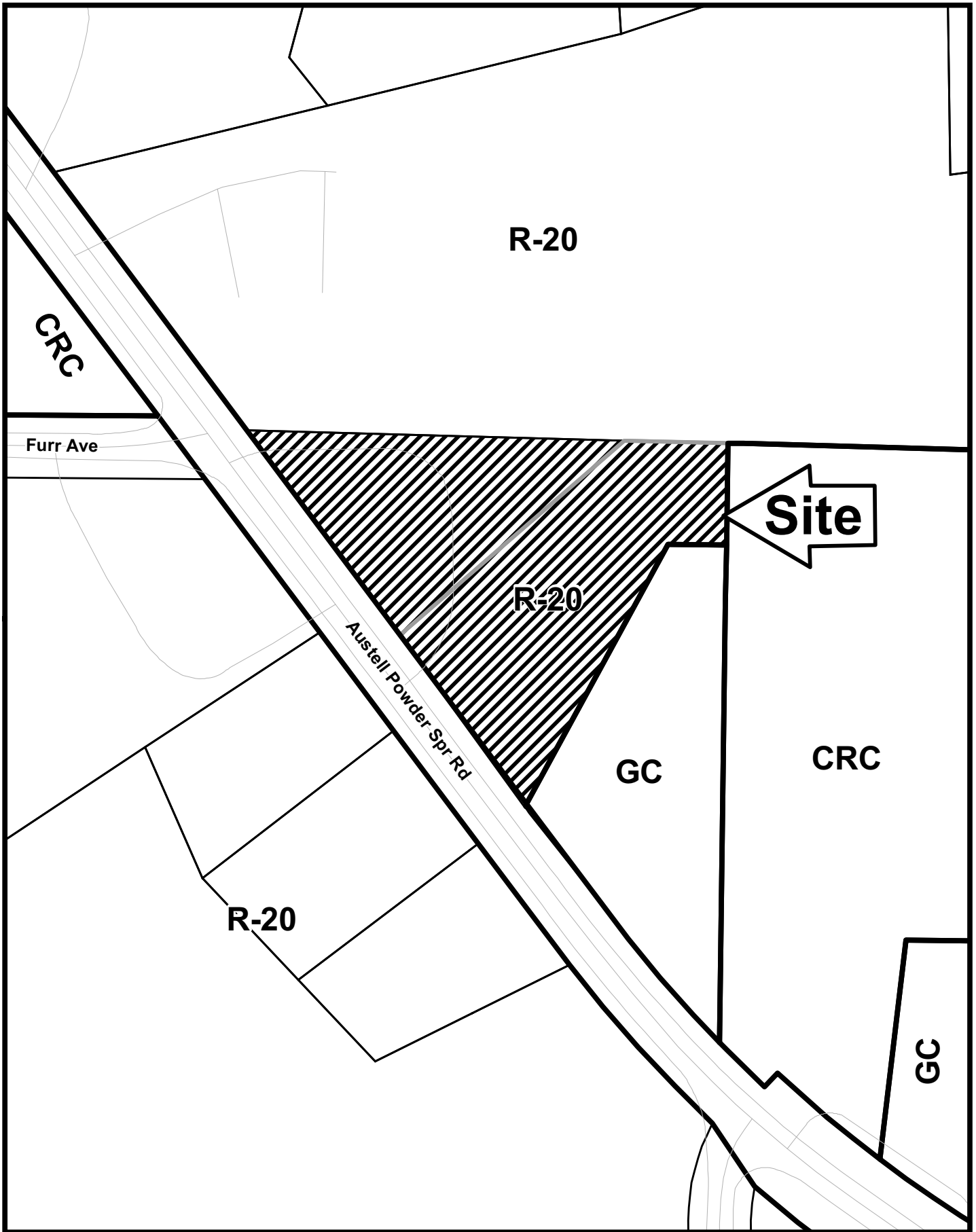
REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

