



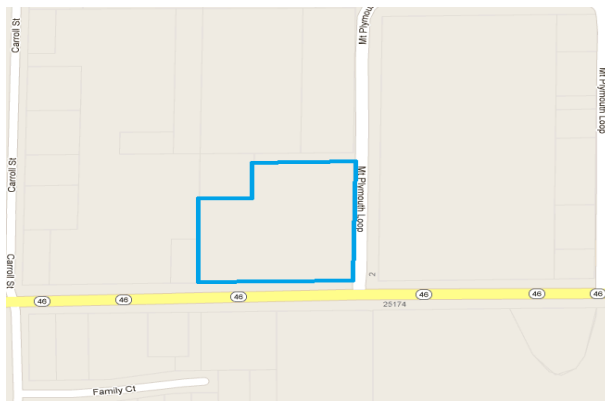
**VARIANCE REQUEST**  
 Presented to  
**BOARD OF ADJUSTMENT**  
 September 13, 2012

**CASE NO.:** BOA# 24-12-4 **AGENDA ITEM #:** 1

**OWNER & APPLICANT:** Dog Spot, LLC

**REQUESTED ACTION:** The owner is requesting a variance from **Lake County Land Development Regulations, Section 3.02.05.J Setbacks** to allow a setback of less than 200 feet from the property lines and right-of-ways for a kennel (+/- 1.69 acres).

**GENERAL LOCATION:** Sorrento area – State Road 46 East to Mt. Plymouth Loop to site on left, AK# 1516960 (Sec. 29, Twp. 19, Rng. 28).



**FUTURE LAND USE DESIGNATION:** Mt. Plymouth-Sorrento Main Street

**EXISTING ZONING:** Planned Commercial (CP with C-1 / C-2 uses)

<b>Direction</b>	<b>Future Land Use</b>	<b>Zoning</b>	<b>Existing Use</b>
<b>North</b>	Mt. Plymouth-Sorrento Main Street (5.5 du / net ac with TDR's in the WRPA)	Agriculture (1 du / 5 ac)	SFDU / Vacant
<b>South</b>	Mt. Plymouth-Sorrento Main Street (5.5 du / net ac with TDR's in the WRPA)	Urban Residential District (R-6) (6 du / 1 ac)	Church/ Ag / SFDU
<b>East</b>	Mt. Plymouth-Sorrento Main Street (5.5 du / net ac with TDR's in the WRPA)	Community Facilities District (CFD)	Church
<b>West</b>	Mt. Plymouth-Sorrento Main Street (5.5 du / net ac with TDR's in the WRPA)	Agriculture (1 du / 5 ac)	Agriculture
<b>Posted:</b>	August 22, 2012 at Mt. Plymouth Loop and SR 46, Sorrento		

#### 14.15.02 Granting Variances and Appeals

Variances shall be granted when the person subject to the Land Development Regulation demonstrates that the purpose of the Land Development Regulation will be or has been achieved by other means, and when application of a Land Development Regulation would create a substantial hardship or would violate principles of fairness.

For purposes of this section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance. For the purposes of this section "principles of fairness" are violated when the literal application of a Land Development Regulation affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the Land Development Regulation.

Variances may also be granted to allow for the reconstruction, rehabilitation, or restoration of structures listed on, or classified as contributing to a district listed on the National Register of Historic Places, Florida Master Site File or local surveys of historical resources. In such instance, the variance shall be the minimum necessary to protect the historical integrity of the structure and its site.

**ANALYSIS:** The owner is requesting a variance to allow a kennel to be located closer than 200 feet from the right-of-ways bordering the parcel and closer than 200 feet from property lines. The Code (3.02.05.J) requires buildings, runs, pens or other structures used for the purpose of a kennel or cattery, or to house, feed, exercise or otherwise maintain a total of five or more cats or dogs to maintain a 200-foot setback from the nearest right-of-way line of any road, highway, or adjacent boundary or property owned by others.

