

APPLICANT: Dr. Rahul Saraf

770-590-4884

REPRESENTATIVE: F. W. Ansley

770-458-5424

TITLEHOLDER: Dr. Rahul Saraf

PROPERTY LOCATION: Located on the north side of Old

Highway 41, northeasterly of Kennesaw Avenue.

ACCESS TO PROPERTY: Old Highway 41

PHYSICAL CHARACTERISTICS TO SITE: Existing buildings

a large tract

PETITION NO: Z-11

HEARING DATE (PC): 04-07-09

HEARING DATE (BOC): 04-21-09

PRESENT ZONING: CRC with

Stipulations

PROPOSED ZONING: CRC with

Stipulations

PROPOSED USE: Removing And

Amending Stipulations

SIZE OF TRACT: 7.7 acres

DISTRICT: 16

LAND LOT(S): 934, 935

PARCEL(S): 4

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 1

CONTIGUOUS ZONING/DEVELOPMENT

NORTH: City of Marietta/ All American Storage, Glassy Heating and Cooling, Must Ministries

SOUTH: RM-8, TS/ Gates at Parkside Village Townhouses, Louise's Restaurant

EAST: City of Marietta/ Sun Dial Plumbing

WEST: HI, /Georgia Pacific Gypsum Manufacturing Facility

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

PLANNING COMMISSION RECOMMENDATION

APPROVED ____ **MOTION BY** ____

REJECTED ____ **SECONDED** ____

HELD ____ **CARRIED** ____

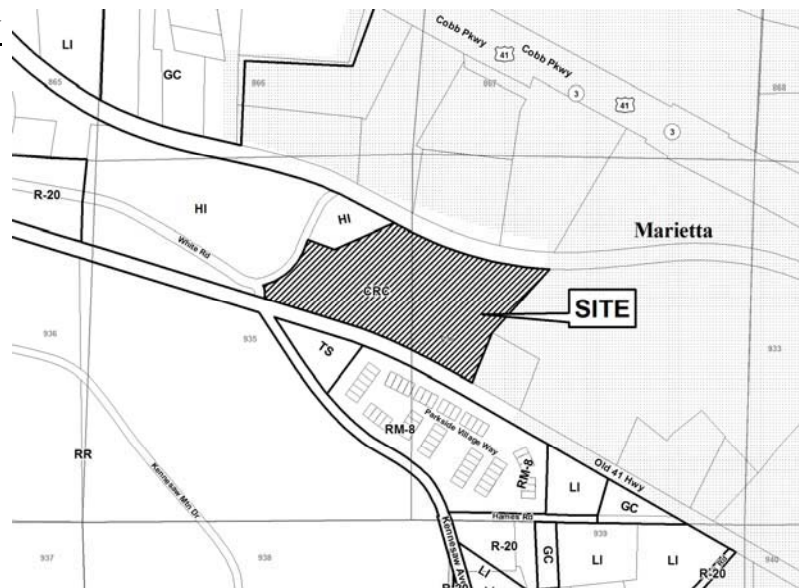
BOARD OF COMMISSIONERS DECISION

APPROVED ____ **MOTION BY** ____

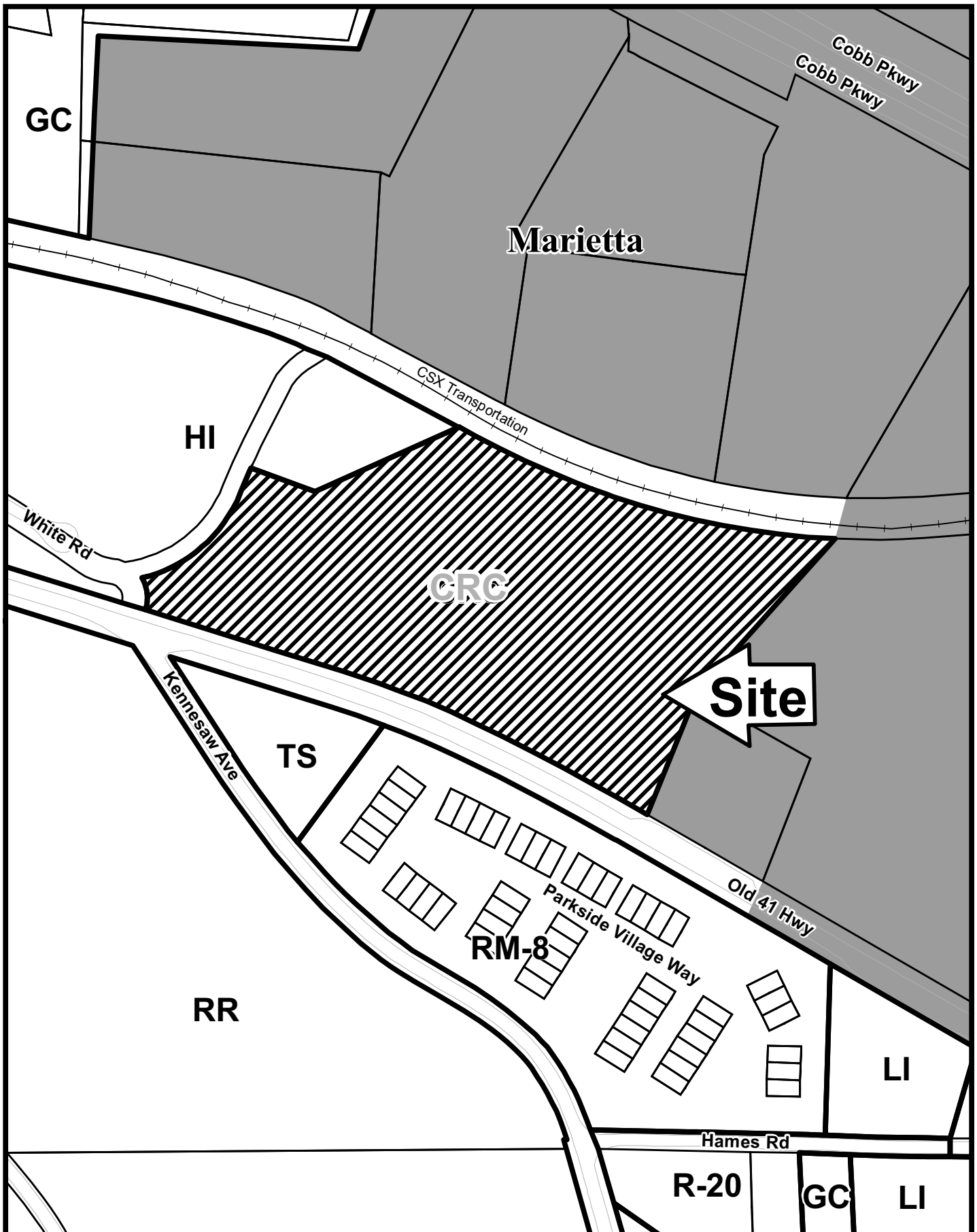
REJECTED ____ **SECONDED** ____

HELD ____ **CARRIED** ____

STIPULATIONS:



Z-11



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

200 0 200 Feet



City Boundary
