



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2019-35

Legistar #: 20190944

Board of Zoning Appeals Hearing: Monday, January 27, 2020 – 6:00 p.m.

**Property Owner: Koray Agirbas
230 N Fairground St.
Marietta, GA 30060**

Applicant: Same as owner.

Address: 230 North Fairground Street

Land Lot: 1162 District: 16 Parcel: 01370

Council Ward: 1A Existing Zoning: CRC (Community Retail Commercial)

Special Exception / Special Use / Variance(s) Requested:

1. Variance to reduce the required minimum lot size from 1.46 acres to 1.23 acres to operate automobile sales and other businesses. [*§708.16 (B.6)*]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



230 North Fairground Street



Planted border and extended paving

Recommended Action:

Denial. The owner of 230 North Fairground Street, Koray Agirbas, is requesting a variance to allow automobile sales and an additional business on a parcel that is 1.23 acres in size. The subject property is zoned CRC (Community Retail Commercial) within the Commercial Corridor Overlay – Tier B district. Adjacent properties to the west and east along Fairground Street are also zoned CRC, but the property to the rear is zoned R-4 (Single Family Residential – 4 units/acre). There is a creek between the subject property and the adjacent property to the west. The site also contains a 100-foot, monopole cell tower with a 20-foot access and utility easement. The applicant wishes to allow a car repair business in addition to the current business of auto sales.

Applicant's request

Section 708.16(B.6) allows automobile sales as a permitted use in the CRC zoning district with a minimum one-acre lot size. As such, one acre of property is required for each auto dealer operating on the property. In addition, if other businesses wish to operate on the same site as an auto dealer, an additional 20,000 square feet required. For this site to accommodate the existing auto sales business and an auto repair business, a total of 1.46 acres (~63,560 square feet) is required. The current site is only 1.23 acres in area.

The current structure is listed as approximately 2,625 square feet and contains five (5) bays used for auto repair. Based on aerial photos, there has already been some auto repair activities conducted on the site. For example, there is a shed roof off the rear portion of the structure that houses tires and auto parts; and there are dismantled vehicles under and around this structure as well.

It should be noted that car maintenance facilities such as brake repair, installation of tires, tune-up shops, oil change services, emission stations, etc., are permitted in CRC as long as all activities take place within a building and no outside storage or engine/body dismantling is allowed. Auto repair shops involving paint and/or body work are prohibited when adjacent to any single-family residential district. If this request is approved, no paint or body work will be permitted due to the residential parcel to the northeast.

The applicant will need to verify with the Building Division and Fire Department about any improvements needed to accommodate the additional and/or change in use - for example, a fire wall separating the businesses and/or a fire sprinkler system may be required.

Code Compliance and Environmental Concerns

The City recently completed a substantial streetscape project along this section of Fairground Street, which is also within the Commercial Corridor Overlay, an area highlighted for architectural and streetscape enhancements in and around downtown Marietta. Aerial imagery indicates there have been multiple, unpermitted activities starting in 2015, when the current tenant began occupying the property. These violations include paving adjacent to a stream, an unpermitted rear addition, a new chain link fence in the front yard, as well as potentially dumping tires illegally. These issues are being handled separately by Code Enforcement, but warrant consideration to the variance request.



Department of Development Services
205 Lawrence Street
Marietta, Georgia 30060
Rusty Roth, AICP, Director

Staff Recommendation

Based on the conditions at the site, it is evident that the owner/applicant has not been running an orderly business and does not currently comply with City permitting requirements. Allowing additional businesses to operate on this site would further degrade an area where aesthetic improvements are encouraged. There does not appear to be a legitimate hardship for the owner and applicant; therefore, *staff recommends denial of this request.*



APPLICATION FOR VARIANCE OR APPEAL

(Owner/Applicant/or Representative must be present at all public hearings)

(NOTE: CORRESPONDENCE IS HANDLED VIA EMAIL UNLESS OTHERWISE REQUESTED)

For Office Use Only:

Application #: √2019-35 Legistar #: 20190944 BZA Hearing Dt: 11-25-19
City Council Hearing Dt (if applicable) #: - PZ #: 19-465

