



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2016-02 **Legistar #:** 20151168
Board of Zoning Appeals Hearing: **Monday, January 25th, 2016 – 6:00 p.m.**
Property Owner: Pinnacle Towers LLC
1549 Ringling Blvd
3rd Floor
Sarasota, FL 34236
Applicant: Same as above
Address: 25 Ayers Ave
Land Lot: 1214 **District:** 16 **Parcel:** 0630
Council Ward: 1A **Existing Zoning:** CRC (Community Retail Commercial)

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

1. Variance to allow the use of gravel as an acceptable driving surface. [§716.08 (A & B)]
2. Variance to allow a 6’ tall chain link fence in a front yard. [§710.04 (D.2)]
3. Variance to allow barbed wire on a fence in a yard fronting a street on property zoned for commercial. [§710.04 (G)]

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



25 Ayers Ave



Existing driveway

Recommended Action:

Approval with stipulation. The owners, Pinnacle Towers LLC, are requesting two (2) variances: the first is to allow gravel as an acceptable surface for driving on the property at 25 Ayers Avenue; and the second is to allow a six (6) foot chain link fence with barbed wire along the front of their property. The requested variances would allow the area of their property covered by gravel to be extended to the southerly property line; and then for the entire property to be fenced using chain link with barbed wire, just as the current site is done. The subject property is 0.314 acres in size; and is zoned CRC (Community Retail Commercial), as are all surrounding properties. The surrounding area is characterized primarily by former residences that have been converted to small offices or warehouses.

The telecommunication tower has operated at the subject property since 1997, and all of their property that is enclosed by the chain-link fence is covered in gravel. However, the adjacent driveway is being used by neighboring property owners and the asphalt has become deteriorated. Code Enforcement staff notified the property owner in September 2015 that the asphalt driveway must be repaired, but since it is not used to service the telecommunications tower, the property owner is seeking another way resolve this problem.

The property owner is proposing to bring their site up to code by replacing the asphalt area with gravel. They would also enclose the entire area with a six (6) foot chain-link fence with barbed wire – expanding the area that is currently fenced. The new improvements are to match the rest of the property. Although the gate will be extended, only one entry would remain. The Public Works Department has recommended that if this variance request is approved, that the existing asphalt driveway area within the right of way must either be re-constructed of concrete or completely removed and sodded with grass.

Section 716.08 of the Zoning Ordinance states that only concrete, asphalt, or brick may be used to accommodate vehicles up to 8,000 pounds. However, over the last 20 years, the Board of Zoning Appeal has granted similar variances for the following:

<u>Case #</u>	<u>Address</u>	<u>Zoning</u>
• V2015-43	- 772 Allgood Rd	NRC
• V2014-26	- 336 Whitlock Ave	R-3
• V2013-13	- 405 Saint Mary’s Ln	R-2
• V2013-08	- 33 Garrison Rd	OIT
• V2008-17	- 1018 Powder Springs St	R-2
• V2001-03	- 1551 West Oak Dr	CRC
• V2001-01	- 279 Washington Ave	OI
• V2000-31	- 2068 Airport Ind Park Dr	LI
• V-98029	- 424 Glover St	LI
• V-98023	- Dickson Rd	LI
• V-96042	- 2032 Airport Ct	LI
• V-95052	- 1014 Industrial Park Dr	LI

In some of the cases, the purpose was to allow gravel or slate for residential driveways; but in others, the purpose was to allow a gravel area for storage and light vehicle traffic. In order to resolve the issue and correct the code violation, the owner is proposing to block access to its private driveway and replace the asphalt with gravel – with a fence around the perimeter of the property excluding the driveway apron – timber will be placed along the base of the fence to limit the gravel from exiting the property on to the local street. ***Staff recommends approval of this request with the following stipulation:***

- 1. The existing asphalt driveway area within the right of way must either be re-constructed of concrete or completely removed and sodded with grass.***



Department of Development Services
205 Lawrence Street
Marietta, GA 30060
Brian Binzer, AICP, Director

APPLICATION FOR VARIANCE OR APPEAL
(Owner/Applicant/or Representative must be present at all public hearings)