The owner is proposing the construction of a facility for dog grooming and boarding in addition to a residence. This kennel facility will consist of 2,214 square feet of air conditioned space for dog grooming and 8,329 square feet of open-air pens for dog boarding. The facility will be used to house animals overnight in addition to the daily grooming service. A 1,442-square-foot residence will be constructed to the rear of the parcel, behind the kennels. A plot plan is attached, which details the floor plan of the kennel and residence (Exhibit "1").

A pre-submittal for the proposed kennel was submitted in August 2006; the owner was advised to submit a site plan application since the zoning district permitted the use. In December 2006, the site plan was submitted for review by the Development Review Staff. During the site plan review process it was determined that the kennel would not meet the 200-foot setback required by the Code. The owner was advised to apply for a variance to the required setback.

The subject parcel fronts on two roads, SR 46 along the southern property line and Mount Plymouth Loop along the eastern property line and is 1.69 acres in size; it is 270 feet wide along SR 46 and the depth of the parcel is 280 feet along Mount Plymouth Loop. There is a single-family dwelling located immediately to the northwest of the parcel. The remaining three sides are developed with single-family homes, agricultural uses and a church.

The proposed kennel cannot be located on this parcel and meet the required setbacks of 200 feet from all property lines and right-of-ways. The owner is proposing to locate the kennel approximately 50 feet from

the right-of-way of SR 46, 90 feet from the right-of-way of Mount Plymouth Loop, 25 feet from the northern property line and 45 feet from the western property line.

The parcel is zoned Planned Commercial (CP) with Neighborhood Commercial (C-1) and Community Commercial (C-2) uses, and the future land use is Mount Plymouth Sorrento Main Street. The zoning district will permit a kennel and a kennel is allowed in the Future Land Use Category with the approval of a Conditional Use Permit.

The **intent** of the Code (3.02.05.J) is to regulate the placement of structures used for the purpose of a kennel or cattery in order to ensure that the residents in the surrounding area are not disrupted by the noise and are not harmed either aesthetically or physically by the use of such structures.

The 2030 Comprehensive Plan specifically mentions Animal Specialty Services as a use that requires a Conditional Use Permit. This ensures that uses, which could have a potential negative impact on the community, will be held to a higher level of review. The Land Development Regulations require a 200-foot setback for kennels to reduce the impacts of sounds and odors that are generated by dogs in a confined setting. The construction of an open bay kennel will not meet the intent of the Code and will negatively affect the surrounding parcels. The intent of the Code has not been demonstrated by the applicant; landscape buffers and building orientation will not mitigate the off-site impacts.

The owner submitted the following reasons as proof of meeting the **intent of the Code**: *“Additional plant material can be proposed within the landscape buffers, and building orientation can be used to help control noise.”*

The owner submitted the following as proof that the application of the Land Development Regulation would create a **substantial hardship or would violate principles of fairness**: *“Given the size and configuration of the property, the proposed use is not possible if the 200’ building setback to all property lines is required. Pet boarding and grooming facilities exist in other commercial areas but given the close proximity of residential areas to the site (now identified to be in a commercial main street corridor) the use because of the 200’ set back is not allowed.”*

**FINDINGS OF FACT:** Staff has reviewed the application for this variance request and found:

1. This request is inconsistent with LDR 3.02.05.J., which attempts to protect surrounding parcels from negative impacts associated with a kennel.
2. There is not sufficient area on the site to mitigate an open-air kennel.

The owner has shown proof of a substantial hardship or that the application of the Code would violate principles of fairness. The owner has not submitted proof of meeting the intent of the Code. Based on the Findings of Fact and Analysis, Staff recommends **denial** of the variance request.

#### **LAND DEVELOPMENT REGULATION:**

##### **3.02.05 Setbacks.**

A. Required Setbacks. The Zoning District Regulations establish the required setbacks.

B. Minimum Setbacks on Side and Rear Yards.

1. If the distance from the exterior wall to the property line is less than five (5) feet, the Applicant must show evidence of a Maintenance Easement granted by adjacent property owners.
2. The structure may be built on the property line provided the Owner shall grant an Attachment Easement to the adjacent property owner(s).