This is a variance/appeal application for:

Board of Zoning Appeals

City Council

Owner's Name KORAY AGIRBAS

EMAIL Address: kagirbas@gmail.com

Mailing Address 230 N FAIRGROUNDS ST Zip Code: 30060 Phone Number 770.899.5277

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant: _____

EMAIL Address: _____

Mailing Address _____ Zip Code: _____ Phone Number _____

Address of property to be rezoned: 230 N FAIRGROUNDS ST Date of Acquisition: 09/13/2019

Land Lot (s) 1162 District 16 Parcel 01370 Acreage 1.234 Zoned CRC Ward 1A FLU: CAC

List the variance(s) or appeal requested (please attach any additional information):

Mechanic shop - less than 1 acre lot

Required Information

1. Application fee (\$250)
2. Completed notarized application. **The original application must be submitted with ALL original signature(s) – Copies of the application or signature(s) will NOT be accepted.**
3. Copy of the deed that reflects the current owner(s) of the property.
4. Letter describing the reason for the variance request, stating why strict adherence to the code would result in a particular hardship (as distinguished from a mere inconvenience or desire to make more money).
5. **Site plan – drawn to scale.** Site plans must illustrate property lines and all relevant existing information and conditions in addition to proposed additions or modifications within the referenced property lines of the tract(s).
Copies Required: One (1) - (8 1/2" x 11") or (11" x 17") drawn to scale.
Optional Additional Plat size: (24" x 36"). If providing (24" x 36") then 25 copies REQUIRED.
6. Copy of current tax bill showing payment or documentation certified by the City of Marietta Tax Office.

Note: The Department of Development Services reserves the right to obtain additional information that reasonably may be required in order that an informed decision may be made.

OVER

CAMPAIGN CONTRIBUTIONS

The Owner and Applicant herein certify that he/she has has not made campaign contributions or gifts aggregating \$250.00 or more to the Mayor, any member of Council or any member of the Board of Zoning Appeals within the two (2) years preceding the filing of this application.

Koray Agirbas
Signature of Owner

Signature of Applicant

KORAY AGIRBAS
Print Name

Print Name

FINANCIAL INTEREST

The Applicant herein certifies that he/she has has not a financial interest in the property which is ten percent (10%) or more.

Print Name

Signature of Applicant

APPLICANT CERTIFICATION

- The Applicant certifies that all information in this application, and all information furnished in support of this application, is true and complete to the best of the Applicant's knowledge and belief. Should any portion not be true, then the application may be rejected.
- Penalty for false or fraudulent statement: Whoever, in any matter, knowingly and willingly falsifies or makes any false, fictitious or fraudulent statement of representatives concerning this application shall be denied the request stated in this application.

Koray Agirbas
Signature of Applicant

09.13.2019
Date

KORAY AGIRBAS
Please Print

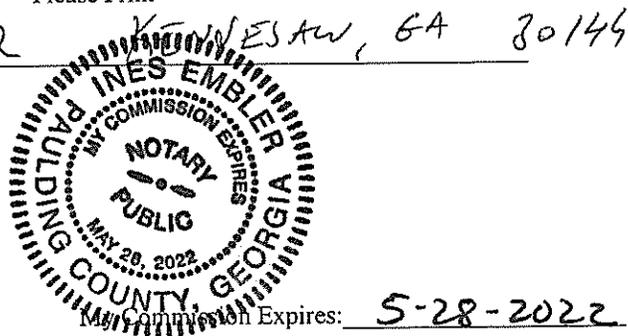
OWNER CERTIFICATION

- The Owner certifies that all information in this application, and all information furnished in support of this application, is true and complete to the best of the Owners's knowledge and belief. Should any portion not be true, then the application may be rejected.
- Penalty for false or fraudulent statement: Whoever, in any matter, knowingly and willingly falsifies or makes any false, fictitious or fraudulent statement of representatives concerning this application shall be denied the request stated in this application.
- The Owner hereby gives permission to enter on the property for inspection during the time application is pending.

Koray Agirbas
Signature of Owner

KORAY AGIRBAS
Please Print

4354 NESBIT DR
Address



09.13.2019
Date

Signed, sealed and delivered in the presence of:
[Signature]

Note: Owner, Applicant or Representative must be present at meeting in order for case to be heard.

