



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 12

Public Hearing Date: December 9, 2021

Case No. and Project Name: VAR-21-84-5, Nest Treehouse Resort

Owner: Brett Lawicki

Applicant: Kristin Boekhoff, Unity Resorts LLC

Requested Action: Variance request to LDR Section 3.02.09 to allow for the construction of structures less than 850-square feet in size; and to the paved access requirements contained in LDR Section 9.04.01(B), and the Lake County Transportation Planning, Design, and Construction Standards (also known as Appendix "A"), to accommodate for the development of an ecotourism treehouse resort.

Case Manager: Emily W. Johnson, Senior Planner

Subject Property Information

Size: 43.38 +/- acres

Location: 43505 Indian Mound Trail, Deland.

Alternate Key No.: 3450698

Future Land Use: Rural

Current Zoning District: Agriculture (A)

Flood Zones: "AE"

Joint Planning Area/ ISBA: N/A

Overlay Districts: Wekiva-Ocala Rural Protection Area (RPA)

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Rural and Conservation	Agriculture (A)	Conservation	Large tracts with wetlands and flood zone
South	Conservation	Agriculture (A)	Conservation	Large tracts with wetlands and flood zone
East	Conservation	Agriculture (A)	Conservation	Large tracts with wetlands and flood zone
West	Rural	Agriculture (A)	Vacant Residential and Conservation	Large vacant residential tracts with wetlands and flood zone

Summary of Request.

The subject property, identified as Alternate Key Number 3450698, contains 43.38 +/- acres, is zoned Agriculture (A), and is designated with a Rural Future Land Use Category by the 2030 Comprehensive Plan. Based on GIS and conceptual plan, the subject parcel lies entirely within Flood Zone "AE", and there is an indication that wetlands exist on the site. The subject parcel is located at 43505 Indian Mound Trail, Deland.

The Applicant has submitted an application for a Conditional Use Permit (CUP) seeking approval for an ecotourism treehouse resort. The Concept Plan (Attachment "A") shows the existing structures, as well as future development in association with the proposed conditional use. The subject property is currently developed with an existing one-story residence, observation deck, boathouse, dock, shed, and outhouse. With the exception of the observation deck, all existing structures are to be removed.

In reviewing the CUP application, Staff identified conflicts between the proposal and two parts of the code. Land Development Regulations (LDR) Section 3.02.09, states that the minimum structure size within the Agriculture (A) zoning district is 850-square feet; the proposed treehouse guest quarters range in size from 250-450-square feet. Additionally, LDR Section 9.04.01(B) and the Lake County Transportation Planning, Design, and Construction Standards (a/k/a "Appendix A") outline paved access requirements, which the current accessway does not meet. After discussion with the County Attorney's Office (CAO) it was determined that a variance to Appendix A could be granted by the Board of Adjustments (BOA), as Appendix A was adopted by Resolution #1994-118, and subsequently inserted into the LDR as LDR Section 9.04.01(B). The Applicant has submitted a variance to these two parts of the code to alleviate the aforementioned conflicts and create a precedence for future ecotourism developments.

The variance application was sent to the Public Works Department for review and they provided the following comments: *"Public Works Department cannot support the request to waive the unpaved access for the future proposed CUP and site plan. The current access to the parcel of land is from SR 44 onto Cummer Rd then onto Tall Palm Fish Camp Rd and then on Indian Mound Trail which appears to end at the parcel. SR 44 is a state maintained paved road. Cummer Rd is a county maintained paved road. Both Tall Palm Fish Camp Rd and Indian Mound Trail are both unmaintained dirt roads. A preliminary reach on the right-of-way did not find any record of easement or right-of-way for the unmaintained roads. Additional information will be required with site development applications on the access to the site. The county code requires site plans and subdivision to have paved access. Paved Access is defined as meeting a county paved road standard. If paved access does not exist, then it would be the responsibility of the developer to improve the access to the site. The site is currently zoned agriculture and the amount of traffic to it is de minimus. The proposed CUP for the site would require a site plan application after CUP approval. The CUP uses proposed would increase traffic to and from the site. The uses in general would have traffic from the guests staying in the resort, the staff employed by the resort, the restaurant, and the services vehicles supporting the uses of the site such as delivering goods to the site. The increase in traffic would potentially diminish the functionality of the existing dirt road, create maintenance to a road that has no known responsible entity for maintenance and limit emergency vehicle response."*

Staff Analysis.

