

10 Please record and return to: (Via Inter-Office Mail)

Cynthia Spraggins, Administrative Specialist
Planning Services
1660 Ringling Boulevard
Sarasota, FL 34236

Customer ID# 5223

Charge to: Planning Services

Account# 51810000500489



**NOTICE OF STIPULATIONS
AND LIMITATIONS ENCUMBERING
REAL PROPERTY PURSUANT TO
THE SARASOTA COUNTY ZONING CODE**

The following property, located north of Bee Ridge Road and east of Mauna Loa Boulevard, in Sarasota County, Florida, owned by Larry Krauss, Terracap BR Partner, L.P., and described in Resolution No. 2014-205 attached hereto, to allow an individual use greater than 20,000 square feet in a CN (Commercial Neighborhood) zone district, on approximately 6.9 acres, pursuant to Special Exception Petition No. 1720 filed by Peter M. Dailey, Agent, and granted by Sarasota County on December 10, 2014 is subject to the following stipulations and limitations, violations of which shall constitute a violation of the Sarasota County Zoning Code:

(Stipulations and limitations are those described in Section B of Resolution No. 2014-205, attached hereto)

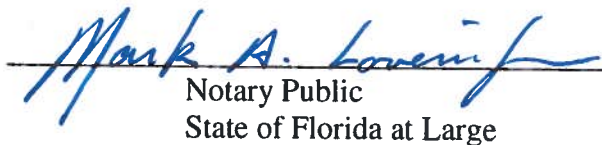

Tate Taylor, Operational Manager

**STATE OF FLORIDA
COUNTY OF SARASOTA**

Before me, the undersigned Notary Public, personally appeared Tate Taylor, Operational Manager, to me known to be the individual who executed the foregoing Notice of Stipulations and Limitations Encumbering Real Property pursuant to the Sarasota County Zoning Code, and he acknowledged before me that he executed the same.

Witness my hand and official seal at Sarasota County, Florida, this 7th day of January,
2015.




Notary Public
State of Florida at Large

This instrument prepared by:

RESOLUTION NO. 2014-205
OF THE BOARD OF COUNTY COMMISSIONERS
OF SARASOTA COUNTY, FLORIDA
SPECIAL EXCEPTION NO. 1720

WHEREAS, Peter Dailey, Agent for the Owner of the hereinafter described real property, has filed Special Exception Petition No. 1720 requesting that a special exception be granted to allow an individual use greater than 20,000 square feet in a CN zone district on approximately 6.9 acres located north of Bee Ridge Road and east of Mauna Loa Boulevard, Sarasota County, Florida, and

WHEREAS, the Planning Commission of Sarasota County, after due public notice, did hold a public hearing on the 3rd day of April, 2014, to consider said Special Exception Petition No. 1720, and

WHEREAS, the said Planning Commission did submit and report its findings and recommendations to this Board that said Special Exception Petition No. 1720 be granted, and

WHEREAS, this Board, after due public notice, did on the 21st day of May, 2014, hold a public hearing to consider said special exception petition, the recommendation of the Planning Commission and all matters relevant to said petition.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Sarasota County, Florida, in public meeting assembled:

A. This Board, after having considered the report of the Planning Commission, the testimony of the Applicant, evidence entered into the record, public comment on the petition and all things brought to its attention with regard to said Special Exception Petition No. 1720 does make the following findings:

1. The proposed use is consistent with the intent, goals, objectives, policies, guiding principles and programs of the Comprehensive Plan;
2. The proposed use is compatible with the existing land use pattern and designated future uses;
3. There are adequate public facilities available consistent with the level of service standards adopted in the Comprehensive Plan, and as defined and implemented through the Sarasota County Concurrency Management System Regulations, Chapter 94, Article VII of Exhibit A of the Sarasota County Code;
4. The proposed use, singularly or in combination with other special exceptions, will not be detrimental to the health, safety, morals, order, comfort, convenience, or appearance of the neighborhood or other adjacent uses by reason of any one or more of the following: the number, area, location, height, orientation, intensity or relation to the neighborhood or other adjacent uses;

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2014 DEC 12 2:54
CLERK OF COUNTY COMMISSIONERS
SARASOTA COUNTY FL

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5. The proposed use will be adequately buffered to effectively separate traffic, visual impact and noise from existing or intended nearby uses;

6. The subject parcel is adequate in shape and size to accommodate the proposed use;

7. The ingress and egress to the subject parcel and internal circulation will not adversely affect traffic flow, safety or control.