To whom it may concern,

I am requesting a variance for 230 N. Fairground Street
Marietta GA 30060.

This request is in order to receive an additional license for a mechanic shop on this property owned by me, Koray Agirbas. I am aware that the zoning requirement for used car dealership license and mechanic shop is 1.5 acres. The size of my property is 1.43 acres. Having the second license will allow me to be able to work on the cars and also rent a portion of my building which is also on this property that Key Auto Finance currently occupies.

Koray Agirbas

230 N Fairground St

Marietta,Ga 30060

7708995277

kagirbas@gmail.com

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TO: Marietta Daily Journal
FROM: City of Marietta
RUN DATE: January 10, 2020

**CITY OF MARIETTA
PUBLIC NOTICE OF VARIANCES**

The City of Marietta hereby gives notice that a public hearing will be held to give consideration to the following requests. The Board of Zoning Appeals will consider the following requests on **Monday, January 27, 2020 at 6:00 P.M.**, City Hall. Anyone wishing to attend may do so and be heard relative thereto.

V2019-35 [VARIANCE] KORAY AGIRBAS is requesting a variance for property zoned CRC (Community Retail Commercial), located in Land Lot 1162, District 16, Parcel 1370, 2nd Section, Marietta, Cobb County, Georgia, and being known as 230 North Fairground Street. Variance to reduce the required minimum lot size of 1.46 acres to 1.23 acres to operate automobile sales and other businesses. Ward 1A.

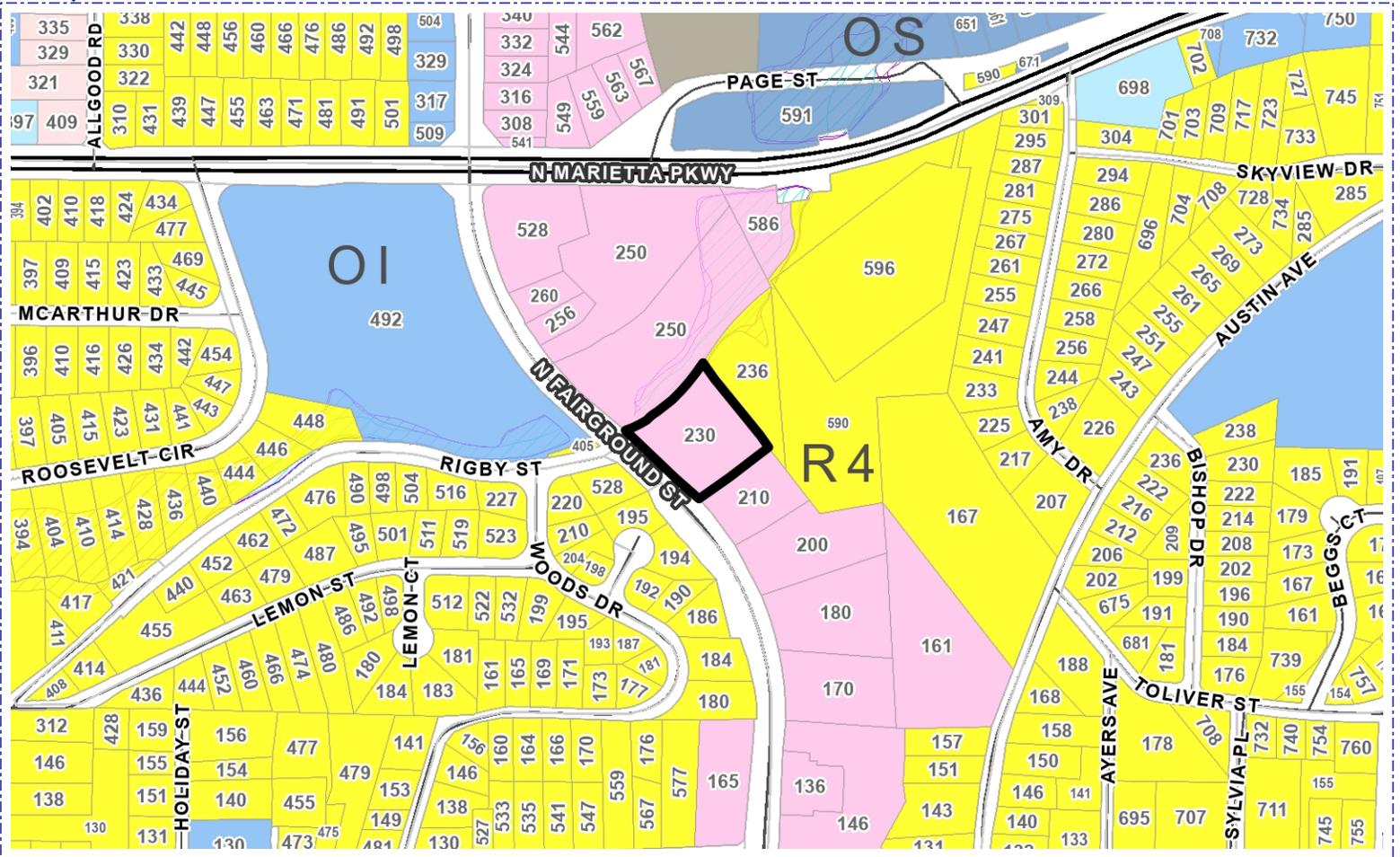
A description and plat of the property sought for the variances are on file in the Planning and Zoning Office, City Hall, and are available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto. You may also review the property file at www.mariettaga.gov and enter the case # in the search box.