LDR Section 14.15.02 states that variances will 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.

1. The purpose of the Land Development Regulation will be or has been achieved by other means.

The intent of LDR Section 3.02.09, Minimum Structure Size Requirements, is to ensure that primary structures are designed to be compatible with the purpose and intent of the underlying zoning district, to preserve property values, and maintain a uniform character within residential neighborhoods.

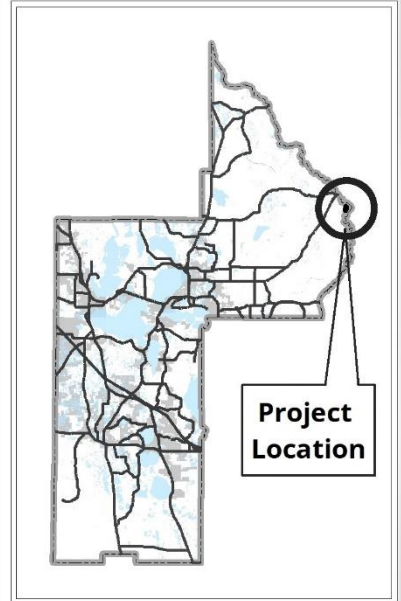
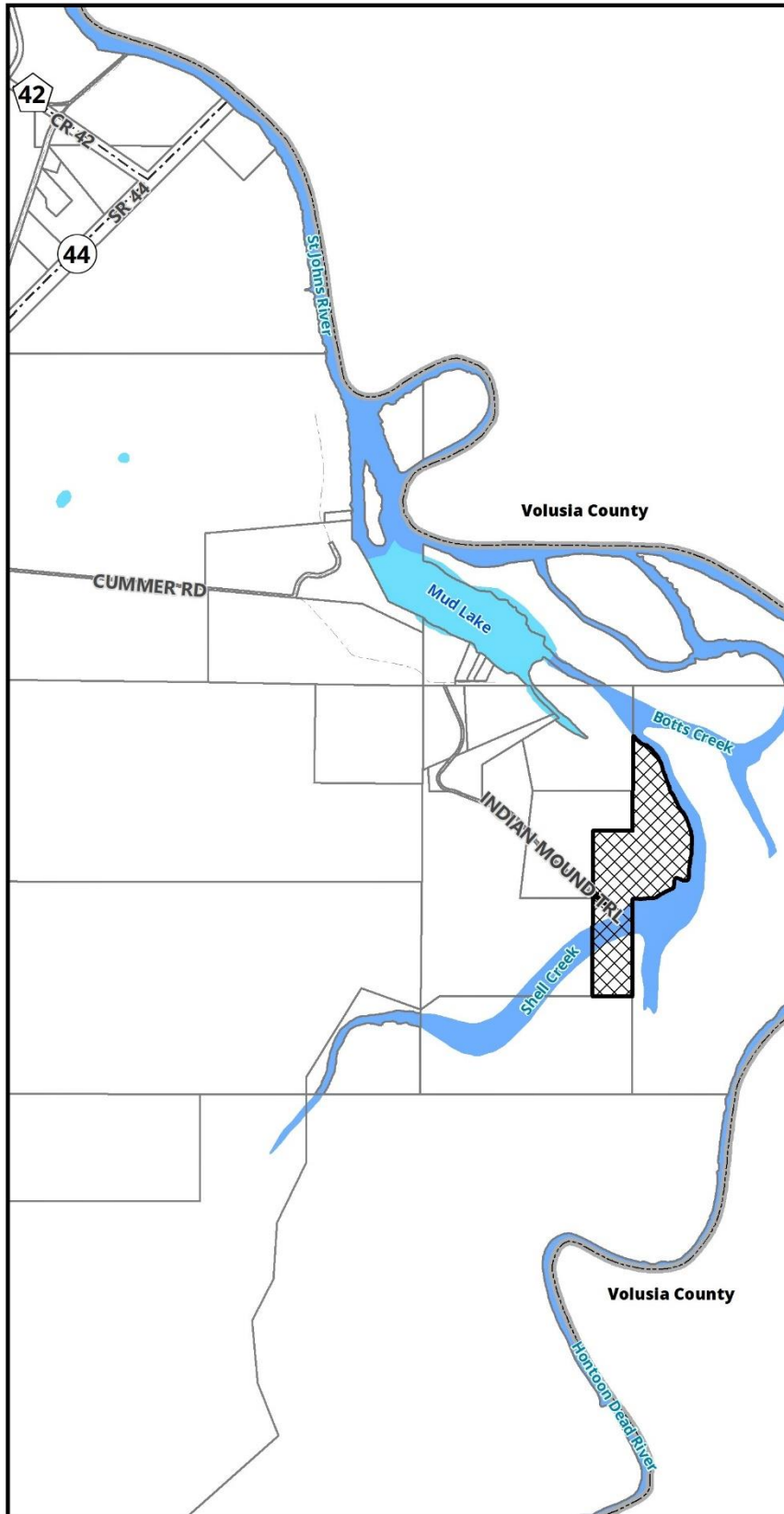
The intent of LDR Section 9.04.01(B) and Appendix A is to ensure that new commercial developments and subdivisions have suitable and appropriate infrastructure in place for local and emergency access, and any additional traffic which may be generated as a result of the new development.

