

ORDINANCE NO. 16- 12

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE FOURTH SMALL SCALE PLAN AMENDMENT OF 2016, 16S.04, TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; AMENDING SECTION 62-501 ENTITLED CONTENTS OF THE PLAN; SPECIFICALLY AMENDING SECTION 62-501, PART XVI (E), ENTITLED THE FUTURE LAND USE MAP APPENDIX; AND PROVISIONS WHICH REQUIRE AMENDMENT TO MAINTAIN INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 163.3161 et. seq., Florida Statutes (1987) established the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Section 163.3167, Florida Statutes, requires each County in the State of Florida to prepare and adopt a Comprehensive Plan as scheduled by the Department of Economic Opportunity; and

WHEREAS, on September 8, 1988, the Board of County Commissioners of Brevard County, Florida, approved Ordinance No. 88-27, adopting the 1988 Brevard County Comprehensive Plan, hereafter referred to as the 1988 Plan; and

WHEREAS, Sections 163.3184 and 163.3187, and 163.3189, Florida Statutes, established the process for the amendment of comprehensive plans pursuant to which Brevard County has established procedures for amending the 1988 Plan; and

WHEREAS, Brevard County initiated amendments and accepted application for small scale amendments to the Comprehensive Plan for adoption in calendar year 2016 as Plan Amendment 16S.04; and

WHEREAS, Brevard County established Technical Advisory Groups consisting of County technical employees grouped according to their operational relationship to the subject of a plan element or sub-element being prepared or amended, and these Technical Advisory Groups have provided technical expertise for the Amendment 16S.04; and

WHEREAS, the Board of County Commissioners of Brevard County, Florida, have provided for the broad dissemination of proposals and alternatives, opportunity for written comments, public hearings after due public notice, provisions for open discussion, communication programs and consideration of and response to public comments concerning the provisions contained in the 1988 Plan and amendments thereto; and

WHEREAS, Section 62-181, Brevard County Code designated the Brevard County Planning and Zoning Board as the Local Planning Agency for the unincorporated areas of Brevard County, Florida, and set forth the duties and responsibilities of said local planning agency; and

Officially filed with the Secretary of State on 8/5/16

WHEREAS, on May 23, 2016, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 16S.04, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on August 4, 2016, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations of the Technical Advisory Group, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved for adoption Plan Amendment 16S.04; and

WHEREAS, Plan Amendment 16S.04 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 16S.04 adopted by this Ordinance is based upon findings of fact as included in Exhibit A and Exhibit B.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Section 1. Authority. This ordinance is adopted in compliance with, and pursuant to the Local Government Comprehensive Planning and Land Development Regulations Act, Sections 163.3184 and 163.3187, Florida Statutes.

Section 2. Purpose and Intent. It is hereby declared to be the purpose and intent of this Ordinance to clarify, expand, correct, update, modify and otherwise further the provisions of the 1988 Brevard County Comprehensive Plan.

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 16S.04 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended based on documentation shown in Exhibit A and as specifically shown in Exhibit B. Exhibits A and B are hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 16S.04, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

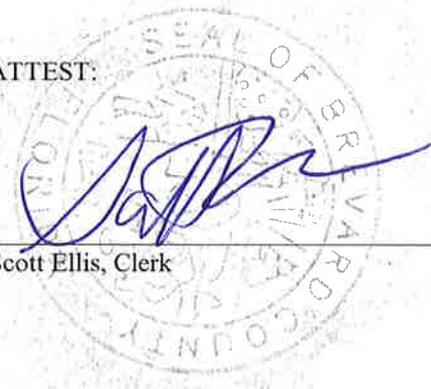
Section 5. Severability. If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair,

invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 6. Effective Date. The effective date of this small scale plan amendment shall be 31 days after adoption, unless the amendment is challenged pursuant to Section 163.3187(3), Florida Statutes. If challenged, the effective date of this amendment shall be the date a final order is issued by the Department of Community Affairs, or the Administration Commission, finding the amendment in compliance with Section 163.3184, Florida Statutes. A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten days of enactment.