For additional information please call the Planning and Zoning Office (770) 794-5669.

Accessibility to Meetings: If you believe you may need the City/BLW to provide special accommodations in order to attend/or participate in any of the above meetings, please call ADA Coordinator, at 770-794-5558 no later than 48 hours before the date of the above meeting.

City of Marietta
205 Lawrence Street
Marietta, Georgia 30060

Variance



Address	Parcel Number	Acreage	Ward	Zoning	FLU
230 N FAIRGROUND ST	16116201370	1.234	1A	CRC	CAC

Property Owner:	Koray Agirbas
Applicant:	
BZA Hearing Date:	1/27/2020
Acquisition Date:	
Case Number:	V2019-35
City of Marietta Planning & Zoning	

Zoning Symbols

- Railroads
- City Limits
- Cobb County Pockets
- NA
- R1 - Single Family Residential (1 unit/acre)
- R2 - Single Family Residential (2 units/acre)
- R3 - Single Family Residential (3 units/acre)
- R4 - Single Family Residential (4 units/acre)
- RA4 - Single Family Residential - Attached
- RA6 - Single Family Residential - Attached
- RA8 - Single Family Residential - Attached
- MHP - Mobile Home Park
- PRD-SF - Planned Residential Dev. Single Family
- RM8 - Multi Family Residential (8 units/acre)
- RM10 - Multi Family Residential (10 units/acre)
- RM12 - Multi Family Residential (12 units/acre)
- RHR - Residential High Rise
- PRD-MF - Planned Residential Dev Multi Family
- NRC - Neighborhood Retail Commercial
- CRC - Community Retail Commercial
- RRC - Regional Retail Commercial
- PCD - Planned Commercial Development
- LI - Light Industrial
- HI - Heavy Industrial
- PID - Planned Industrial Development
- MXD - Mixed Use Development
- CBD - Central Business District
- OIT - Office Institutional Transitional
- LRO - Low Rise Office
- OI - Office Institutional
- OS - Office Services
- OHR - Office High Rise