The Applicant has provided a written statement (Attachment "B") indicating that the request is consistent with the intent of LDR Section 3.02.09, LDR Section 9.04.01(B), and Appendix A.

- 2. The 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.**

The Applicant provided a written statement, which is included as Attachment "B".

Map of Subject Property



Attachment "A" – Concept Plan

NEST TREEHOUSE RESORT SITE PLAN
 Applicant: Nest Treehouse Resort LLC
 Address: 2033 Nodding Pines Way, Casselberry FL 32707
 Phone: 565.622.7874
 Owner: Brett Lapack
 Address: P.O. Box 280219, Casselberry FL 32718
 Phone: 407.535.8583
 10.08.2021 / Version 02

SCALE: 1" = 200'

SITE PLAN KEY

ANNEXES

- 1 Arrival Dock
- 2 Rest House
- 3 Arrival Lounge
- 4 Bus Turnaround / Guest Unloading
- 5 Playground
- 6 Rest / Pool Cafe (300 SF)
- 7 Restaurant (2,000 SF) / Reception (2,300 SF)
- 8 Restaurant Deck (200 SF)
- 9 Activity and Entertainment / Education Center
- 10 Kayak and Canoe Rental
- 11 Hiking Deck
- 12 Day Temple Yoga Pavilion
- 13 Small Spa
- 14 Lockout Tower
- 15 Winter's House
- 16 Casino
- 17 Guest-Only Restaurant (800 SF)

