

**HALL COUNTY PLANNING COMMISSION  
RECOMMENDATION REPORT**

**Applicant**.....Morteza Modaber

**Request**.....**(A)** Use Subject to County Commission Approval |  
[17.420.050](#) vehicle sales lot, new or used;  
**(B)** Variance | [17.420.050](#) landscape requirements

**Proposed Use**.....**(A)** Vehicle sales and **(B)** Landscape variance for  
vehicle sales

**Size**.....1.14± acres

**Zoning**.....Highway Business (H-B, [17.150](#)) and Gateway  
Corridors Overlay District (GCOD, [17.420](#))

**Location**.....**2353 Athens Highway** | Tax Parcel 15022C000016

**Commission District**.....Four

**Planning Commission Date**.....September 5, 2023

**Staff Recommendation**.....**(A) Approval with conditions** of the request for used  
vehicle sales as required within [17.420.050](#) as the  
proposed use is consistent with the intent of the  
Mixed Use Corridor future land use classification  
in the [Comprehensive Plan](#) and  
**(B) Denial** of the requested variance from the  
landscaping requirements from [17.420.050](#) as  
the applicant has failed to demonstrate that  
hardship exist pursuant to the criteria of  
[2.60.030](#).

**Planning Commission Recommendation**.....**(A) Approval, with conditions**  
**Vote: 5-0**  
**(B) Denial**  
**Vote: 5-0**

**(A) Conditional Use Conditions:**

1. The property shall be approved for used vehicle sales only, subject to all conditions herein and development standards enforced at the time of site plan approval. No variances are approved as part of

this request other than those stated. No other uses shall be permitted unless approved by the County Commission.

2. Development is approved as generally shown on the concept plan and described in the project narrative (both dated 5/8/23), modified as necessary for compliance with the conditions herein and development standards enforced at the time of site plan approval.
3. Plans for any further improvements or development of the property shall be submitted for review and appropriate permits obtained.
4. Storage of wrecked, junk, and/or inoperable vehicles shall be prohibited.
5. Any outdoor storage shall be screened as required by the standards listed in section 17.420 Gateway Corridors Overlay District.
6. Vehicles displayed for sale may be parked on geogrid with gravel as shown on the submitted site plan.
7. Per, [2.60.060](#). – effective period of approved applications, all applications approved by the board, whether a request for variance from the terms of Title 17, a request for conditional use, a request for the enlargement, change or continuance of a nonconforming use or a request to appeal a decision by an administrative official in the enforcement of Title 17, shall be effective for a period of six months. If no action is taken by the applicant to implement the purpose of the application by obtaining the proper permit and/or license and proceeding with the building, occupancy or establishment of business within six months from the date of approval by the board, said approval shall become null and void.
8. All conditions of zoning shall be made part of any plats created for the property.
9. There shall be a vegetative buffer to the east of the property. A landscape plan shall be submitted to be approved by staff.
10. No servicing or maintenance of vehicles shall be allowed.
11. The hours of operation shall be Monday - Friday 9:30am-6pm, Saturday 9:30am-4pm and closed on Sunday.
12. The applicant shall install a 10 foot wide landscape strip along Athens Highway, and shall work with planning staff to determine the appropriate plantings.

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**Public Forum:**

**Jeff Jones, 20 Gibson Drive, Dahlonga**, spoke in opposition. Concerns were the residential surroundings, air and light pollution, and hours of operation.

**Summary Analysis**

The applicant is requesting a **(A)** Use Subject to County Commission Approval for used vehicle sales on a 1.14± acre parcel zoned Highway Business (H-B, [17.150](#)). The property falls within the Gateway Corridors Overlay District (GCOD, [17.420](#).) within which vehicle sales, used or new, require conditional use approval from the Board of Commissioners. The applicant plans to develop the property as a used vehicle sales lot, and intends to renovate the existing residence to be used as the office. As part of this proposal, the applicant is requesting a variance of the GCOD standard requiring a 10-foot wide landscape strip to be installed along each street frontage.