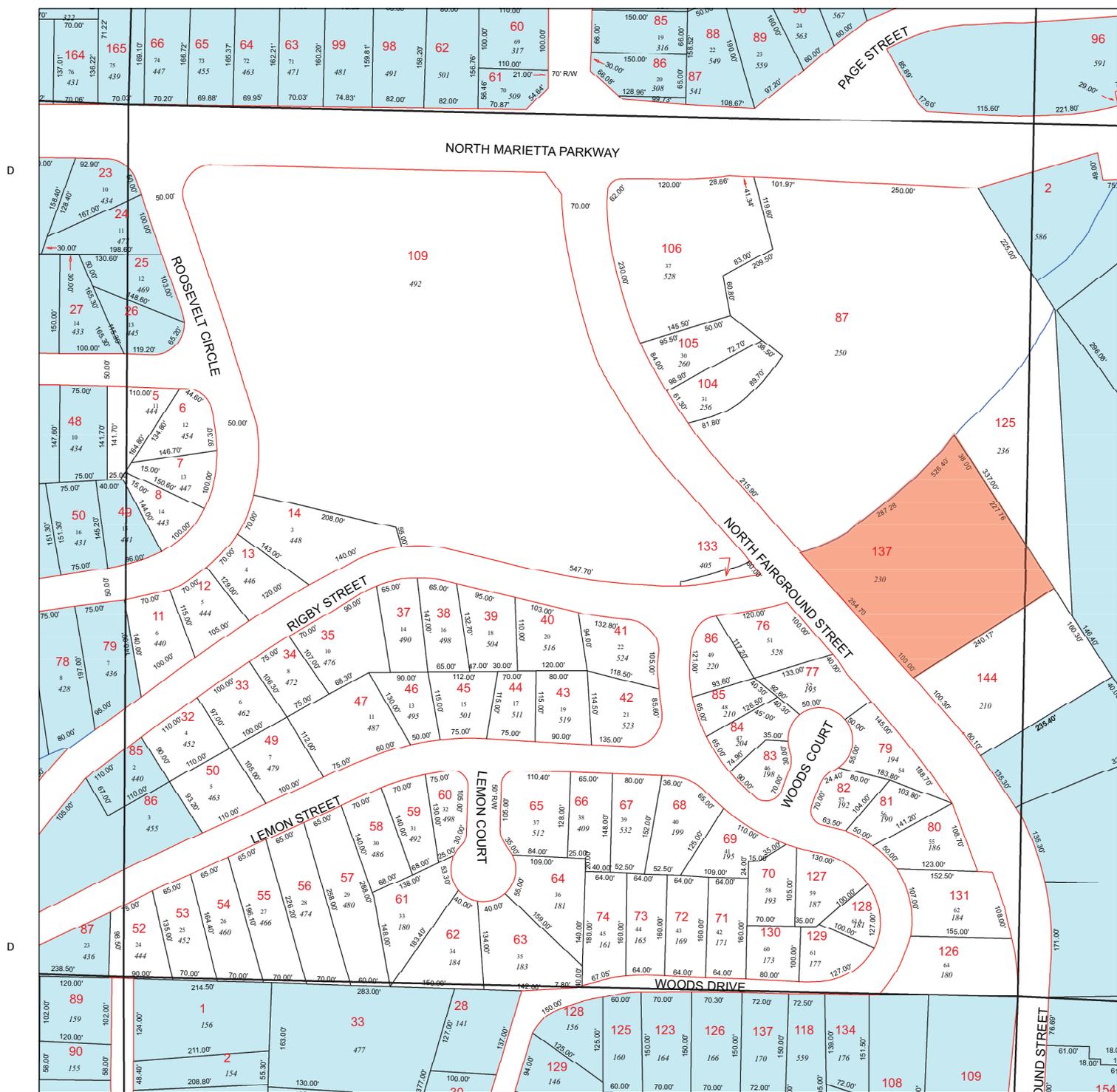
Map center: 33° 57' 24.7" N, 84° 32' 5.9" W

This map is a user generated static output from an Internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.



TAX MAP 16-1162

Plot Date: Aug 19, 2005



Legend

- Parcel Lines
- Creek Parcel Lines
- City Limit Lines
- ROW Lines
- School Tax Exempt
- Parcels Inside Landlot
- Parcels Outside Landlot
- Cobb County Parcels
- Unidentified Parcels

Reference Area:

16-1144	16-1143	16-1142
16-1161	16-1162	16-1163
16-1216	16-1215	16-1214

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100 Feet

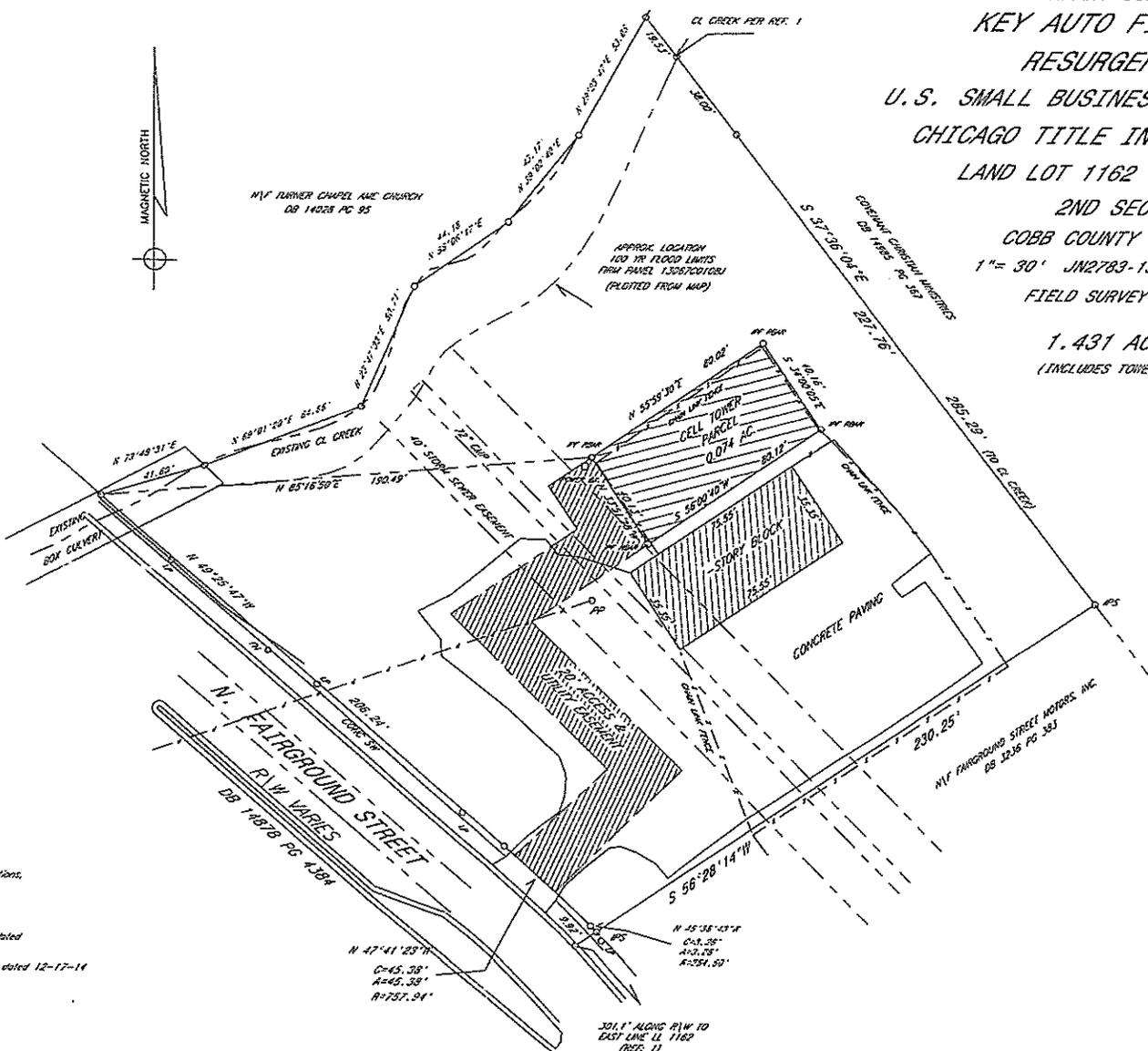
DISCLAIMER NOTE: This map is prepared for the inventory of real property found within this jurisdiction and is compiled from aerial photography, recorded deeds, plats, and other imagery, data and public records. Users of this map are hereby notified that the aforementioned primary public information sources should be consulted for verification of the information contained on this map. This jurisdiction, and the mapping companies involved in preparing it, assume no legal responsibilities for the information contained on this map.