For Office Use Only:
Application #: V2016-02 Registrar #: BZA Hearing Dt: 1-25-2016
City Council Hearing Dt (if applicable) #: PZ #: 15-556

This is a variance/appeal application for:



Board of Zoning Appeals



City Council

Owner's Name Pinnacle Towers LLC
Address 1549 Ringling Blvd. 3rd Floor Zip Code: 30236
Telephone Number: Email Address:

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant
Address Zip Code:
Telephone Number Email Address:

Address of property for which a variance or appeal is requested:

25 Ayers Avenue Date of Acquisition: 12/14/15

Land Lot (s) 12140 District 16 Parcel 0630 Acreage .314 Zoned CRC Ward 1A FLU MDR

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

Variance to use gravel for driveway

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.
7. Documentation authorizing applicant to submit application by property owners if applicant is not owner.

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



Crown Castle
12725 Morris Road Extension, Suite 400
Alpharetta, GA 30004

December 14, 2015

Rusty Roth
City Zoning Manager
City of Marietta
205 Lawrence Street
Marietta, GA 30060

Re: BU 870494 – 25 Ayers Avenue, Marietta, GA
City Violation # 15-00004385

Dear Mr. Roth,

During an inspection of the property located at 25 Ayers Avenue a violation of the code section 7-4-2-100 of the Marietta City Code was found. The assigned case number is 15-00004385.

In order to correct the violation we would like to fence in all of our property by installing 175' of 6' chain link fence with barbed wire along with 4 inch bollards every 8' on the south fence line. We would then remove the asphalt, install matting and 57 stone (approximately 30 tons) to match the rest of the property. This would correct the violation and allow the property to be properly maintained going forward.

Thank you for your time and consideration as we work to address this issue. If you have any questions, please contact Alyson Colomb at 678-366-1246 or Alyson.colomb@crowncastle.com.

Sincerely,

A handwritten signature in blue ink that reads 'Alyson Colomb'.

Alyson Colomb
Real Estate Project Coordinator



DEPARTMENT OF DEVELOPMENT SERVICES

205 Lawrence Street
P.O. Box 609
Marietta, GA 30061-0609
(770) 794-5439
Fax (770) 794-5433

September 16, 2015

Certified Mail: 70120470000139814454

Pinnacle Towers Inc
301 N. Cattlemen Road
Sarasota, FL 342326430

Case Number: 15-00004385

Dear: Pinnacle Towers Inc

On September 15, 2015, an inspection of your dwelling or building located at 25 Ayers Ave was made by the Housing Inspector of the City of Marietta, Georgia. The inspection revealed the dwelling or building to be in violation of the Code Section 7-4-2-100 of the Marietta City Code.

The deficiencies found are shown on the attached inspection report. You are hereby granted sixty (60) days from the receipt of this notice to repair or demolish the dwelling or building. If such repairs, reconstruction, alterations, removal or demolition are not voluntarily complied within the stated time as set forth in this notice, the Housing Code Official shall institute such legal proceedings charging the person or persons, firm, corporation or agent with a violation of the International Property Maintenance Code, 2006 edition and its modifications as set forth under Section 7-4-2-100 of the Marietta City Code.

You have thirty (30) days from the date of this notice to make arrangements with the Municipal Court of Marietta for a hearing if you wish to contest these findings.

If additional information is required, please call the Housing Inspector, between 7:30 A.M. to 4:30 P.M., Monday through Friday at (770) 794-4891.

Sincerely,

A handwritten signature in black ink that reads "Pat A. Wilson".

Pat Wilson
Housing Inspector

CASE NUMBER 15-00004385
PROPERTY ADDRESS 25 AYERS AVE

VIOLATION: CEHV QUANTITY: 1
DESCRIPTION: HOUSING CODE VIOLATIONS DATE: 9/16/15
LOCATION: 25 AYERS AVENUE

NARRATIVE :

RE: 25 Ayers Avenue

A recent inspection revealed the asphalt driveway is in a state of disrepair with potholes/disintegration down to the bare dirt, alligating of the asphalt surface which has progressed to the stage of separation of the pieces of asphalt clear through the thickness of the asphalt in multiple areas, including crumbling and deteriorated areas of the asphalt driveway. Replace and/or repair the asphalt driveway to be in good condition within 60 days of this notice. Attached is the inspection report outlining the code violations.