8. The subject property is adequate to accommodate the height and mass of any proposed structure(s).

B. Special Exception Petition No. 1720 is hereby granted for the following described property, said property being in Sarasota County, Florida, to-wit:

North of Bee Ridge Road and east of Mauna Loa Boulevard,
Sarasota County, Florida AND BEING MORE PARTICULARLY
DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHWEST CORNER OF LOT 2, BEE RIDGE PARK OF COMMERCE, RECORDED IN PLAT BOOK 48, PAGES 2 THROUGH 2F, PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA; THENCE NORTHWESTERLY ALONG THE EASTERLY RIGHT OF WAY LINE OF MAUNA LOA BOULEVARD (BEING A CURVE TO THE LEFT HAVING: A RADIUS OF 710.00 FEET, A CENTRAL ANGLE OF 18°39'57", A CHORD LENGTH OF 230.28 FEET AND A CHORD BEARING OF N 25°16'41" W), AN ARC DISTANCE OF 231.30 FEET; THENCE N 55°23'20" E, A DISTANCE OF 130.48 FEET; THENCE N 89°59'30" E, A DISTANCE OF 593.30 FEET; THENCE S 05°14'52" E, A DISTANCE OF 591.86 FEET TO THE NORTH RIGHT OF WAY OF BEE RIDGE ROAD; THENCE S 89°59'30" W, ALONG SAID NORTH RIGHT OF WAY AND THE SOUTH LINE OF LOT 3, A DISTANCE OF 358.31 FEET TO THE SOUTHEAST CORNER OF AFOREMENTIONED LOT 2; THENCE ALONG THE BOUNDARY OF SAID LOT 2 THE FOLLOWING FIVE (5) COURSES:

- 1) N 00°00'30" W, A DISTANCE OF 138.01 FEET;
- 2) S 89°59'30" W, A DISTANCE OF 25.00 FEET;
- 3) N 00°00'30" W, A DISTANCE OF 180.91 FEET;
- 4) S 89°59'30" W, A DISTANCE OF 190.26 FEET;
- 5) S 75°17'17" W, A DISTANCE OF 109.56 FEET TO THE POINT OF BEGINNING.

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and the same is hereby approved for Special Exception No. 1720, subject to the stipulations as set forth below. As used in the stipulations hereinafter set forth, the term "Owner" shall refer to the Owner or Owners of the property described in Section B and their successors and assigns. Upon recording in the public records of Sarasota County, these stipulations shall be covenants running with the land.

1. Development within the Binding Concept Plan Area shall take place in substantial compliance with the Development Concept Plan date stamped March 10, 2014, and attached hereto as Exhibit "A." This does not imply or confer any variances from applicable zoning or land development regulations.

C. This Resolution shall take effect immediately upon its adoption.

PASSED AND DULY ADOPTED this 10th day of December, 2014.

BOARD OF COUNTY COMMISSIONERS OF
SARASOTA COUNTY, FLORIDA

By: 

Chair

ATTEST:

KAREN E. RUSHING, Clerk
of Circuit Court and ex officio
Clerk of the Board of County
Commissioners of Sarasota
County, Florida.