Zoning Boundary

APPLICANT: Dr. Rahul Saraf

PETITION NO.: Z-11

PRESENT ZONING: CRC with stipulations

PETITION FOR: CRC with stips

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

Land Use Plan Recommendation: Community Activity Center

Existing Number of Buildings: 3 **Total Square Footage of Development:** 4,100

F.A.R.: 0.01 **Square Footage/Acre:** 532

Parking Spaces Required: 10 **Parking Spaces Provided:** 10

The applicant is requesting rezoning to remove and amend the current stipulations on the property (see Exhibit "A"). The property was rezoned to CRC in 2001 for offices and retail subject to many stipulations regarding building architecture and DOT improvements. The 2001 plan never developed as anticipated and the property is in the same condition it was in prior to the 2001 rezoning action. The applicant desires to lease the c.1935 former gas station to a restaurant. The proposed restaurant will be open Monday through Saturday, from 5:00 a.m. to 2:00 p.m. The property would stay in its current state until it is redeveloped. The applicant would like to remove the stipulations concerning the building architecture relating to building height and finish, and the DOT comments concerning R/W dedication, deceleration lanes, left turn lanes, and pedestrian crosswalks. The applicant would need a contemporaneous variance for the former gas station which is 1-foot from the Old Highway 41 right-of-way. See Exhibit "B" for the applicant's Impact Analysis.