The site plan shows an existing driveway being utilized as the primary access to the site and paved with asphalt. Parking for vehicle inventory will be located along the front property line and on both sides of the driveway. Vehicle inventory parking will also extend along the northern (left side) property line, for a total of 48 spaces. The proposed spaces for inventory will use geo-cells with gravel as the paving material. Per section 17.420.050.E.3, gravel (a pervious material) may be permitted at the discretion of the Planning Director.

There are also 5 customer parking spaces provided in front of the proposed office, towards the southern property line.

The applicant's application materials and site plan depict a 25-foot transitional buffer along the southern (right side) and east (rear) property lines, as required by the non-residential property development standards of Gateway Corridors Overlay District (GCOD, [17.420](#)). Specifically, the adjacent parcel to the south is zoned Highway Business (H-B, [17.150](#)) but is developed with a residential use. The adjacent property to the east (rear) property line is zoned both Agricultural Residential IV (AR-IV, [17.120](#)) and Highway Business (H-B, [17.150](#)) and is developed with residential uses (Highland Mobile Home Park). The required 25-foot transitional buffer will be satisfied through existing vegetation on the property.

As part of the application, the applicant is requesting one (1) variance from the landscaping requirements for non-residential properties within the Gateway Corridors Overlay District (GCOD, [17.420.050](#)). Specifically, the applicant is requesting relief from the following requirement, if the application, as presented, is approved:

- (B) [17.420.050\(D\)\(2\)\(a\)](#) – Street frontage
  - Along each street frontage there shall be a 10-foot wide landscape strip planted with shade trees every 40 feet.
    - The applicant has requested to be exempt from this requirement so that the used vehicle inventory is visible from the roadway.
    - The site plan shows a single shade tree located on the south side of the access drive.

Based on the future land-use plan, staff finds the ***requested use consistent*** with the future land use classification of the Mixed Use Corridor in the [Comprehensive Plan](#). The primary future land uses within this corridor are anticipated to include retail activities, office-based employment, civic uses, and single-family residential uses.

### Zoning Analysis

**(A) Use Subject to County Commission Approval | vehicle sales lot, new or used, within the Gateway Corridors Overlay District (GCOD, [17.420](#)).**

Per Planning Commission and Hall County Commission consideration and decision ([17.380.060](#)), the planning commission shall study the need and justification for the change based on a determination of the facts applicable to the particular case, and the following general lines of inquiry shall be considered, to wit:

1. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property; **Yes, the proposed use is suitable in view of the use and development of adjacent and nearby property. Athens Highway is developed with a number of non-residential uses with the eastern portion of Athens Highway in this area zoned Highway Business (H-B, [17.150](#)). Note: there are a limited number of H-B zoned properties occupied with residential uses, as is the case with the adjacent parcel to the south, where the applicant is proposing a 25-foot transitional buffer comprised of existing vegetation.**
2. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property; **The zoning proposal is not anticipated to adversely affect the existing use or usability of**

**adjacent or nearby properties, though careful consideration should be given to the nearby residential uses to ensure that proper buffers are applied, as required by the GCOD, ([17.420.050](#)).**