C. Minimum Setbacks Between Buildings.

1. Distance shall be measured at the narrowest space between structures, whether a Principal Structure, an allowable attachment, or an Accessory structure, and shall not include the roof overhang (eave).
2. The maximum distance that a roof overhang shall be permitted to extend into a setback is the lesser of the following.
  - a. Four (4) feet.
  - b. Fifty (50) percent of the distance between a structure and the property line.

D. Average Front Setbacks. Existing structures may be used to establish an average setback in areas where existing structures do not conform to front setbacks established elsewhere in this Section. Once established by the County Manager or designee, the average front setback shall be used as the minimum front setback on the side of the street from which existing structures were used to establish the average setback. Average front setbacks may also apply to Corner Lots. Information pertaining to existing structures, within a relevant distance from a proposed structure, Shall be provided by the Applicant, as required by the County Manager or designee, and reviewed for an appropriate fee.

E. Surface Water Bodies and Wetlands. Setbacks from surface water bodies and Wetlands are subject to regulations under Chapter VI, Resource Protection Standards.

F. Docks. The applicable setbacks shall apply as set out in Chapter X.

G. Livestock Buildings. See the section on the Keeping of Livestock elsewhere in Chapter III.

H. Visibility Triangle.

1. In order to provide clear view of intersecting streets to the motorist in all zoning districts established by this ordinance, there shall be a triangular area of clear vision formed by two (2) intersecting streets.
2. On any portion of a Lot that lies within the triangular area described in Subsection 3.02.05.H.3, nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of three (3) feet and eight (8) feet above the Grade at the two (2) street centerlines.
3. The triangular area Shall be formed by a point on each street centerline located seventy-five (75), one hundred (100) or one hundred fifty (150) feet from the intersection of the street centerlines, as indicated below, and a third line connecting the two (2) points.

Distance from Street Centerline Intersection

Road Classification	Feet
Arterial	150
Collector	100
Local	75

I. Fences, walls, landscaping, agricultural crops, silvicultural crops, Building appurtenances not within the Visibility Triangle described in Subsection 3.02.05.H, may be placed on the property line with the following restrictions:

1. Fences, walls, landscaping, agricultural crops, silvicultural crops and Building appurtenances shall have a minimum setback from the centerline of a traveled Roadway of one-half of the Right-Of-Way width required for the classification of the Road. Minimum Right-Of-Way widths shall be based upon the classification of the Road, and shall be in accordance with the following tables (Right-Of-Way widths on State Arterial Roads may vary depending upon FDOT standards):

a. Arterials:

Classification	Minimum Right-Of-Way Width (ft)		
	4-Lane	6-Lane	8-Lane
Freeway	216	240	264
Rural Arterial	200	200	--
Suburban Arterial	174	200	--
Urban Arterial	94	240	--

b. Collector Roads:

Classification	Minimum Right-Of-Way Width (ft)	
	Curb and Gutter	Swales
Major Collector	80	100
Minor Collector	70	80

c. Local Roads:

Classification	Minimum Right-Of-Way Width (ft)	
	Curb and Gutter	Swales
Feeder/Distributor	60	80
Neighborhood Collector	50	66
Local Street	50	66
Cul-de-sac (radius)	50	60

2. Fences, walls, landscaping, agricultural crops, silvicultural crops, and Building appurtenances shall be prohibited from encroaching into a Right-of-Way or Easement for Roads, or drainage, unless specifically required as a condition of a government-issued Permit. The County Manager or designee may allow fences, walls, landscaping, agricultural crops, silvicultural crops, Building appurtenances to be placed temporarily in a Right-of-Way, or Road or drainage easement with a Right-of-Way Utilization Permit, subject to the terms and conditions as approved as approved by the County Manager or designee.

3. Fences, walls, landscaping, agricultural crops, silvicultural crops, Building appurtenances may be placed in utility easements with the understanding that the temporary removal and replacement may be necessary during servicing of the utilities located within said easement.

4. Fences, walls, landscaping, agricultural crops, silvicultural crops, Building appurtenances Shall have an Additional setbacks beyond the setback required in Subsection 3.02.05.E.1 when the County Manager or designee determines that the Public's health, safety, and welfare are threatened.