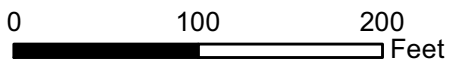
STIPULATIONS:



LUP-14



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



- City Boundary
- Zoning Boundary

APPLICANT: Jeffery C. Smith

PETITION NO.: LUP-14

PRESENT ZONING: R-20

PETITION FOR: LUP (Renewal)

ZONING COMMENTS: Staff Member Responsible: Jason A. Campbell

Applicant is requesting the fourteenth renewal of a Land Use Permit to allow him to continue to operate a fruit stand at his home. The fruit stand operates only in the spring and summer months, from 8 a.m. to 6 p.m., Monday through Saturday. There are approximately 15-20 customers per day parking on the property.

Historic Preservation: No comment

Cemetery Preservation: No comment.

WATER & SEWER COMMENTS:

No comments (Powder Springs Water and Sewer Area)

TRAFFIC COMMENTS:

Recommend no on-street parking. Recommend building the proposed driveway to comply with Cobb County commercial standards. Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

FIRE COMMENTS:

Plans must be submitted to the Cobb County Fire Marshal's Office to initiate the Certificate of Occupancy process.

APPLICANT: Jeffery C. Smith

PETITION NO.: LUP-14

PRESENT ZONING: R-20

PETITION FOR: LUP

STORMWATER MANAGEMENT COMMENTS

No comments for renewal of LUP.

STAFF RECOMMENDATIONS

LUP-14 JEFFERY C. SMITH

Staff recommends APPROVAL for 24 months subject to the following:

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

The recommendations 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.



Application #: LUP-14
PC Hearing Date: 6-5-12
BOC Hearing Date: 6-19-12

TEMPORARY LAND USE PERMIT WORKSHEET

1. Type of business? 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: 2 YEARS OR LONGER IF POSSIBLE
13. Any additional information? (Please attach additional information if needed):

Applicant signature: Jeffery C. Smith Date: 3/24/2012

Applicant name (printed): JEFFERY C. SMITH

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APPLICATION NO. LUP-1

ORIGINAL DATE OF APPLICATION: 02-16-10

APPLICANTS NAME: CHARLES E. SMITH

THE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE
COBB COUNTY BOARD OF COMMISSIONERS

BOC DECISION OF 02-16-10 ZONING HEARING:

CHARLES E. SMITH (Charles Eulice Smith and Etta Ruth Smith (deceased), owners) requesting a **Land Use Permit (renewal)** for the purpose of a Fruit Stand in Land Lot 1054 of the 19th District. Located on the northeasterly side of Austell Powder Springs Road, south of McKay Road (4509 Austell Powder Springs Road).

MOTION: Motion by Lee, second by Thompson, as part of the Consent Agenda, to **approve** Land Use Permit for **24 months subject to:**

- **fruit stand to be maintained at the side of the primary structure**
- **off-street parking and turn around space to be provided to the side and rear of the existing structures**
- **business activity limited to spring and summer months *only***
- **existing sign to remain the same**
- **Cobb DOT comments and recommendations**

VOTE: **ADOPTED** unanimously

APPLICANT: Charles E. Smith

PETITION NO.: LUP-1

PRESENT ZONING: R-20

PETITION FOR: LUP (RENEWAL)

PLANNING COMMENTS: Staff Member Responsible: John P. Pederson, AICP

Applicant is requesting the thirteenth renewal of a Land Use Permit to allow him to continue to operate a fruit stand and maintain a 2-foot by 2-foot sign at his home. The fruit stand operates only in the spring and summer months, from 8:00 am to 5:00pm, Monday through Saturday. There are approximately 10 customers per day, who park on the property. No complaints have been received concerning this application.

Historic Preservation: No comment.

Cemetery Preservation: No comment.

WATER & SEWER COMMENTS:

City of Powder Springs Service Area.

TRAFFIC COMMENTS:

Recommend no on street parking.

FIRE COMMENTS:

No comments.

STORMWATER MANAGEMENT COMMENTS:

No comments.