DONE AND ADOPTED in regular session, this 9 day of AUG, 2016.

ATTEST:



  
\_\_\_\_\_  
Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

By:   
\_\_\_\_\_  
Jim Barfield, Chairman

As approved by the Board on Aug. 9, 2016



## FLORIDA DEPARTMENT *of* STATE

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

August 5, 2016

Honorable Scott Ellis  
Clerk  
Board of County Commissioners  
Brevard County  
Post Office Box 999  
Titusville, Florida 32781-0999

Attention: Ms. Deborah Thomas, Administrative Assistant

Dear Mr. Ellis:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 16-12, which was filed in this office on August 5, 2016.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb

IV.A.1

**Kendell Keith, AICP, RLA, LEED® AP**

President

Oak Hill Planning Studio, LLC

3674 Lower Park Road

Orlando, Florida 32814

**EDUCATION**

**Master of Business Administration,**

Rollins College,  
Winter Park, Florida (2006)

**Master of City Planning,**

Georgia Institute of Technology,  
Atlanta, Georgia (1991)

**Graduate Certificate in Real Estate,**

Joint Degree Program,  
Georgia State University, Atlanta, Georgia (1991)

**Bachelor of Landscape Architecture,**

University of Georgia,  
Athens, Georgia (1987)

**REGISTRATION**

Florida Landscape Architecture License 1525 (1992)

American Institute of Certified Planners, AICP #88808 (1993)

Leadership in Energy & Environmental Design®, Accredited Professional (LEED® AP)

**PLANNING EXPERIENCE**

**Landscape Architect – 01/1988 to 03/1990**

SRSS Architects  
Atlanta, Georgia

**Research Associate – 03/1990 to 06/1991**

Carter Associates  
Atlanta, Georgia

**Planner - 08/1991 to 10/1993**

City of Kissimmee Planning  
Kissimmee, Florida

**Senior Planner - 10/1993 to 11/1996**

Chief Planner - 11/1996 to 03/1999  
Orange County Planning Division  
Orlando, Florida

**Senior Project Manager - 03/1999 to 04/2006**

MSCW, Inc.  
Orlando, Florida

**Principal, EVP - 05/2006 to 04/2016**

Planning Design Group, LLC  
Orlando, Florida

**President – 05/2016 to Present**

Oak Hill Planning Studio, LLC  
Orlando, Florida

**EXEMPLARY PROJECT EXPERIENCE**

**The Preserve at Lakeside Village**

Working on behalf of the property owners, Kendell prepared a Small Area Study to support the conversion of an area adjacent to Walt Disney World from Rural to allow for 117 single family lots. Kendell prepared the Comprehensive Plan Amendment, Planned Development Land Use Plan, and concept plans. Kendell represented the project at all public hearings and in negotiations with various agencies to ensure road and school capacity.

### **Winter Haven Town Center Concept Plan**

Kendell was hired by a private Developer to conduct a site analysis and prepare a masterplan for a Community Redevelopment Area (CRA) in the City of Winter Haven for approximately 160 acres. The proposed master plan is for the Winter Haven Town Center which is proposed for more than 500,000 square feet of retail and restaurants, 560 multi-family units, 300-room Hotel, Civic/Theatre, Recreation/Aquatic Center and Splash Park and City Park/Boat Launch expansion.

### **Frye Center Planned Development Land Use Plan**

Kendell prepared the Planned Development Land Use Plan for the 139-acre Frye Center PD and represented the project at the public hearings. Planning Design Group also assisted in negotiations with the County and other property owners to secure the required public facilities for roads, schools and the Village Center Park. Planning Design Group continues to work on the project by coordinating the efforts of the Civil Engineer and Architect in creating development plans that adhere to the vision of a mixed-use village center for the Horizon West area of Orange County.

### **Orange County, Florida - Continuing Professional Services**

Kendell prepared an Update to the Orange County Parking Standards to provide flexibility in development approvals; and an analysis of the Economic Return on New Urbanism to determine benefit and cost increment and their impact on the provision and realization of adequate Workforce Housing.