**J. Buildings, runs, pens, or other Structures used for the purpose of a Kennel or Cattery, or to house, feed, exercise or otherwise maintain a total of five (5) or more cats or dogs Shall maintain a two hundred (200) foot Setback from the nearest Right-of-Way line of any Road, Highway, or adjacent boundary or Property owned by others.**

**Definitions:**

**Kennel. Kennel or Cattery means:**

(a) any premises, operation, or business used for the boarding, breeding, training, buying, selling, grooming, or rearing of dogs or cats, or any other activity, for remuneration, regardless of number of dogs or cats;

(b) any premises where research is conducted involving dogs or cats;

(c) the keeping, harboring, or maintaining of five (5) or more dogs over the age of six (6) months on parcels of land five (5) acres or less; or the keeping, harboring, or maintaining ten (10) or more dogs over the age of six (6) months on parcels of land greater than five (5) acres but less than twenty (20) acres; or the keeping, harboring, or maintaining of twenty (20) or more dogs over the age of six (6) months on parcels of land twenty (20) acres or greater; or

(d) the keeping, harboring, or maintaining of five (5) or more cats over the age of six (6) months on parcels of land five (5) acres or less; or the keeping, harboring, or maintaining ten (10) or more cats over the age of six (6) months on parcels of land greater than five (5) acres but less than twenty (20) acres; or the keeping, harboring, or maintaining of twenty (20) or more cats over the age of six (6) months on parcels of land twenty (20) acres or greater.

### **Policy I-3.2.6 Mount Plymouth-Sorrento Main Street Future Land Use Category**

The Mount Plymouth-Sorrento Main Street Future Land Use Category is intended to preserve a sense of place and shared identity central to the Mount Plymouth-Sorrento Community. The Main Street Future Land Use Category consists of a Main Street corridor and surrounding neighborhoods that provide a balanced mix of land uses. This mix of uses is intended to establish a diverse, sustainable community by meeting the housing and daily needs of people from all stages of life, incomes, and professions. A maximum density of five and one-half (5.5) dwelling units per net buildable acre may be allowed within the Main Street Future Land Use Category. The intent of this category is to establish a market within walking distance to support small shops and provide opportunities for alternative modes of transportation such as walking, biking, and public transportation. Residential development exceeding ten (10) dwelling units shall be required to utilize a PUD and protect at least 25% of the net buildable area as common open space. Nonresidential development shall provide at least 20% of the net buildable area as open space. The maximum intensity in this category shall be 0.30. The maximum Impervious Surface Ratio shall be 0.60. That portion of the Mount Plymouth-Sorrento Main Street Future Land Use Category located within the Wekiva River Protection Area shall comply with the requirements for the transfer of development rights of the Wekiva River Protection Area (WRPA) Mt. Plymouth-Sorrento Receiving Area Future Land Use Category. Any increase in density above that permitted by the zoning classification in place immediately prior to March 12,

1990, shall require the purchase and use of transfer of development rights from WRPA Sending Areas Number One and Two.

**TYPICAL USES INCLUDE:**

- Residential;
- Residential professional use of 1,500 SF or less;
- Passive parks;
- Civic uses;
- K-12 schools;
- Day care services;
- Religious organizations; and
- Commerce uses, including: services, retail trade, finance, insurance and real estate as specified in the Mt. Plymouth-Sorrento Special Community Objective and underlying policies.

**TYPICAL USES REQUIRING A CONDITIONAL USE PERMIT:**

- Active parks and recreation facilities;
- Nursing and personal care facilities;
- Light industry, such as Manufacturing, Wholesale Trade, Transportation, 1 Communications, Electric, Gas and Sanitary Services. Activities are limited to those without off-site impacts and takes place primarily within an enclosed building;
- **Animal specialty services; and**
- Hospitals.