ORDINANCE DESCRIPTION :

HOUSING CODE VIOLATIONS PER THE DESCRIPTION(S) OUTLINED ABOVE.

CORRECTIVE ACTION REQUIRED :

TO BRING THE RESIDENCE INTO COMPLIANCE WITH THE MINIMUM HOUSING CODE AS SPECIFIED UNDER 2006 ICC HOUSING EDITION.

SHOULD REPAIRS NECESSITATE YOU TO BOARD UP ANY PART OF YOUR BUILDING (WINDOWS, DOORS, ETC.), YOU WILL NEED TO REGISTER YOUR PROPERTY WITH THE CODE ENFORCEMENT DIVISION WITHIN 48 HOURS OF BOARDING UP THE PROPERTY. PLEASE CONTACT OUR MAIN NUMBER AT 770-794-5439 TO OBTAIN A REGISTRATION FORM AND A COPY OF MARIETTA CITY CODE 7-4-2-150, WHICH REGULATES THIS PROCESS.

CITY OF MARIETTA INSPECTION REPORT

Date: September 16, 2015

Property Address: 25 Ayers Avenue (case #15-4385)

Owner/Agent: Pinnacle towers, Inc.

Housing Inspector: Pat A. Wilson

Date of Inspection: September 15, 2015

2006 International Property Maintenance Code®

Chapter 3 General Requirements

§ 301 General

301.1 Scope. The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.

301.2 Responsibility. The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premises which they occupy and control.

Violation(s): deteriorated asphalt driveway

301.3 Vacant structures and land. All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

Violation(s): deteriorated asphalt driveway

§ 302 Exterior Property Areas

302.2 Grading and drainage. All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.

Exception: Approved retention areas and reservoirs.

Violation(s): deteriorated asphalt driveway

302.3 Private Sidewalks and driveways. All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

Violation(s): deteriorated asphalt driveway

Ensure that all applicable permits (building, plumbing, HVAC, electrical) are obtained before any repair, renovation and/or demolition work is started.

TO: Marietta Daily Journal
FROM: City of Marietta
RUN DATE: January 15, 2016

PUBLIC NOTICE OF VARIANCES

The City of Marietta hereby gives notice that a public hearing will be held to give consideration to the following variance requests. The Board of Zoning Appeals will consider the following requests on **Monday, January 25, 2016 at 6:00 P.M.**, City Hall. Anyone wishing to attend may do so and be heard relative thereto.

V2016-02 [VARIANCE] PINNACLE TOWERS LLC is requesting a variance for property located in Land Lots 1214 & 1235, District 16, Parcel 0630, 2nd Section, Marietta, Cobb County, Georgia and being known as 25 Ayers Ave. Variance to allow the use of gravel as an acceptable parking and/or driving surface; variance to allow a 6' tall chain link fence in a front yard; variance to allow barbed wire on a fence in a yard fronting a street on property zoned for commercial. 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.