### **KB Home - Continuing Planning Services**

For KB Home, the Kendell created an Architectural Standards Guidebook of the design requirements for residential development within the Horizon West area of Orange County. This Guidebook provides the KB Home Team a quick reference guide for a visual interpretation of the Orange County code requirements. Kendell also prepared Planned Development land use plan amendments for various projects within Orange and Volusia Counties. Kendell has successfully represented KB Homes' interests in these projects before Orange County Government, City of Apopka and City of New Smyrna Beach.

### **Economic Return on New Urbanism - Orange County Continuing Planning Services**

Under a continuing services contract with Orange County, Kendell facilitated two focus group discussions with developers and professionals with experience in developing New Urbanism projects. To prepare for the meetings, participants were given a set of questions regarding the cost and profitability of developing New Urbanism projects. The purpose of the study was to gain a better understanding of the cost and market factors associated with New Urbanist developments in Central Florida. Kendell prepared a report summarizing the discussions with support from outside research and surveys.

### **Innovation Place Development of Regional Impact**

Kendell was the project manager for this 1,200 acre DRI in southeast Orange County. Located in the heart of Orange County's Innovation Way economic development initiative, this project is currently planned for up to 8,500 residential units, 2.2 million square feet of office space, and 1.2 million square feet of retail development.

**North Jacksonville Shared Vision Plan**

Kendell was the project planner for this long-range planning effort for approximately 150,000 acres in the City of Jacksonville, Florida. This project won the 2003 Best Public Project Award from the Florida Planning and Zoning Association.

**City View at Hughes Square, Orlando, Florida**

Kendell was the project manager to establish development entitlements for this urban redevelopment project in the Parramore district of Downtown Orlando. The project included a new, five-story corporate headquarters for Hughes Supply; 210,000 square feet of retail/office space; a 1,000-space parking garage; and a 266-unit apartment complex.

**Lakeside Village, Specific Area Plan, Orange County, Florida**

As project manager for Orange County, Kendell facilitated the public involvement process for the sector plan and coordinated the efforts of various County Divisions to adjust the Specific Area Plan, development guidelines, and Adequate Public Facilities/Transfer of Development Rights Ordinances. Adopted in May 1997, Lakeside Village encompasses over 3000 acres and is projected to build out with 10,400 dwelling units in three neighborhoods focused around neighborhood centers and one 60 acre Village Center. Lakeside Village received the 1997 Florida Planning and Zoning Association's Outstanding Innovation Award and the American Institute of Architects' Certificate of Appreciation at the Spotlight on Livable Communities Regional/Urban Design Committee 1998 Spring Forum.

**Horizon West Study and Shared Visioning Process**

As a Senior Planner for Orange County, Kendell coordinated the public involvement process with the various County Divisions for the Horizon West Study. The study area included 66,000 acres in Orange and Lake Counties. The process resulted in specific recommendations for land use policy and the new Village Land Use Classification Amendment to the Orange County Comprehensive Growth Management Plan. A model for future growth management in Orange County, the Horizon West study received the Florida Planning and Zoning Associations' 1995 Innovative Planning Award.

**Beck Property Planned Development, Orange County, Florida**

79 acres; 300 housing units; mix of single-family and townhomes in infill development.

**Riverside Townhomes, Orange County, Florida**

11.3 acres; 73 Townhomes and 2 acres commercial; redevelopment of existing mobile home park.

**Summerport Planned Development, Orange County, Florida**

1,222 acres; 2,624 housing units; 316,324 square foot commercial Planned Development (Horizon West).

**Northshore at Lake Hart Planned Development, Orange County, Florida**

1,354 acres; 1,976 housing unit; golf course community in southeast unincorporated Orange County.

**Yates Planned Development, Orange County, Florida**

750 acres; 2,500 housing unit community in south unincorporated Orange County.

**Independence Planned Development, Orange County, Florida**

Orange County, Florida – 1,400 acres; 2,491 housing units; 20,000 square foot commercial Planned Development (Horizon West).

**City of Jacksonville Commercial Design Guidelines**

Prepared a preliminary draft of the City's Commercial Design guidelines to address architectural and site design standards for urban and suburban commercial development.