**14.15.00 Variances and Appeals.**

**14.15.01 Purpose of Variances.** Strict application of uniformly applicable Land Development Regulations can lead to unreasonable, unfair, and unintended results in particular instances. The Board of County Commissioners finds that it is appropriate in such cases to adopt a procedure to provide relief to persons subject to the Land Development Regulations. The Board of Adjustment is authorized to grant variances to requirements of the Land Development Regulations consistent with the rules contained in these regulations. This Section does not authorize the Board of Adjustment to grant variances inconsistent with the Comprehensive Plan nor to grant a variance to permit uses not generally permitted in the zoning district involved or any use expressly or by implication prohibited by the terms of the Land Development Regulations in the zoning district. In addition, the existence of nonconforming use of neighboring lands or un-permitted use of neighboring lands shall not be considered grounds for authorization of a variance.

**14.15.02 Generally.** Variances shall be granted when the person subject to a Land Development Regulation demonstrates that the purpose of the Land Development Regulation will be or has been achieved by other means, and when application of a Land Development Regulation would create a substantial hardship or would violate principles of fairness. For purposes of this Section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance. For purposes of this Section, "principles of fairness" are violated when the literal application of a Land Development Regulation affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the Land Development Regulation. Variances may also be granted to allow for the reconstruction, rehabilitation, or restoration of structures listed on, or classified as, contributing to a district listed on the National Register of Historic Places, Florida Master Site File or local

surveys of historical resources. In such instance, the variance shall be the minimum necessary to protect the historical integrity of the structure and its site.

ENVIRONMENTAL ISSUE: N/A

FLOODPLAIN: N/A

JOINT PLANNING AGREEMENT: N/A

WEKIVA RIVER PROTECTION AREA: YES

LAKE APOPKA BASIN: N/A

TRANSPORTATION IMPROVEMENTS: N/A

GREEN SWAMP AREA OF CRITICAL STATE CONCERN: N/A



BOA# 24-12-4  
Photo Evidence



Views of the site



Views of the postings

**Final Development Order  
Dog Spot, LLC  
BOA # 24-12-4**

**A VARIANCE OF THE LAKE COUNTY BOARD OF ADJUSTMENT AMENDING THE LAKE COUNTY ZONING MAPS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Dog Spot, LLC (the "Owner") made a request to allow a setback of less than 200 feet from the property lines and right-of-ways for the construction of a kennel; and

**WHEREAS**, the subject property consists of 1.69 acres +/- and is generally located east of Sorrento in Section 29, Township 19 South, Range 28 East, being composed of Alternate Key Number 1516960 and is more particularly described as:

CARONEL ACRES E 219.5 FT OF LOT 4--LESS N 20 FT--S 226 FT OF|  
W 100 FT OF E 1/2 OF LOT 4 BLK 2--LESS THE E 49.60 FT FOR RD|  
R/W--PB 6 PG 49

**AND**, after giving Notice of Hearing on petition for a variance to the Lake County Land Development Regulations, including notice that said variance would be presented to the Board of Adjustment of Lake County, Florida, on September 13, 2012; and

**WHEREAS**, the Board of Adjustment reviewed said petition, staff report and any comments, favorable or unfavorable, from the public and surrounding property owners at a public hearing duly advertised; and

**WHEREAS**, on September 13, 2012, the Lake County Board of Adjustment approved the variance for the above property; and

**NOW THEREFORE, BE IT ORDAINED** by the Board of Adjustment of Lake County, Florida, that the Land Development Regulations of Lake County, Florida, be altered and amended as they pertain to the above subject property, subject to the following terms:

**Section 1. Terms:** The County Manager or designee shall amend the Official Zoning Map to reflect the approval of BOA# 24-12-4 to allow the kennel to be setback 50 feet from the right-of-way of SR 46; 90 feet from the right-of-way of Mouny Plymouth Loop; 25 feet from the northern property line and 45 feet from the western property line, with the following condition:

- All kennels, runs and/or exercise areas shall be enclosed within a sound attenuated, climate controlled structure.

**Section 2. Severability:** If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 3. Effective Date. This Ordinance shall become effective as provided by law.

ENACTED this 13<sup>th</sup> day of September, 2012.

EFFECTIVE September 13, 2012.