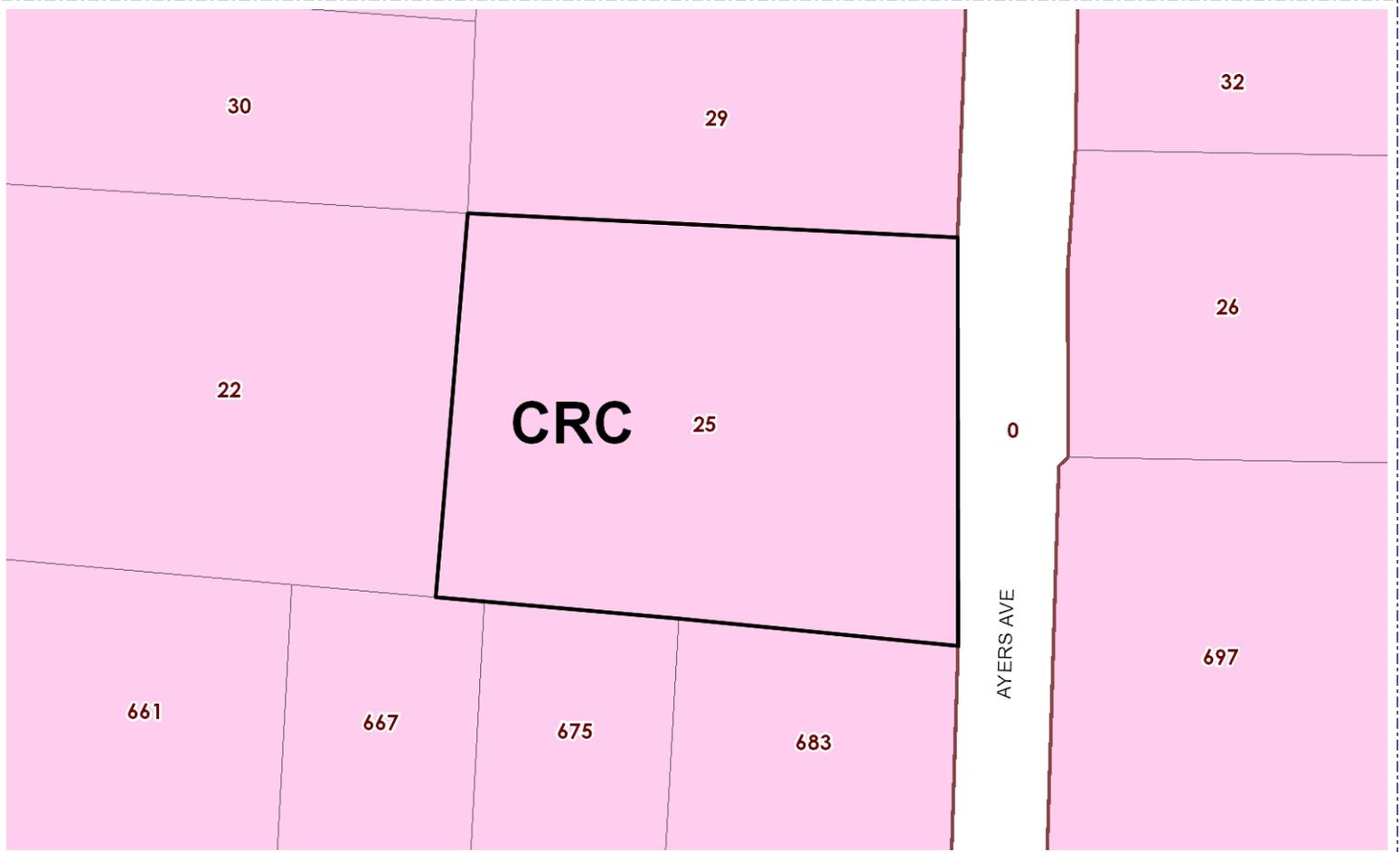
For additional information please call the Planning and Zoning Office (770) 794-5669.

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 Mr. Patrick Henley, ADA Coordinator, at 770-794-5558 (voice) or 770-794-5560 (TDD) 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
25 AYERS AVE	16121400630	0.314	1A	CRC	MDR

Property Owner:	Pinnacle Towers, LLC	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
Applicant:		
BZA Hearing Date:	01/25/2016	
Acquisition Date:		
Case Number:	V2016-02	
City of Marietta Planning & Zoning		

Colomb, Alyson

From: Waddell, Tiffini
Sent: Monday, December 14, 2015 9:14 AM
To: Colomb, Alyson
Subject: 870494
Attachments: DSCF6598.jpg; DSCF6599.jpg; DSCF6602.jpg; 870494 photo.JPG

Scope of Work –

Install 175' of 6' chain link fence with barbed wire
Install 4in bollards every 8' on the south fence line
Remove asphalt, install matting and 57 stone (approx.. 30 tons)
Cost \$13,640

Tire Shop – They do not use the back parking lot at all

Window Tint Shop – Renting parking spaces to tow company and Cobb County Garbage Truck (probably what is damaging the road) will notify of changes in writing