3. Whether the property to be affected by the zoning proposal has reasonable economic use as currently zoned. **The subject property is zoned Highway Business (H-B, [17.150](#)) and is developed with a 780 square foot single-family residence, constructed in 1960, per Hall County [Property Tax records](#).**
4. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, or utilities; **No, the proposed use should not cause an excessive or burdensome use of existing streets, transportation facilities, or utilities.**
5. Whether the zoning proposal is in conformity with the policy and intent of the land use plan; **Yes, the requested zoning designation is consistent with the future land use classification of Mixed Use Corridor in the [Comprehensive Plan](#).**
6. The extent to which property values are diminished by the existing zoning restrictions; **Staff is unable to determine the extent to which property values are diminished by the existing zoning restrictions.**
7. The extent to which the destruction of the subject property's value under the existing zoning promotes the health, safety, morals or general welfare of the public; **Staff is unable to comment on the impact of property values without a full market analysis. Multiple factors impact property value including construction types, proposed uses, and maintenance. Often it is difficult to determine the effect of a development on adjacent properties until the development is completed.**
8. The relative gain to the public as compared to the hardship imposed upon the individual property owner; **Staff has not identified a hardship imposed on the property owner as the property is currently zoned.**
9. The length of time the property has been vacant as zoned considered in the context of land development in the area in the vicinity of the property; **The site has been developed with a residential building since at least 1960, per [Property Tax records](#).**
10. Whether there are other existing or changing conditions affecting the use or development of the property which give supporting grounds for either approval or disapproval of the zoning proposal; **Staff is not aware of any changing conditions affecting the use or development of the property.**
11. Whether the change would create an isolated district unrelated to the surrounding districts; **The current request is for a conditional use permit and the underlying Highway Business (H-B, [17.150](#)) will remain unchanged. The use of the property for used vehicle sales is consistent with the development of the Athens Highway corridor. In February 2022 the Board of Commissioners approved a similar conditional use request for used vehicle sales on the adjacent parcel to the north ([tax parcel 15022C0000015A](#)).**
12. Whether the present zoning district boundaries are illogically drawn in relation to existing conditions in the area; **There is no evidence that the present zoning district boundaries are illogically drawn.**
13. Whether the change requested is out of scale with the needs of the county as a whole or the immediate neighborhood; **The proposed use is not out of scale with the needs of the county as a whole. Retail businesses play an important role in a community.**

14. Whether it is impossible to find adequate sites for the proposed use in districts permitting such use and already appropriately zoned; **There may be other appropriately zoned properties in the county where the proposed use would be permitted without zoning action.**
15. Whether the need for rezoning could be handled instead by a variance request to the [Planning Commission]; **No, the request could not be handled alternatively as a variance as the requested use requires conditional use approval in the Gateway Corridors Overlay District (GCOD, [17.420](#)).**
16. Whether there would be an ecological or pollution impact resulting from major modifications to the land if the request is granted; **Any land disturbance activities on the property shall be required to go through the land development permitting process and as a result are subject to local, state, and federal regulations. As a result, there should not be an ecological or pollution impact resulting from any modification to the land if the request is granted.**
17. Whether there is reasonable evidence based upon existing and anticipated land use that would indicate a mistake was made in the original zoning of the property; **There is no evidence to indicate a mistake was made in the original zoning of the property.**

**(B) Variance from the non-residential development standards in the Gateway Corridors Overlay District (GCOD, [17.420](#)) as they relate to landscaping requirements.**

Section [17.420.070](#), appeals and modifications states that “if substantial modifications or changes are necessary, any person, firm, group or organization may apply for relief from the requirements set forth in this chapter to the Hall County Planning Commission, unless otherwise specified in this chapter.”

The Planning Commission is hereby authorized to grant variances from the strict application of this Resolution upon proof by a preponderance of the evidence that [2.60.030.J](#) provided the request meets the criteria set forth in [2.60.030.K](#).

1. There are extraordinary and exceptional conditions pertaining to the particular lot in question because of its size, shape or topography (the hardship must relate to the physical character of the lot and not to a personal or economic hardship); **There do not appear to be extraordinary or exceptional conditions pertaining to the subject property. Instead, the need for a variance is necessitated by the thresholds that would trigger compliance with the site development standards for non-residential property ([17.420.050](#)). There are no physical characteristics of the property that would prevent the applicant from bringing the property into compliance with the landscaping requirements of the Gateway Corridors Overlay District (GCOD, [17.420](#)).**
2. The application of the requirements of this [Title 17](#) to this particular piece of property would create an unusual hardship; **The applicant would have to bring the property into compliance with the Gateway Corridors Overlay District (GCOD, [17.420](#)) non-residential property development standards but no unusual hardship would be created.**
3. Such conditions are peculiar to the particular piece of property involved and are not common to other properties in the neighborhood; **No, the conditions are not peculiar to the subject parcel but the result of the proposed use of the property.**