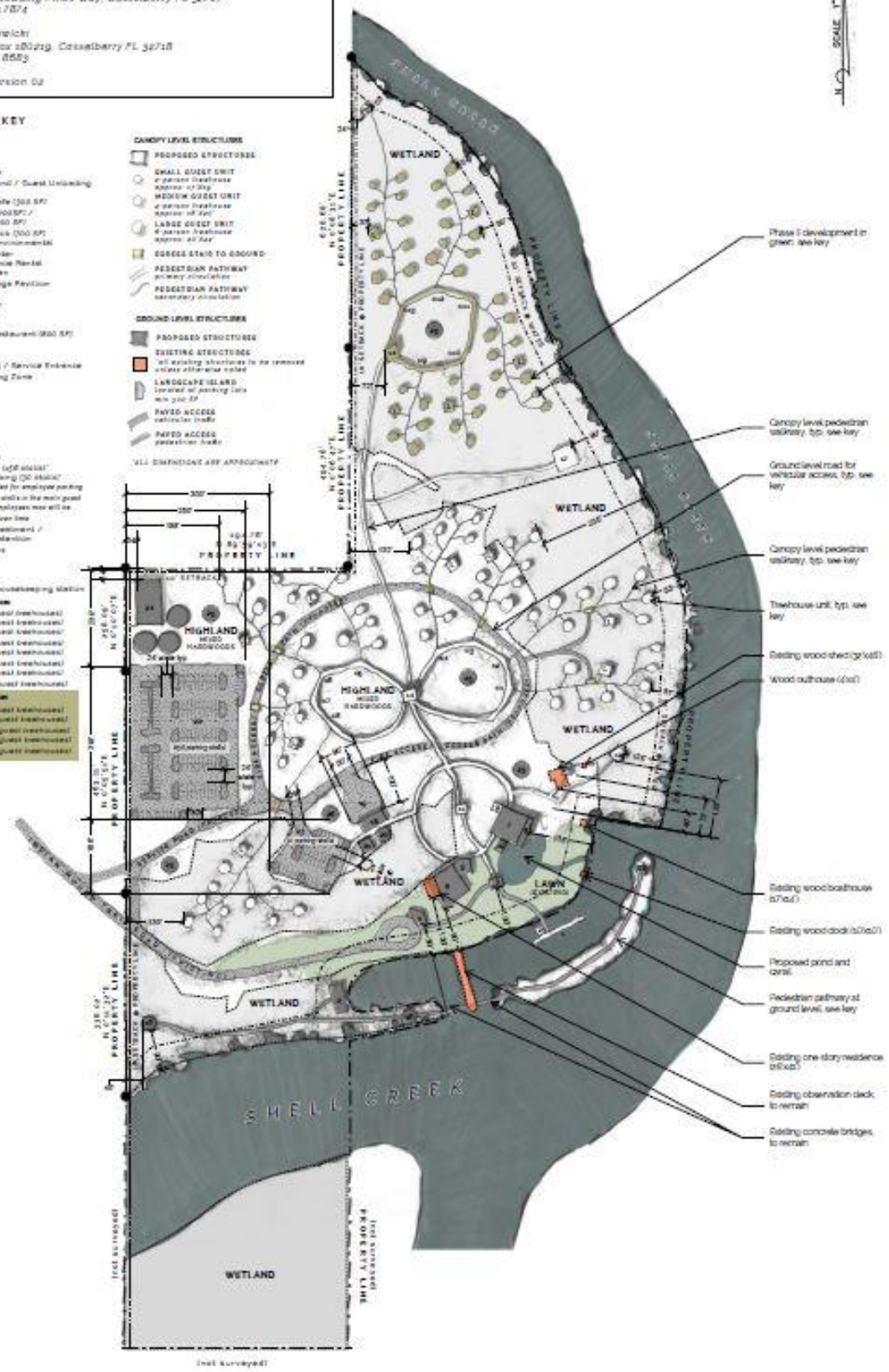
BACK OF HOUSE

- 18 Housekeeping / Service Entrance
- 19 Service Loading Zone
- 20 Employee:
 - Rest room
 - Locker rooms
- 21 Facilities:
 - Shop
 - Storage
 - Animal rooms
- 22 Guest Parking (200 spaces)
- 23 Employee Parking (200 spaces) - 20 spaces allocated for employee parking to be used as well as the main guest parking lot. 20 employees max will be working at any given time
- 24 Wastewater Treatment / Stormwater Retention
- 25 Septic Systems
- 26 Well

GUEST LODGING

- 1 Lounge with housekeeping station
- Phase 1 - 80 treehouses
 - 1a Cluster 1 (8 guest treehouses)
 - 1b Cluster 2 (8 guest treehouses)
 - 1c Cluster 3 (7 guest treehouses)
 - 1d Cluster 4 (9 guest treehouses)
 - 1e Cluster 5 (7 guest treehouses)
 - 1f Cluster 6 (8 guest treehouses)
 - 1g Cluster 7 (5 guest treehouses)
 - 1h Cluster 8 (10 guest treehouses)
- Phase 2 - 40 treehouses
 - 2a Cluster 9 (5 guest treehouses)
 - 2b Cluster 10 (5 guest treehouses)
 - 2c Cluster 11 (5 guest treehouses)
 - 2d Cluster 12 (5 guest treehouses)
 - 2e Cluster 13 (5 guest treehouses)
 - 2f Cluster 14 (5 guest treehouses)