Historic Preservation: A 1930's gas station is present on the property and is noted in the Cobb County Historic Resources Survey. The present zoning application states that the existing building will be utilized, so the building does not appear to be affected by the rezoning. However, if future development occurs on the property and the applicant wishes to demolish the building, staff recommends the gas station either be incorporated into the development or, alternately, documented if destroyed. Due to the age and location of the structure, information about this resource appears to have the potential to contribute significantly to the county's public history. In order to properly document this structure, its inhabitants, and the role it played in Cobb County's history, staff requests a history of the home and its occupants (as well as archival-quality photographs of the structure, all outbuildings, and its setting) be completed by a cultural resource consultant. These materials should be submitted to the historic preservation planner.

Cemetery Preservation: No comment.

FIRE COMMENTS:

Fire Hydrant

Commercial: Fire hydrant within 500 feet of most part of structure.

Must obtain a Certificate of Occupancy through the Cobb County Fire Marshal's Office.

COBB COUNTY-MARIETTA WATER AUTHORITY COMMENTS:

CCMWA requests to review the plans for this project as soon as they are available in order to determine the extent of impact upon our facilities. The owner/developer will be financially responsible for any impacts to CCMWA facilities from the project. Contact Chuck Byrge at (770) 426-8788 to coordinate plan review.

APPLICANT Dr Rahul Saraf

PETITION NO. Z-011

PRESENT ZONING CRC w/stips

PETITION FOR CRC w/stips

NOTE: Comments reflect only what facilities appeared of record at the time of this review. Field verification required by developer.

WATER COMMENTS:

Available at Development? ☒ Yes ☐ No

Fire Flow Test Required? ☒ Yes ☐ No

Size / Location of Existing Water Main(s) 14" CI / S side Old 41 Hwy

Additional Comments:

Developer may be required to install/upgrade water mains, based on fire flow test results or Fire Department Code. This will be resolved in the Plan Review Process.

SEWER COMMENTS:

In Drainage Basin? ☒ Yes ☐ No

At Development? ☒ Yes ☐ No

Approximate Distance to Nearest Sewer: 225'

Estimated Waste Generation (in G.P.D.): **A D F** 365 +/- **Peak** 912 +/-

Treatment Plant: Noonday

Plant Capacity Available? ☐ Yes ☐ No

Line Capacity Available? ☐ Yes ☐ No

Projected Plant Availability: ☐ 0 - 5 year ☐ 5 - 10 years ☐ over 10 years

Dry Sewers Required? ☐ Yes ☐ No

Off-site Easements Required? ☐ Yes* ☐ No

Flow Test Required? ☐ Yes ☐ No

Septic Tank Recommended by this Department? ☒ Yes ☐ No

Subject to Health Department Approval? ☒ Yes ☐ No

* If off-site easements are required, Developer must submit easements to CCWS for review / approval as to form and stipulations prior to the execution of easement(s) by the property owner(s). All easement acquisitions are the responsibility of the Developer.

Additional Comments:

For existing vintage gas station building on site only; Health Dept approval required for this use which must be less than 1 ERU, such as limited breakfast food

Notes FYI: *In Old 41 special assessment area where \$13,000 per acre sewer (connection) fee applicable*

Developer will be responsible for connecting to the existing County water and sewer systems, installing and/or upgrading all outfalls and water mains, obtaining on and/or off site easements, dedication of on and/or off site water and sewer to Cobb County, as may be required. Rezoning does not guarantee water/sewer availability/capacity unless so stated in writing by the Cobb County Water System. Permit issuances subject to continued treatment plant compliance with EPD discharge requirements.

APPLICANT: Dr. Rahul Saraf

PETITION NO.: Z-11

PRESENT ZONING: CRC w/ stips

PETITION FOR: CRC w/ stips

DRAINAGE COMMENTS

No site improvements are proposed other than those required by DOT within the R/W. No significant stormwater management impacts are anticipated. Recommend all Stormwater comments from Z-168 of 2001 be done at Plan Review when the property redevelops, or new buildings are added.

APPLICANT: Dr. Rahul Saraf

PETITION NO.: Z-11

PRESENT ZONING: CRC with Stipulations

PETITION FOR: CRC with Stipulations

TRANSPORTATION COMMENTS

The following comments and recommendations are based on field investigation and office review of the subject rezoning case:

ROADWAY	AVERAGE DAILY TRIPS	ROADWAY CLASSIFICATION	SPEED LIMIT	JURISDICTIONAL CONTROL	MIN. R.O.W. REQUIREMENTS
Old 41 Highway	22300	Major Collector	35 mph	Cobb County	80'

Based on 2008 traffic counting data taken by Cobb County DOT

COMMENTS AND OBSERVATIONS

Old 41 Highway is classified as a Major Collector and according to the available information the existing right-of-way does not meet the minimum requirements for this classification.