4. Such conditions are not the result of any actions of the property owner; **The applicant is proposing site modification to the property which will increase the amount of impervious surface on the property through the additional parking and storage areas. The site was developed in 1960 as a residential property, prior to both the Highway Business (H-B, [17.150](#)) zoning classification for the property and the adoption of the Gateway Corridors Overlay District (GCOD, [17.420](#)) standards. Additionally, the applicant will have to bring the existing residential structure into compliance with commercial building code standards for use as an office.**
5. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of [Title 17](#); provided, however, that no variance may be granted for a use of land or building or structure that is prohibited by [Title 17](#) or for a conditional use which has been denied by the county planning commission. **Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of [Title 17](#).**

**[17.380.050](#) - Submission requirements for a rezoning request**

- A. Any person or persons requesting a change in the official zoning map or use subject to approval of the county commission shall file an application with a plat or map of the property attached thereto, together with payment of such fees set forth in [chapter 17.30](#) to cover administrative and advertising costs, in the planning department office. Such person or persons or their authorized agent shall appear in person at the public hearing held to consider the district change. **Proposal meets the requirement. Applicant has paid the appropriate fees and understands that someone must be present at both the Hall County Planning Commission meeting and the voting meeting of the Hall County Board of Commissioners.**
- B. All applications for a change of zoning classification or use subject to approval of the county commission shall include:
  1. A narrative statement identifying the existing and proposed use of the property and addressing each of the criteria set forth in section 17.380.060.C of this section [chapter]. **The applicant has submitted a narrative and site plan but did not specifically address the criteria listed in [17.380.060.C](#).**
  2. A site plan drawn to scale designating the area covered by the application and identifying existing and proposed buildings and uses, adjacent existing land uses, zoning on contiguous parcels, including those across an abutting public right-of-way, and any other significant site improvements proposed to accommodate the proposed use or buffer adjacent uses, etc., or a plat of the subject property where no specific land use is proposed. In cases where only a plat or map is provided and no land use is proposed, the planning commission and county commission shall evaluate the application based on the most intense possible land use permitted in the proposed district. **The submitted site plan is drawn to scale and includes the necessary details to assess the request.**
- C. For any application for a slow rate land treatment system (see [chapter 17.20](#)), the following additional requirements apply. **This standard is not applicable as the site will be served by municipal sewer or an onsite septic system.**
- D. For any application proposing the development of 100 or more residential dwelling units, a traffic impact study shall be submitted prior to consideration of the application by the planning commission. At the applicant's expense, the traffic impact study shall be prepared by a professional

engineer in accordance with requirements established by the Hall County Engineering Department. The engineering department shall review the traffic impact study and forward any comments to the Hall County Planning Commission. **As there are not 100 or more residential dwelling units proposed, this requirement is not applicable.**

**Development Support and Constraints – Departmental / Agency Comments**

**Hall County Environmental Health**

In an email dated August 3, 2023, Emily McGahee stated “Must meet all Environmental Health commercial septic system permitting requirements. A detailed business plan must be submitted to Hall County Environmental Health for review. Additional items, including, but not limited to: recorded plat, soil evaluation, and septic system installation/modification may be required after review of business plan”

**Hall County Fire Marshal**

In an email dated August 3, 2023, John Hornick, NPQ Fire Inspector 1, Plans Review Lieutenant stated “The Hall County Fire Marshal’s Office has no comments regarding item A and B as proposed.”

**Hall County Public Works and Utilities**

In a memo dated August 3, 2023, Bill Nash, Director of Public Works and Utilities, provided the following comments:

**Engineering:**

The site may require a stormwater management report should the site plan indicate the proposed development meets stormwater thresholds for impervious surfaces and/or disturbed acreage

**Traffic:**

GDOT permit required.