BOARD OF ADJUSTMENT  
LAKE COUNTY, FLORIDA

\_\_\_\_\_  
Donald Schreiner, Chairman

STATE OF FLORIDA  
COUNTY OF LAKE

The foregoing instrument was acknowledged before me this September 13, 2012 by DONALD SCHREINER, who is personally known to me.

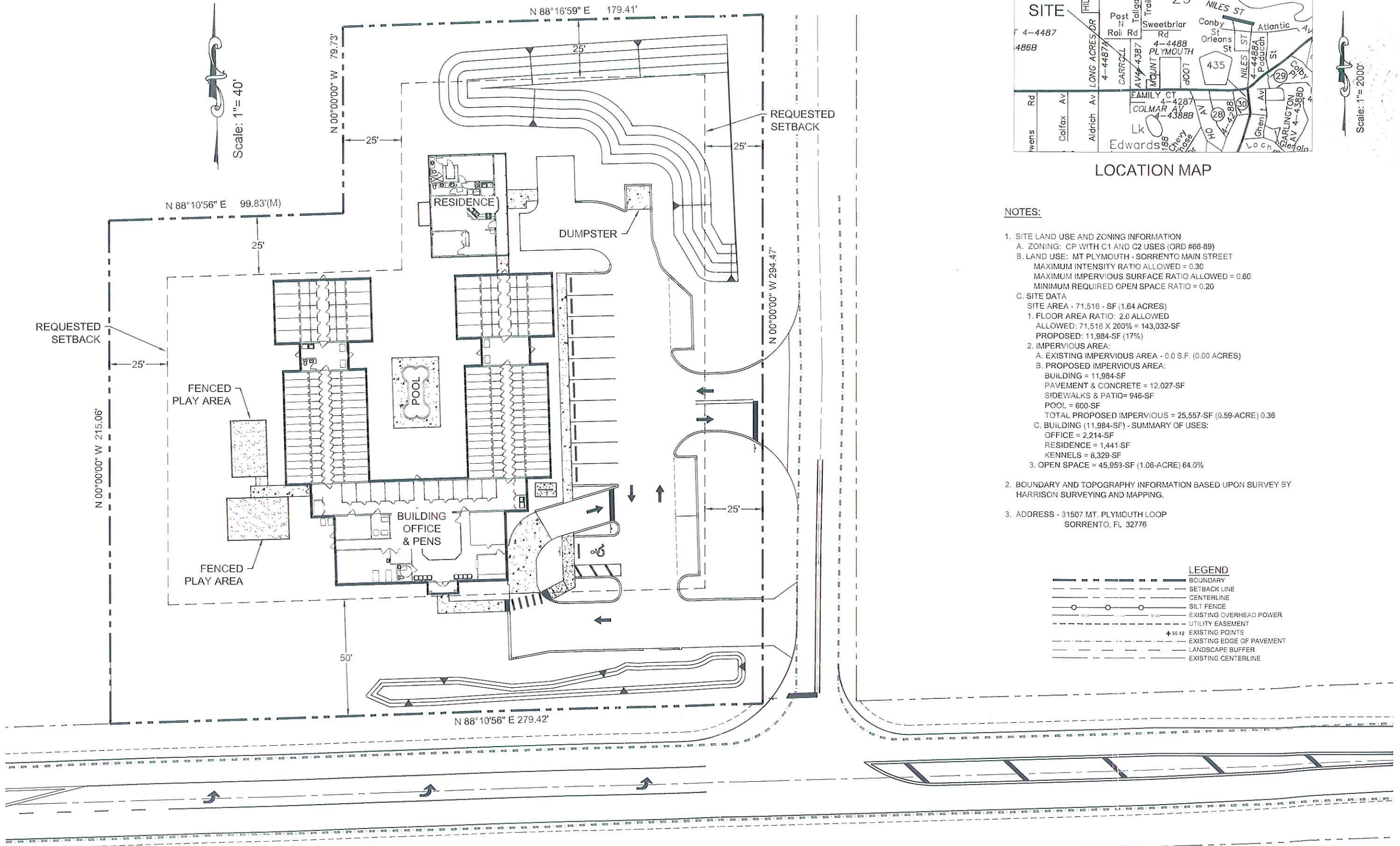
(SEAL)