**Pratt Property PUD, City of Haines City**

Prepared annexation, development impact analysis and rezoning application for 213-unit, 64 acre development on the north side of the City of Haines City.

**MEETING FACILITATION**

Innovation Place DRI Charette

Horizon West Shared Vision Charette

Orlando Board of Realtors Annual Roundup

Volusia Growth Management Commission

Volusia County League of Women Voters

FPZA Monthly Luncheons

Instructor for the Orlando Metro Section AICP study course

Facilitator and participant in the Urban Land Institute's Urban Plan II, a mentoring program with Jones High School and Olympia High School in Orlando, Florida

Annual field trip and presentation for the University of Georgia School of Environmental Design

Prepared by: Ken Fulmer, Titan Properties  
Address: 2281 Lee Rd. - Suite 204, Winter Park, FL 32789

**BINDING DEVELOPMENT AGREEMENT**

THIS AGREEMENT, entered into this \_\_\_\_ day of \_\_\_\_\_, 2016, between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and HARVEY'S INDIAN RIVER GROVES, INC., a Florida corporation (hereinafter referred to as "Developer/Owner").

**RECITALS**

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard County, Florida as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, Developer/Owner has requested the EU-2 zoning classification(s) and desires to develop the Property as a single family subdivision, and pursuant to the Brevard County Code, Section 62-1157; and

WHEREAS, as part of its plan for development of the Property, Developer/Owner wishes to mitigate potential negative impacts on abutting land owners and affected facilities or services; and

WHEREAS, the County is authorized to regulate development of the Property.

NOW THEREFORE, the parties agree as follows:

1. This Binding Development Agreement amends, replaces and supersedes previously approved Binding Development Plan Z11273 for the Property. Applicable provisions have been included herein.

2. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements, until such time as the improvements are constructed, approved, and platted as public streets by the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the

right-of-ways.

3. The Developer/Owner shall limit density to 56 residential units on the Property, which may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.

4. The Developer/Owner shall limit ingress and egress to one (1) access at North Courtenay Parkway.

5. Primary streets within the development will be curbed and guttered.

6. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida, including the restrictions and minimum code requirements for the EU-2 zoning category. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the Property. This agreement provides no vested rights against changes to the Comprehensive Plan or land development regulations as they may apply to this Property.

7. Developer/Owner, upon execution of this Agreement, shall pay to the County the cost of recording this Agreement in the Public Records of Brevard County, Florida.

8. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and be subject to the above referenced conditions as approved by the Board of County Commissioners on \_\_\_\_\_. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.

9. Violation of this Agreement will also constitute a violation of the Zoning Classification and this Agreement may be enforced by Sections 1.7 and 62-5, Code of Ordinances of Brevard County, Florida, as it may be amended.

IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA  
2725 Judge Fran Jamieson Way  
Viera, FL 32940

\_\_\_\_\_  
Scott Ellis, Clerk  
(SEAL)

\_\_\_\_\_  
Jim Barfield  
Chairman  
As approved by the Board on \_\_\_\_\_

(Please note: You must have two witnesses and a notary for each signature required. The notary may serve as one witness.)

WITNESSES:

DEVELOPER/OWNER

\_\_\_\_\_  
(Witness Name typed or printed)

\_\_\_\_\_  
Harvey's Indian River Groves, Inc.  
\_\_\_\_\_  
3700 US Highway 1, Rockledge, FL 32955  
(Address)

\_\_\_\_\_  
(Witness Name typed or printed)

\_\_\_\_\_  
(Vice President/Director)  
James B. Harvey

STATE OF \_\_\_\_\_ §

COUNTY OF \_\_\_\_\_ §

The foregoing instrument was acknowledged before me this \_\_\_\_ day of, 20 \_\_, by James B. Harvey, Vice-President/Director of Harvey's Indian River Groves, Inc., who is personally known to me or who has produced identification.

My commission expires  
SEAL  
Commission No.:

\_\_\_\_\_  
Notary Public  
\_\_\_\_\_  
(Name typed, printed or stamped)