**Utilities**

No gravity sewer in vicinity.

**Georgia Department of Transportation**

In an email dated August 1, 2023, Veronica Chavers, D1TO Traffic Operations Civil Engineer 3, provided the following comments:

- (A) Will require GDOT coordination/permit for driveway access on Athens Hwy
- (B) Will require GDOT coordination/permit if landscaping is proposed within the right-of-way

➤ **Excerpts from the minutes of the September 5, 2023 meeting**

**Applicant’s Presentation:**

**Randi Doveton, Planning Director**, presented a summary of the request.

**Morteza Modaber, Suwanee**, presented the request. The applicant presented the renderings and site plan for the property.

**Public Forum:**

**Jeff Jones, 20 Gibson Drive, Dahlonega**, spoke in opposition. Concerns were the residential surroundings, air and light pollution, and hours of operation.

**Planning Commission Comments:**

Mr. Braswell questioned the hours of operation. The applicant stated that Monday - Friday 9:30am-6pm, Saturday 9:30am-4pm and closed on Sundays like their Flowery Branch location. Mr. Braswell questioned if the applicant would be fencing the property. The applicant stated that there were no plans to do so. Mr. Braswell questioned if there would be any vehicle servicing on the property. The applicant stated that they would not service vehicles, it would only be a showroom. Mr. Hunt questioned if the applicant has reached out to GDOT. The applicant stated his engineers have. Ms. Pilcher questioned if the applicant will leave the trees along the property line next to Mr. Jones intact. The applicant stated that they would. The applicant stated that they could fence that area to provide privacy to the neighbors. Mr. Varner questioned if the applicant will be washing vehicles on the property. The applicant stated that only to rinse the vehicles with no chemicals. Mr. Braswell stated that the applicant will need to work with planning staff on the landscape strip with the appropriate plantings to cater to the line of sight and vehicle safety.

**A**

**Motion: A motion to approve, with conditions was made by Mr. Varner and seconded by Mr. Hunt. Vote: 5-0**

*Conditions:*

1. The property shall be approved for used vehicle sales only, subject to all conditions herein and development standards enforced at the time of site plan approval. No variances are approved as part of this request other than those stated. No other uses shall be permitted unless approved by the County Commission.
2. Development is approved as generally shown on the concept plan and described in the project narrative (both dated 5/8/23), modified as necessary for compliance with the conditions herein and development standards enforced at the time of site plan approval.
3. Plans for any further improvements or development of the property shall be submitted for review and appropriate permits obtained.
4. Storage of wrecked, junk, and/or inoperable vehicles shall be prohibited.
5. Any outdoor storage shall be screened as required by the standards listed in section 17.420 Gateway Corridors Overlay District.
6. Vehicles displayed for sale may be parked on geogrid with gravel as shown on the submitted site plan.
7. Per, [2.60.060](#). – effective period of approved applications, all applications approved by the board, whether a request for variance from the terms of Title 17, a request for conditional use, a request for the enlargement, change or continuance of a nonconforming use or a request to appeal a decision by an administrative official in the enforcement of Title 17, shall be effective for a period of six months. If no action is taken by the applicant to implement the purpose of the application by obtaining the proper permit and/or license and proceeding with the building, occupancy or establishment of



business within six months from the date of approval by the board, said approval shall become null and void.

8. All conditions of zoning shall be made part of any plats created for the property.
9. There shall be a vegetative buffer to the east of the property. A landscape plan shall be submitted to be approved by staff.
10. No servicing or maintenance of vehicles shall be allowed.
11. The hours of operation shall be Monday - Friday 9:30am-6pm, Saturday 9:30am-4pm and closed on Sunday.
12. The applicant shall install a 10 foot wide landscape strip along Athens Highway, and shall work with planning staff to determine the appropriate plantings.

**B**

**Motion: A motion to deny was made by Mr. Varner and seconded by Mr. Hunt. Vote: 5-0**