\_\_\_\_\_  
Signature of Acknowledger

Serial Number: \_\_\_\_\_

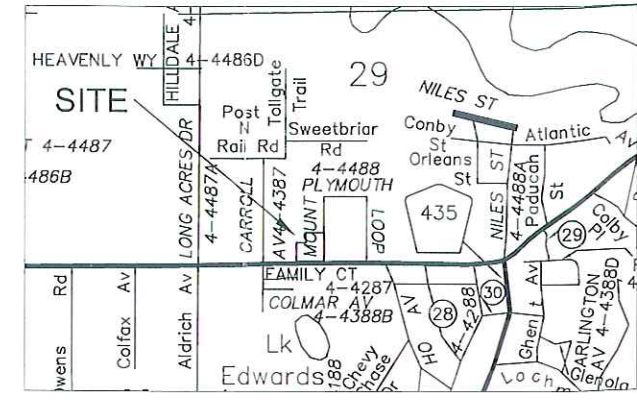
My Commission Expires: \_\_\_\_\_





Scale: 1" = 40'

Scale: 1" = 2000'



LOCATION MAP

NOTES:

1. SITE LAND USE AND ZONING INFORMATION
  - A. ZONING: CP WITH C1 AND C2 USES (ORD #66-89)
  - B. LAND USE: MT PLYMOUTH - SORRENTO MAIN STREET
    - MAXIMUM INTENSITY RATIO ALLOWED = 0.30
    - MAXIMUM IMPERVIOUS SURFACE RATIO ALLOWED = 0.60
    - MINIMUM REQUIRED OPEN SPACE RATIO = 0.20
  - C. SITE DATA
    - SITE AREA - 71,516 - SF (1.64 ACRES)
    - 1. FLOOR AREA RATIO: 2.0 ALLOWED
      - ALLOWED: 71,516 X 200% = 143,032-SF
      - PROPOSED: 11,984-SF (17%)
    - 2. IMPERVIOUS AREA:
      - A. EXISTING IMPERVIOUS AREA - 0.0 S.F. (0.00 ACRES)
      - B. PROPOSED IMPERVIOUS AREA:
        - BUILDING = 11,984-SF
        - PAVEMENT & CONCRETE = 12,027-SF
        - SIDEWALKS & PATIO = 946-SF
        - POOL = 600-SF
        - TOTAL PROPOSED IMPERVIOUS = 25,557-SF (0.59-ACRE) 0.36
      - C. BUILDING (11,984-SF) - SUMMARY OF USES:
        - OFFICE = 2,214-SF
        - RESIDENCE = 1,441-SF
        - KENNELS = 8,329-SF
    - 3. OPEN SPACE = 45,959-SF (1.06-ACRE) 64.0%
2. BOUNDARY AND TOPOGRAPHY INFORMATION BASED UPON SURVEY BY HARRISON SURVEYING AND MAPPING.
3. ADDRESS - 31507 MT. PLYMOUTH LOOP SORRENTO, FL 32776

LEGEND

	BOUNDARY
	SETBACK LINE
	CENTERLINE
	SILT FENCE
	EXISTING OVERHEAD POWER
	UTILITY EASEMENT
	EXISTING POINTS
	EXISTING EDGE OF PAVEMENT
	LANDSCAPE BUFFER
	EXISTING CENTERLINE

REVISIONS:  
**Civil Engineering Solutions, Inc.**  
Civil & Environmental Engineering  
322 North Rockledge Ave., Tallahassee, FL 32310  
Phone: 904.242.2811 Fax: 904.242.2811  
www.civil-engineering.com

DOG SPOT PET RESORT  
VARIANCE REQUEST  
MT. PLYMOUTH, FLORIDA

DRAWN BY: RM  
CHECKED BY: DC

FILE NUMBER:  
12116-01

SHEET SIZE:  
11 X 17

CONCEPT  
PLAN

FIGURE 1