



**STAFF REPORT
SPECIAL USE
1300 US 29 HWY N
SUP-2024-09-1822
NOVEMBER 7th, 2024**

APPLICANT/OWNER:Zachary Brendel
ZONING REQUEST:Special Use in AR
TYPE OF REQUEST:Type II
LOCATION:1300 US 29 Hwy N
TAX MAP NUMBERS:211 017
COUNTY COMMISSION DISTRICT:9
PROJECT SIZE:20.36 Acres
PRESENT USE:Residential / Short-Term Rental
PROPOSED USE:Commercial Short-Term Rental
PUBLIC NOTICE POSTED:September 18th, 2024
STAFF RECOMMENDATION:***APPROVAL WITH CONDITIONS***
PLANNING COMM. RECOMMENDATION:***PENDING***
MAYOR & COMMISSION AGENDA SETTING: ...November 19th, 2024 (tentative)
MAYOR & COMMISSION VOTING SESSION:December 3rd, 2024 (tentative)

I. Summary Recommendation

The applicant is asking for a special use for a Commercial Short-Term Rental (C-STR) in an Agricultural Residential (AR) zone. This property has been in-use as a short-term rental (STR) and is considered legal non-conforming because it was in operation prior to passage of the new short-term rental regulating ordinance. The owner is seeking to bring the property into compliance with the current regulations via the required special use permit process. This proposal would not see any expansion of what is currently on the property and the applicant has indicated that there would be a maximum occupancy of nine individuals within the existing 1,300 sf. house.

Staff's evaluation finds that the Special Use Criteria have been met, as much of the proposal rests on the change of use of the existing house, not on any proposed construction. As this STR was been in operation prior to the new ordinances, Staff does not find that any negative impacts were created or would continue should the proposal be approved. There are also no concerns from other reviewing departments, although the applicant would need to address the Health Department's comments on the septic system and the Fire Marshal's guidelines at the time of commercial permitting during the Plans Review process.

Staff does have concerns with the ongoing Code Enforcement case on this property. Currently there is a sizable addition to the house and multiple accessory structures, including a sauna, that have not received building permits or inspections. The property did receive zoning permits, and Staff has not identified any zoning code compliance issues related to this application.

Staff has no issue with the request itself as it has met the Special Use Criteria. However, approval of the Special Use would not resolve the ongoing Code Enforcement case for failing to get the proper building permits. This project will need to go through ACCGov's commercial Plans Review

permitting process, at which time the applicant will need to demonstrate compliance with all relevant code and gain the proper permits. **Staff is recommending approval with a condition**, as follows, to clearly state for the record that all compliance issues must be resolved.

Condition:

1. The property must resolve any and all Code Enforcement cases prior to being able to obtain a Business Occupancy Tax Certificate and commencing any business operations.

Planning Commission Recommendation: Pending

II. Purpose of Applicant Request

A. Proposal

The applicant is proposing to turn a residential structure on a 20-acre farm into a C-STR. This C-STR would be within the existing house on site and, according to the applicant, would have two queen and five twin beds for a total potential capacity of 9 individuals. There are also no proposed expansions to the property proposed. The applicant has been operating an STR at this location since 2021, which Staff is able to corroborate based on the third-party vendor ACCGov has contracted with for STR tracking. By seeking this Special Use, the applicant is looking to bring their property into compliance with current regulations and become a legal commercial short-term rental.

B. Existing Conditions

The parcels to the north and west are zoned Agricultural-Residential (AR), the parcel to the east is zoned Single-Family Residential (RS-15), and the parcels to the south are zoned AR and Commercial-General, Planned Development (C-G PD). There is a stream running through the southern portion of the property, however there are no buildings in or near this area. The property has historically been farmland. The house was originally built in 1920 according to the Tax Assessor's Office. The property also has an agricultural pole barn, which the applicant has specified will not be used for STR accommodations, as well as other accessory structures. There are also multiple compliance and Code Enforcement issues with the property. While zoning permits were taken out for a few of the renovations and an addition on the house, work was completed without Building permits or inspections and there are multiple new accessory structures that did not received Zoning Permits. Code Enforcement has been working with the applicant to close the case, but as of this Staff Report, this has not occurred.

III. Policy Analysis

A. Compatibility with Comprehensive Plan

The 2023 Comprehensive Plan calls for the following policies that **are** supported in this project:

- *Encourage the preservation and adaptive reuse of existing structures., especially those with historic value.*

This proposal does re-use and repurpose an existing building instead of tearing the house down. Overall, the proposal is partially compatible with the Comprehensive Plan as there is no change to the property and the Special Use request can be permissible in the AR zone.

B. Compatibility with the Future Land Use Map

The 2023 Future Land Use Map designates the subject parcel as *Rural*, which is described as follows:

Rural lands are intended to have very low residential density. To maintain open space, clustering of dwellings is encouraged with common open spaces protected by conservation easements. Agricultural functions are encouraged, as well as other compatible uses, such as limited low-impact commercial uses, equestrian facilities and other animal boarding uses.

No change to the Future Land Use Map is required since the proposed zoning action is already compatible with the Map. The proposal is compatible with the Future Land Use description for this area.

C. Compatibility with the Zoning Map

The applicant has requested a Special Use Permit in the AR zone. As noted below, staff finds that the request meets the Special Use criteria.