Install sidewalk, curb and gutter along Old 41 Highway at the time of redevelopment.

As necessitated by this development for egress from Old 41 Highway a deceleration lane(s) and a left turn lane(s) will be required as determined at plan review at time of redevelopment.

Proposed driveway shall be built to Cobb County commercial standards.

One full access driveway onto Old 41 Highway, additional access will be evaluated at plan review at time of redevelopment.

Developer will be responsible for all cost associated with any traffic signal upgrades/ modifications that may be required if a driveway is located at the intersection Kennesaw Avenue and Old 41 Highway.

RECOMMENDATIONS

Recommend applicant consider entering into a development agreement pursuant to O.C.G.A 36-71-13 for dedication of the following system improvements to mitigate traffic concerns: a) donation of right-of-way on the north side of Old 41 Highway, a minimum of 40' from the roadway centerline.

Recommend installing sidewalk, curb, and gutter along the road frontage when site is redeveloped.

Recommend a deceleration lane and a left turn lane as determined at plan review when site is redeveloped.

Recommend building the proposed driveway to comply with Cobb County commercial standards.

Recommend one full access driveway onto Old 41 Highway, additional access will be evaluated at plan review at time of redevelopment.

Recommend developer provide 100% funding for all traffic signal upgrades/ modifications that may be required if a driveway is located at the intersection Kennesaw Avenue and Old 41 Highway when the site is redeveloped.

Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

STAFF RECOMMENDATIONS

Z-11 DR. RAHUL SARAF

- A. It is Staff's opinion that the applicant's rezoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties. The applicant's property is located in an area that contains industrial, commercial, and residential zoned property.
- B. It is Staff's opinion that the applicant's rezoning proposal will not have an adverse affect on the usability of adjacent or nearby property. The applicant's proposal would be compatible with adjacent properties, and there is a restaurant across the road from this site.
- C. It is Staff's opinion that the applicant's rezoning proposal will not result in a use which would cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. This opinion can be supported by the departmental comments contained in this analysis.
- D. It is Staff's opinion that the applicant's rezoning proposal is in conformity with the policy and intent of the *Cobb County Comprehensive Plan*, which delineates this property to be within a Community Activity Center.
- E. It is Staff's opinion that there are existing and changing conditions affecting the use and development of the property which give supporting grounds for approving the applicant's rezoning proposal. Staff is amenable to the applicant's proposal as a short term use of the property. However, Staff is not amenable to waiving stipulations that would apply to a redevelopment of the property, and would suggest the applicant be permitted to operate a business from the old gas station without imposing the 2001 zoning stipulations. The 2001 stipulations (plus 2009 stipulations) should be applied at redevelopment, or when new buildings are added to the property. Additionally, there are two abandoned/dilapidated buildings on the property that should be demolished due to the nuisance and danger they present.

Based on the above analysis, Staff recommends APPROVAL subject to the following conditions:

- All Staff comments be done at redevelopment or if a new building is placed on the property;
- The c. 1935 gas station be used as a restaurant, with the District Commissioner approving any other uses;
- Site plan received by the Zoning Division February 5, 2009, with the District Commissioner approving the final site plan;
- District Commissioner approve the building architecture and landscaping plan;
- Front variance reduction only for the c. 1935 gas station (all new buildings to meet the setbacks);
- Two abandoned/dilapidated buildings to the west of the gas station be demolished within 60-days of the final zoning decision;
- Fire Department comments;
- CCMWA comments;
- Historic preservation comments;
- Water and Sewer comments and recommendations;
- Stormwater Management comments and recommendations;
- DOT comments and recommendations;
- owner/developer to enter into a Development Agreement pursuant to O.C.G.A. §36-71-13 for dedication of system improvements to mitigate traffic concerns.

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.

MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
DECEMBER 18, 2001

Z-168 **CARSON & ASSOCIATES, INC.** (Phil Murray, owner) for Rezoning from **GC** and **R-20** to **CRC** and **RM-8** for the purpose of Retail, Offices and Townhomes in Land Lots 934 and 935 of the 16th District. Located on the north and south sides of Old Highway 41, south of CSX Railroad and north of Kennesaw Avenue.

MOTION: Motion by Askea, second by Byrne, to **add** Z-168 to the Consent Agenda.

VOTE: **ADOPTED** unanimously

MOTION: Motion by W. Thompson, second by Olens, to **approve**, as part of the Consent Agenda, rezoning to the **CRC** and **RM-8** zoning districts **subject to**:

- townhomes to be a minimum of 2,200 square feet, with two car garages, and traditional in style with brick, rock or stucco facades
- maximum two-story office and retail buildings to be brick with rock or stucco accents, retail shops located on the first floor and office space located on the second floor
- Water and Sewer Division comments and recommendations as approved during final plan review
- Stormwater Management Division comments and recommendations as approved during final plan review
- Cobb DOT comments and recommendations as approved during final plan review
- owner/developer to enter into a Development Agreement pursuant to O.C.G.A. §36-71-13 for dedication of system improvements to mitigate traffic concerns
- letter of agreeable conditions dated December 17, 2001 from Mr. Wit Carson *as amended to require applicant to pay all cost associated with the installation of a pedestrian crossing at the existing traffic light* (Copy of the letter attached and made a part of these minutes.)

VOTE: **ADOPTED** unanimously

Carson & Associates Inc.
125 TownPark Drive
Suite 300
Kennesaw, Georgia 30144
Phone: 770-955-3399
Fax: 770-420-8201

Z-11 (2009)
Exhibit "A"
Current stipulations
Page 2 of 3

December 17, 2001

Commissioner William L. Askea
100 Cherokee St., Suite 300
Marietta, GA 30090-7000

Min. Bk. 19 Petition No. Z-168
Doc. Type Letter of Agreeable
Conditions as amended
Meeting Date December 18, 2001

Dear Commissioner Askea,

This letter of agreement states the stipulations we discussed for application number 168. The stipulations are as follows:

1. Dedicate the right-of-way on both sides of Old U.S. 41, 40 ft. from the roadway center line.
2. Provide 150 feet deceleration lane on Old U.S. 41 and Kennesaw Ave.
3. Provide for left turn lanes on Old U.S. 41 and Kennesaw Ave. to facilitate turning movements on both sides.
4. Agree to coordinate with Cobb D.O.T. in the installation of a pedestrian crossing at the existing traffic light. *and pay all cost for them*

B.L.

Sincerely,

Wit Carson

Wit Carson

cc: Cobb County Board of Commissioners:
William J. Byrne, Chairman
George Woody Thompson, Jr.
Joe L. Thompson
Samuel S. Olens