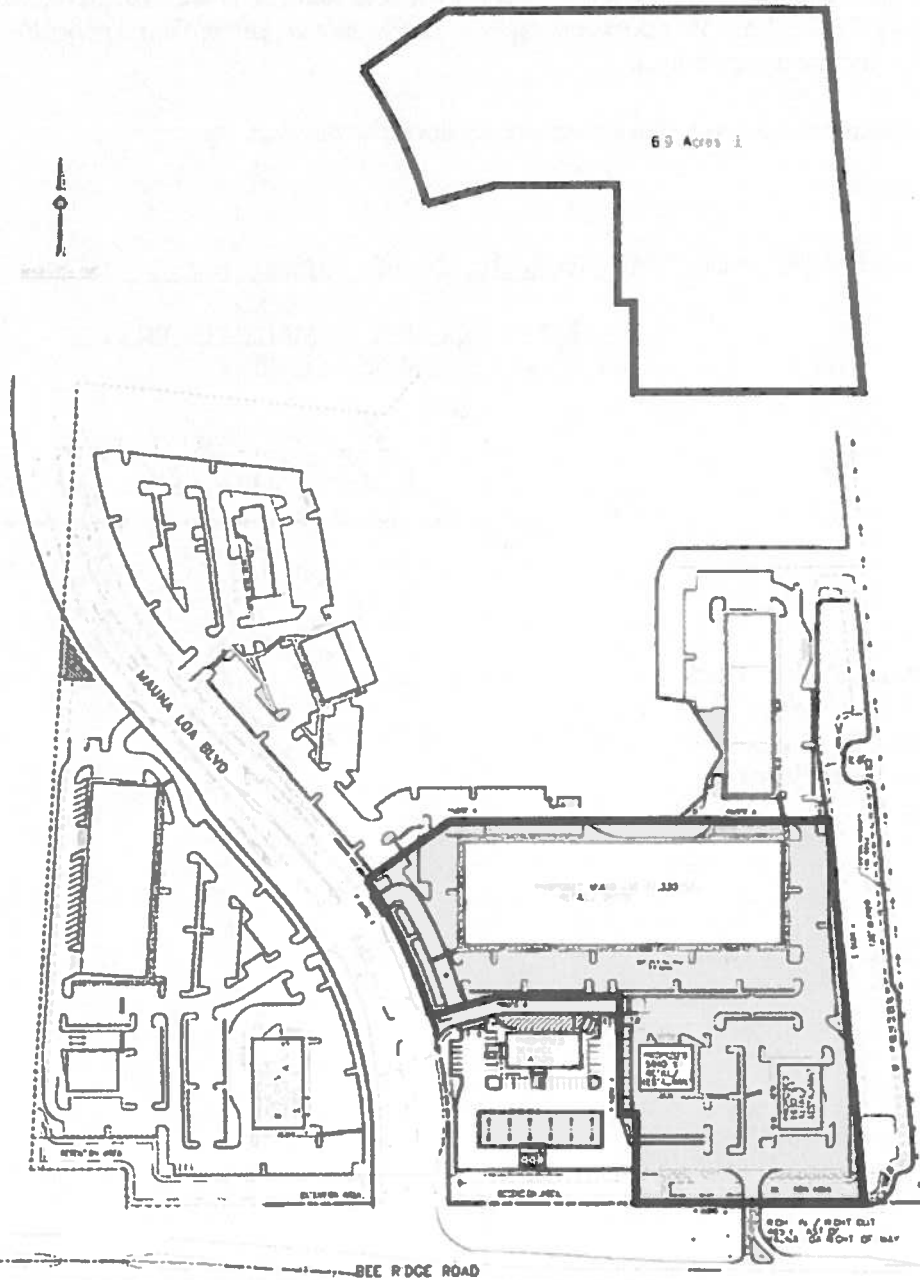
By: 

Deputy Clerk

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BEE RIDGE PARK OF COMMERCE PLAT BOOK 48, PAGES 2 - 2F
 SITE DATA:
 CONCEPTUAL SITE PLAN
 BINDING SITE PLAN FOR THE 77,330 SQ. FT. BUILDING ONLY
 EXISTING ZONING: PCD GROUPS 1 & 5
 PROPOSED ZONING: COMMERCIAL NEIGHBORHOOD (CN)
 PREPARED FOR TERRACAP BR PARTNERS, L.P.

PREPARED BY SAMPEY, BURCHETT AND KNIGHT, INC., AND RICHARD M. FISCHER
 DATE: MARCH 18, 2013 (SEE REVISIONS BELOW)



NOTES:
 1. 10' buffer required along Mauna Loa Blvd (11' in
 2. 10' buffer required along Bee Ridge Rd (12'
 3. There is a 5' buffer between existing PCD and CN
 4. North border and ground conditions, etc. are not shown or indicated between 0' and 100'

REVISED BY: [unclear]
 DATE: [unclear]
 [unclear] [unclear] [unclear]
 [unclear] [unclear] [unclear]

EXHIBIT A
 Received March 10, 2014

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Exhibit A

The legal description of said property in Sarasota County, Florida, being located north of Bee Ridge Road and east of Mauna Loa Boulevard and being more particularly described as follows:

BEGIN AT THE NORTHWEST CORNER OF LOT 2, BEE RIDGE PARK OF COMMERCE, RECORDED IN PLAT BOOK 48, PAGES 2 THROUGH 2F. PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA: THENCE NORTHWESTERLY ALONG THE EASTERLY RIGHT OF WAY LINE OF MAUNA LOA BOULEVARD (BEING A CURVE TO THE LEFT HAVING: A RADIUS OF 710.00 FEET, A CENTRAL ANGLE OF 18°39'57", A CHORD LENGTH OF 230.28 FEET AND A CHORD BEARING OF N 25°16'41" W), AN ARC DISTANCE OF 231.30 FEET; THENCE N 55°23'20" E, A DISTANCE OF 130.48 FEET; THENCE N 89°59'30" E, A DISTANCE OF 593.30 FEET; THENCE S 05°14'52" E, A DISTANCE OF 591.86 FEET TO THE NORTH RIGHT OF WAY OF BEE RIDGE ROAD; THENCE S 89°59'30" W, ALONG SAID NORTH RIGHT OF WAY AND THE SOUTH LINE OF LOT 3, A DISTANCE OF 358.31 FEET TO THE SOUTHEAST CORNER OF AFOREMENTIONED LOT 2; THENCE ALONG THE BOUNDARY OF SAID LOT 2 THE FOLLOWING FIVE (5) COURSES:

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- 3) N 00°00'30" W, A DISTANCE OF 180.91 FEET;
- 4) S 89°59'30" W, A DISTANCE OF 190.26 FEET;
- 5) S 75°17'17" W, A DISTANCE OF 109.56 FEET TO THE POINT OF BEGINNING.



STATE OF FLORIDA, COUNTY OF SARASOTA
I hereby certify that the foregoing is a true and correct copy
of pages 5 through 5 of the instrument filed in
this office. The original instrument filed contains 5
pages.

This copy has no redactions. This copy has been
redacted pursuant to law.

Witness my hand and official seal, this 5 day of
2014

MARIE E. RUSHING, CLERK OF THE CIRCUIT COURT
BY [Signature]

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RECORDED IN OFFICIAL RECORDS
INSTRUMENT # 2014144958 5 PG(S)
December 05 2014 11 12 52 AM
KAREN E RUSHING
CLERK OF THE CIRCUIT COURT
SARASOTA COUNTY FL

prepared by
Boone, Boone, Boone & Koda
Attorneys at Law
P.O. Box 1596
Venice, FL 34284-1596



DECLARATION OF COVENANTS AND RESTRICTIONS
RESTRICTING LAND USES

This Declaration of Covenants and Restrictions Restricting Land Uses (hereinafter referred to as "Covenant") is made this 21st day of NOVEMBER, 2014, by TERRACAP BR PARTNERS, L.P., a Florida Limited Partnership (hereinafter referred to as "TerraCap"), for itself, its successors and assigns, whose mailing address is 100 Sheppard Avenue East, Suite 502, Toronto, ON M2N 6-N5 CA.

RECITALS:

- A. WHEREAS, TerraCap is the present record owner of a parcel of land within unincorporated Sarasota County, Florida, which is approximately 6.9 acres in size and generally located North of Bee Ridge Road and East of Mauna Loa Boulevard, described in Exhibit "A" attached hereto and incorporated herein by reference, (hereinafter referred to as the "Property"); and
- B. WHEREAS, the Property is currently zoned Planned Commercial Development pursuant to the Sarasota County Zoning Regulations; and
- C. WHEREAS, TerraCap desires to re-zone the Property to Commercial Neighborhood under the Sarasota County Zoning Regulations; and
- D. WHEREAS, In order to change the zoning designation of the Property as described in Recital C. above, TerraCap has submitted to Sarasota County a Rezoning Petition to change the zoning classification of the Property to Commercial Neighborhood; and
- E. WHEREAS, TerraCap has voluntarily decided and determined that, in the event Sarasota County shall approve the Rezone Petition, they will and do hereby voluntarily, and without any request or coercion, duress or influence, direct or indirect, by Sarasota County to do so, restrict the uses that may be developed on the Property for the benefit of the Property, TerraCap and Lake Sarasota Community Group, Inc., a Florida Non Profit Coporation, (hereinafter referred to as "LSCG"); and
- F. WHEREAS, TerraCap therefore desires to impose the restrictions contained within this Covenant upon the Property for the benefit of the Property, TerraCap and LSCG.

NOW THEREFORE, TerraCap does hereby voluntarily and without any request or coercion, duress or influence, direct or indirect by Sarasota County to do so, declares that the Property shall hereinafter be subject to the following covenants and restrictions:

I. Land Use Restrictions. Notwithstanding any other uses that might in the future be permitted on the Property under the Sarasota County Comprehensive Plan, Zoning Regulations, and any other applicable regulations, the Property shall not be used for the following principal uses:

- a. Adult Entertainment

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- b. Clubs and Lodges
- c. Boarding House
- d. Entertainment Outdoors
- e. Townhouse (semi-attached, roof deck, stacked)
- f. Asphalt Batching Plant or other Industrial Facility
- g. Multi-Family (multiplex, apartment)
- h. All passenger terminals except limited airport, helipad
- i. Extreme Sports Facility
- j. Bar/Tavern (stand-alone)
- k. Pet Boarding or Resort
- l. Firing or Archery Range, indoor or outdoor
- m. Commercial Parking
- n. Package Store
- o. Retail Lumber and Building Supplies
- p. All Self-Service Storage
- q. Car Wash, Full or Self-Service
- r. All Light Industrial Service
- s. All Warehouse and Freight Movement and Stockpiling of sand and gravel.