D. Consistency with Other Adopted ACCGov Plans, Studies, or Programs

There are no known applicable ACCGov plans, studies, or programs for this property.

IV. Technical Assessment

A. Environment

There is an environmental area on the southeastern property line, however, the proposed project will not impact this area since the house is away from the riparian buffer.

The Arborist has reviewed the tree management plan and approved without comment.

B. Grading and Drainage

The Transportation and Public Works Department has reviewed the proposal and approved without comment.

C. Water and Sewer Availability

The Public Utilities Department has reviewed the proposal and recommended approval with the following comments:

- *ACC water and sanitary sewer is NOT available*

The Public Health Department has reviewed the proposal and recommended approval with the following comments:

- *A septic installation permit (#835) has been issued to upgrade the septic system from a 1-bedroom system to a 2-bedroom system.*
- *Please contact Steve Hogarty at (706) 583-2526 with any questions and to schedule inspections.*

D. Transportation

The Transportation and Public Works Department has reviewed the proposal and recommended approval without comment.

E. Fire Protection

The Fire Marshal has reviewed the proposal and approval with the following comment:

- *This building falls under the life safety code definition of a one —or two-family dwelling unit. 2018 NFPA 101 LSC 6.1.8.1.1. Fire Safety Guidelines for Short-Term Rental Properties, must be signed and notarized.*

F. Compliance with the Zoning Ordinance and Development Standards

All exemptions to the zoning and development standards must be identified in the application prior to approval of a binding proposal since the development will otherwise be expected to adhere to the ordinance standards.

Special Use requests are evaluated using the following criteria:

- a) *Similarity in scale, bulk, and coverage.*

The applicant is not proposing any expansions or changes to the site.

- b) *Character and volume of traffic and vehicular parking generated by the proposed use and the effects on surrounding streets. Increases in pedestrian, bicycle, and mass transit use are considered beneficial regardless of capacity of facilities.*

The applicant has stated that the maximum occupancy would be nine individuals which would be an uptick in traffic and vehicular parking. However, the current parking on site should be sufficient and due to the location of the property, Staff does not see a sustained increase in traffic occurring.

- c) *Architectural compatibility with the surrounding area.*

The applicant is not proposing any changes to the architecture of the home.

- d) *The possible impact on the environment, including, but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quality, including the generation of smoke, dust, odors, or environmental pollutants.*

As the purpose of the request is to have a commercial short-term rental, the focus is on the house and the interior itself. As such, there is no inherent environmental impact.

- e) *Generation of noise, light, and glare.*

The applicant is not proposing any new exterior lighting. Any new lighting would need to be reviewed by Staff to ensure compliance. STRs have been discussed for issues with noise, this is an issue that is handled through enforcement and community expectations of neighborliness. Nearby residents within 300 feet of the property will be provided a 24-hour contact by the applicant in the event that a nuisance needs to be dealt with. Generally, Staff sees this proposal as a low-impact use that would not be likely to generate excessive noise, light, or glare.

- f) *The development of adjacent properties compatible with the future development map and the zoning district.*

There is no change to the Future Land use map and there is no change to the parcel's AR zoning.

- g) *Impact on future transportation corridors.*

Staff does not see this use generating enough trips to impact the corridor.

- h) *Impact on the character of the neighborhood by the establishment or expansion of the proposed use in conjunction with similar uses.*

With the low trip generation this use creates as well as having no changes to the site or house, Staff does not see an impact on the neighborhood's character.

- i) *Other factors found to be relevant by the hearing authority for review of the proposed use.*

There are no other factors found to be relevant. Staff conclusion is that the special use meets all of the Special Use criteria.

End of Staff Report.

Reviewed

Zoning Criteria Considered by Staff

The following factors have been considered as set forth in *Guhl v. Holcomb Bridge Road Corp.*,
238 Ga. 322, 232 S.E.2d 830 (1977).

- ☒ The proposed zoning action conforms to the Future Land Use map, the general plans for the physical development of Athens-Clarke County, and any master plan or portion thereof adopted by the Mayor and Commission.
- ☒ The proposed use meets all objective criteria set forth for that use provided in the zoning ordinance and conforms to the purpose and intent of the Comprehensive Plan and all its elements.
- ☒ The proposal will not adversely affect the balance of land uses in Athens-Clarke County.
- ☒ The cost of the Unified Government and other governmental entities in providing, improving, increasing or maintaining public utilities, schools, streets and other public safety measures.
- ☒ The existing land use pattern surrounding the property in issue.
- ☒ The possible creation of an isolated district unrelated to adjacent and nearby districts.
- ☒ The aesthetic effect of existing and future use of the property as it relates to the surrounding area.
- ☒ Whether the proposed zoning action will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations.
- ☒ Whether there are substantial reasons why the property cannot be used in accordance with existing zoning; provided, however, evidence that the economic value of the property, as currently zoned, is less than its economic value if zoned as requested will not alone constitute a significant detriment.
- ☒ Whether there are other existing or changing conditions affecting the use and development of the property that give supporting grounds for either approval or disapproval of the zoning proposal.
- ☒ Public services, which include physical facilities and staff capacity, exist sufficient to service the proposal.
- ☒ The population density pattern and possible increase or over-taxing of the load on public facilities including, but not limited to, schools, utilities, and streets.
- ☒ The possible impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quantity.