Z-168

SITE DATA

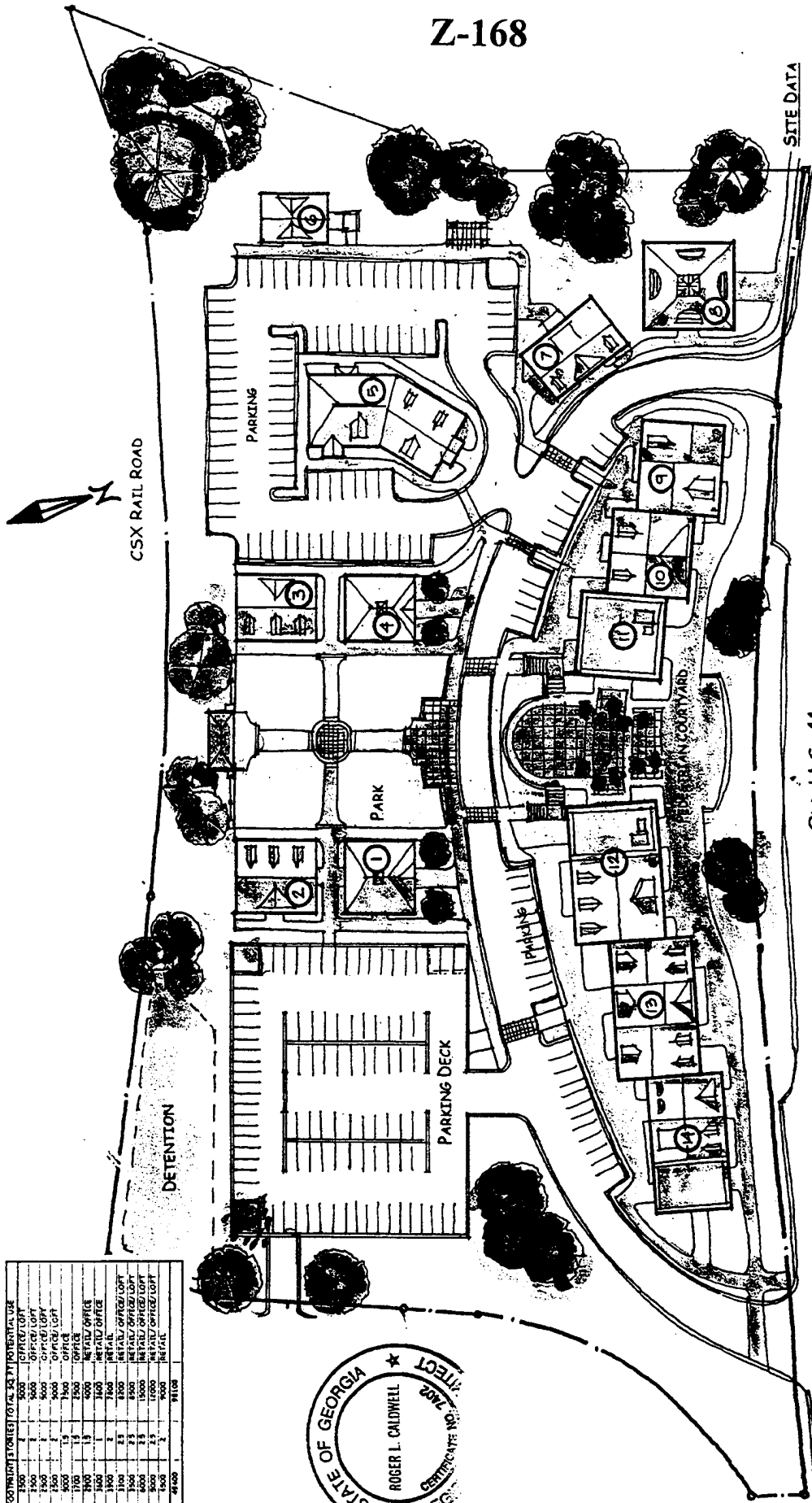
SITE AREA 8.53 ACRES
MIXED USE
PARKING

CALDWELL & CLARK

THE VILLAGE AT
KENNESAW MOUNTAIN

CARSON
ASSOCIATES

BUILDING FOOTPRINTS (TOTAL 32,717) POTENTIAL USE	
1	1500 OFFICE/LOFT
2	1500 OFFICE/LOFT
3	1500 OFFICE/LOFT
4	1500 OFFICE/LOFT
5	1500 OFFICE/LOFT
6	1500 OFFICE/LOFT
7	1500 OFFICE/LOFT
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31	1500 OFFICE/LOFT
32	1500 OFFICE/LOFT
TOTALS	32,717



APPLICATION FOR REZONING 1710 OLD HWY 41, MARIETTA, GA

ITEM 9:

- (a) The zoning proposal is consistent with existing structure on property and adjacent and nearby properties. Adjacent and nearby properties include restaurant, commercial building-trade offices and warehouses, and a condominium development.
- (b) The zoning proposal would not adversely affect the existing use of adjacent or nearby properties. There are a number of commercial operations in the area that open for construction work, delivery or service work at 5:00 or 6:00 in the morning. The proposed operation would target customers reporting for work in the area and commuters currently passing property.
- (c) The property affected by the zoning proposal currently has a development plan that is unlikely to be implemented in the near term due to current economic conditions and credit markets. This modification of the zoning intends to derive a reasonable economic use in the near term.
- (d) The zoning proposal would not cause a burden to schools, utilities, existing streets and transportation facilities in the area. The target market for the establishment consists of workers, commuters and residents already in the area.
- (e) The zoning does not interfere with the land use plan.
- (f) The existing economic and credit conditions make the current land use plan for this parcel unfeasible for the near term. The property owner intends to develop the property consistent with the approved plans eventually. The owner would like to have a viable business operating in an existing structure rather than a vacant building tempting to break-in or temporary shelter for vagrants.