Cleaners – Doesn't use back lot

Access between buildings is big enough for cars

Thank you,

Tiffini Waddell

TIFFINI WADDELL

Real Estate Specialist – South Area
T: (678) 366-1237 | M: (678) 977-0824

CROWN CASTLE

12725 Morris Road, Suite 400, Alpharetta, GA 30004
CrownCastle.com



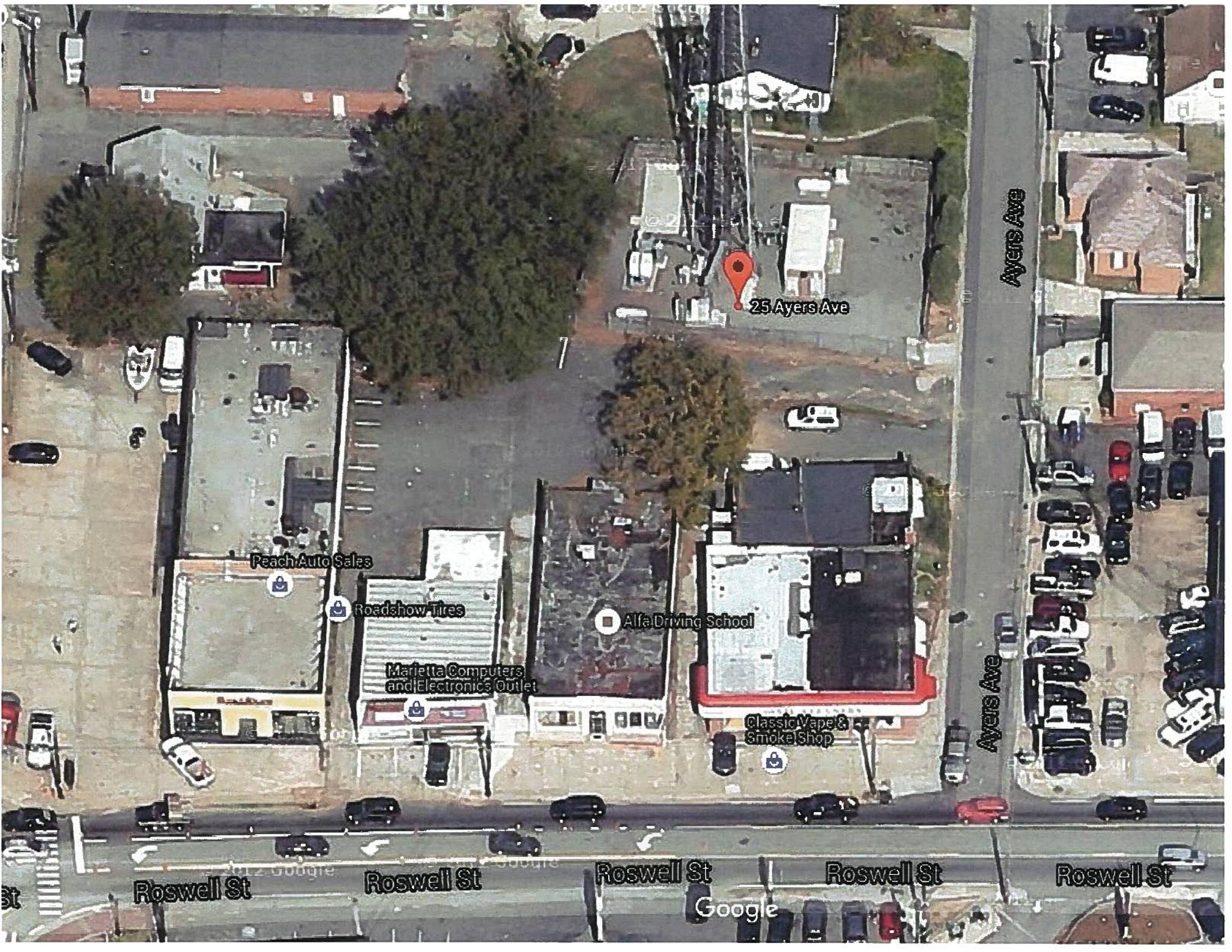
10/ 8/2015



10/ 8/2015



10/ 8/2015



25 Ayers Ave

Peach Auto Sales

Roadshow Tires

Marietta Computers and Electronics Outlet

Alfa Driving School

Classic Vape & Smoke Shop

Ayers Ave

Ayers Ave

Roswell St

Roswell St

Roswell St

Roswell St

Roswell St

Google