2. **Limited Land Use Restrictions.** Notwithstanding any other uses that might in the future be permitted on the Property under the Sarasota County Comprehensive Plan, Zoning Regulations, and any other applicable regulations, the following limitations on uses shall apply to the Property:

- a. Dry Cleaners are allowed, but no harmful chemical cleaning will occur onsite.
- b. Veterinary Clinics are allowed, but no boarding kennel; overnight stays for treated animals is allowed.
- c. Sales of Vehicle Parts and Accessories are allowed, but no vehicle maintenance and repair.
- d. For indoor recreation uses, no outdoor component of a game shall be allowed.
- e. No permanent tents associated with outdoor activities shall be allowed.
- f. Truck deliveries to uses fronting Bee Ridge Road shall only be allowed between the hours of 6:00 a.m. to 11:00 p.m.
- g. For restaurants with frontage on Bee Ridge Road, no live outdoor music shall be performed at night after 10:00 p.m.
- h. For restaurants with frontage on Bee Ridge Road, no live outdoor disc jockey shall perform at night after 10:00 p.m.

3. **Lighting Standards.** All lighting will meet dark sky requirements by providing a photometric lighting plan, which will have the lowest possible light levels occurring at the property boundary.

4. **Terms Used.** The terms used in Paragraph 1. (a) – (s) and Paragraph 2. (a) – (h) shall have the same meaning ascribed to such terms by the Sarasota County Zoning Regulations.

5. **Covenants to Run with the Title to the Property.** The provisions of this Covenant shall be deemed to run with the title to the Property and shall be binding upon TerraCap, its successors and assigns.

6. **Enforcement.** The provisions of this Covenant are for the benefit of and shall be enforceable by TerraCap and LSCG. LSCG or TerraCap may commence an action to prevent and enjoin the violation of the terms of this Covenant, or to enforce the terms of this Covenant. This Covenant shall be governed, enforced, and construed in accordance with the laws of the State of Florida. If any provisions of this Covenant or the application thereof shall be held to be invalid or unenforceable in a court of law, the remainder of this Covenant shall be fully affected thereby and each provision of this Covenant shall not otherwise remain valid and enforceable.

7. **Prevailing Party.** In the event LSCG or TerraCap should commence an action as described herein, the prevailing party shall be entitled to recover all costs, expenses and reasonable attorneys' fees (trial and appellate) incurred in connection with such action, in addition to any other relief to which it or they may be entitled.

8. **Amendment.** This Covenant may be amended by TerraCap, its successors or assigns by recording an amendatory Covenant in the Public Records of Sarasota County, Florida. However, no such amendment shall be effective without the prior written consent of LSCG, which consent shall not be unreasonably withheld. If LSCG does not give its consent or provide its reasons for withholding same, within 30 days from request, they shall be deemed to have given consent. Notwithstanding anything in the foregoing to the contrary, TerraCap, its successors and assigns, may unilaterally amend the Covenant to accommodate adjustments and modifications as may be required by Sarasota County in connection with its review and approval of any Development Orders for the Property.

9. **Effective Date.** This Covenant shall be recorded in the Public Records of Sarasota County, Florida following final approval of the Zoning Petition by Sarasota County and shall be effective upon such recording. For the purpose of this provision the term "final approval" shall mean all appeals of the Zoning Petition have been exhausted and/or all appeal periods have expired.

10. **Duration.** This Covenant shall continue in full force and effect against the Property from its recording in the public records and continue until the expiration of twenty (20) years from the date of recording. Notwithstanding anything in the foregoing to the contrary, TerraCap, its successors and assigns, may terminate this Covenant if all or any portion of the Property thereof is changed to a different zoning classification than Commercial Neighborhood.

IN WITNESS WHEREOF, TerraCap has caused this Declaration of Covenants and Restrictions Restricting Land Uses on the Property to be executed in its name on the date first above written.

ATTEST:

By: [Signature]
WAYNE HURPITS
Print Name

TERRACAP BR PARTNERS, L.P.

By: [Signature]
LARRY KRAUS, PRESIDENT
Print Name and Title

By: [Signature]
JASON McCAULEY
Print Name

STATE OF FLORIDA
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this 21st day of November, 2014, by Larry Kraus who is personally known of produced identification _____.

[Signature]
Notary Signature
Print Name Daniel [Signature]