Coordinate System based on Georgia State Plane System. West Zone - NAD83

GIS Department
205 Lawrence Street - Marietta, Georgia 30060
www.mariettaga.gov

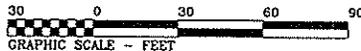
**** LEGEND ****

- IPF = IRON PIN FOUND
- IPB = IRON PIN SET
- CMF = CONCRETE MONUMENT FOUND
- R/W = RIGHT OF WAY
- BL = BUILDING LINE
- LL = LAND LOT LINE
- LL = LAND LOT
- N/T = NOW OR FORMERLY
- NTS = NOT TO SCALE
- CL = CENTER LINE
- BM = BENCH MARK
- TEM = TEMPORARY BENCH MARK
- PC = POINT OF CURVATURE
- PI = POINT OF INTERSECTION
- PT = POINT OF TANGENCY
- R = RADII
- CH = CHORD
- IE = INVERT ELEVATION
- T- = TELEPHONE LINE
- W- = WATER LINE
- G- = GAS LINE
- S- = SEWER LINE
- P- = POWER LINE
- MH = MAN HOLE
- SSE = SANITARY SEWER EASEMENT
- DE = DRAINAGE EASEMENT
- CE = CONSTRUCTION EASEMENT
- CB = CATCH BASIN
- JB = JUNCTION BOX
- DI = DROP INLET
- HW = HEAD WALL
- FH = FIRE HYDRANT
- RCP = REINFORCED CONCRETE PIPE
- HP = HANDICAPPED PARKING



GENERAL NOTES

- 1) The field data upon which this plot is based has a precision of one foot in 21,208 feet and an angular error of 3" per angle point and was adjusted using least squares.
- 2) This plot has been calculated for closure and has an accuracy of one foot in 131,439 feet.
- 3) Field equipment used for this survey was a Topcon GPF-2005.
- 4) All easements, restrictions, or exceptions to title are shown based on information supplied to M.V. Ingram Enterprises, Inc. No certification as to the completeness or accuracy of any matters of title is made by M.V. Ingram Enterprises, Inc.
- 5) Underground utilities shown on this plot were taken from field observation and from plans by others; the exact location of all utilities should be verified by the respective utility company. M.V. Ingram Enterprises, Inc. assumes no liability for the exact location of any underground utility. For verification contact the Utilities Protection Center Inc. 1-800-287-7411.
- 6) This survey is a correct representation of the land plotted and has been plotted in conformity with the minimum standards of Georgia law. It does not intend to indicate ownership of any parcel or easement; this information should be verified by an attorney licensed by the state of Georgia.
- 7) Said described property is located within an area having a Zone Designation "A & A'" by the Secretary of Housing and Urban Development, in Flood Insurance Rate Map No. 13087C0100A dated 3-04-12.
- 8) This property may be subject to assessments, rights of way reservations, or restrictions, which are not recorded or not disclosed by the title policy or otherwise unknown to the surveyor. Exception is taken to any such items.
- 9) Survey reference:
 - 1) Plot for Johnny Hawkins by A.G. Caville dated 8-3-54.
 - 2) Survey for Crown Castle by William R. Gore, dated 12-17-14



This survey was prepared in conformity with the Technical Standards for Property Surveys in Georgia as set forth in Chapter 180-7 of the Rules of the Georgia Board of Registration for Professional Engineers and Land Surveyors and is set forth in the Georgia Plat Act O.C.G.A. 16-6-67.

BOUNDARY SURVEY FOR;
KEY AUTO FINANCE, INC.
RESURGENS BANK
U.S. SMALL BUSINESS ADMINISTRATION
CHICAGO TITLE INSURANCE COMPANY
LAND LOT 1162 16TH DISTRICT
2ND SECTION
COBB COUNTY GEORGIA
1"= 30' JN2783-15 11-11-15
FIELD SURVEY 11-10-15
1.431 ACRES
(INCLUDES TOWER PARCEL)

M. V. INGRAM ENTERPRISES, INC.
LAND SURVEYING AND PLANNING
 P.O. BOX 46400
 LAWRENCEVILLE, GEORGIA 30046
 (770) 963-4801