- CANOPY LEVEL STRUCTURES**
- PROPOSED STRUCTURES
 - SMALL GUEST UNIT / guest treehouse approx. 400 sq ft
 - MEDIUM GUEST UNIT / guest treehouse approx. 400 sq ft
 - LARGE GUEST UNIT / guest treehouse approx. 400 sq ft
- EXISTING STRUCTURES
 - all existing structures to be removed unless otherwise noted
- LANDSCAPE ISLANDS
 - located at parking lots with 200 SF
- PAVED ACCESS
 - vehicular traffic
 - pedestrian traffic
- ALL DIMENSIONS ARE APPROXIMATE



- Phase 1 development in green, see key
- Canopy level pedestrian walkway, typ. see key
- Ground level road for vehicular access, typ. see key
- Canopy level pedestrian walkway, typ. see key
- Treehouse unit, typ. see key
- Existing wood shed (30'x40')
- Wood outhouse (10'x7')
- Existing wood boat house (17'x10')
- Existing wood dock (15'x10')
- Proposed pond and canal
- Pedestrian pathway at ground level, see key
- Existing one-story residence (15'x10')
- Existing observation deck to remain
- Existing concrete bridges to remain

Attachment “B” – Variance Justification Statement (2 Pages)

November 5, 2021

Emily Johnson, Senior Planner
Lake County Florida, Department of Economic Growth
Office of Planning and Zoning
315 W Main Street, Suite 510
Tavares, FL 32778
(352) 343-9641
ewjohnson@lakecountyfl.gov

Re: Variance Request for Nest Treehouse Resort

Dear Ms. Johnson,

Please accept our application for a variance for the treehouse eco resort that we would like to develop at 43505 Indian Mound Trail, DeLand, FL 32720 located in unincorporated Lake County. Our project will be the first entirely elevated treehouse resort in the world and the first luxury eco resort in Central Florida. It will be a socially and environmentally responsible, ADA accessible project that supports local businesses and farms, connects people to nature in a beautiful and inspiring way, and educates guests on environmental issues. We would like to showcase the natural beauty of this area in beautiful, inspiring accommodations while minimizing our impact to site. Activities at our resort will include: hiking, biking, canoeing, kayaking, horseback riding, birding, boat tourism, lectures and classes on sustainability, and nature-related crafts.

We would like to kindly request two variances:

First, we would like to apply for a variance to **LDR Section 3.02.09 (Minimum Structure Size Requirements)**. Our concept is to develop small (250-450 SF) individual treehouse guest cabins 20 ft off the ground. The substantial hardship in meeting this condition is that the majority of our structures are treehouses, so making the unit sizes 800 SF or larger would no longer enable them to fit within the trees and would totally change the small footprint eco resort concept. We kindly request that the minimum size requirement be eliminated for this project. The purpose of the land development code is to make sure that unit sizes are large enough to accommodate the occupants. The size of our guest treehouses will be in line with the sizes of hotel rooms in typical hotel developments where the rooms are all located in a single structure; in our project those rooms will just be located in separate structures.

Second, we would like to apply for a variance to **LDR Section 9.01.04.B and Appendix “A” for the paved access requirement**. The substantial hardship is that Public Works has requested that we pave the Cummer Road (5,162 LF), Tall Palm Fish Camp Road (2,334 LF), and Indian Mound Trail (4,632 LF) to county road standards. This would mean improving 2.3 miles of roadway. We have been instructed by Seth Lynch in Public Works that this means: “A paved access to the site requires the following: 1 ½” asphalt (SP 9.5), 6” limerock base with 98% compaction ASSHTO T-180 and 12” type B subgrade min LBR 40 with 98% compaction”. And that, “Asphalt millings is not acceptable material for a roadway.” We are going for a rustic, country, eco resort feel to our project and would prefer not to have a highway-type road go all the way up to the property. We want guests to feel like they are being transported to a different world, off the beaten path and having a large, fully paved road like this would significantly diminish that feel. We also would like to maintain a small environmental footprint for our resort.

Our intention is for most of the guests to arrive by boat, so we anticipate that the traffic on these roads will be substantially less than predicted. We, of course, do want the intent of the code to be met, however, which is that emergency vehicles and resort traffic will be able to safely get to the project site. Consequently, we are proposing the following alternative: a 20 ft wide stabilized road with roadway base without asphalt. According to our civil engineer this will be an all-weather stabilized surface for access to the site which would meet the fire marshal's requirements of a 20 ft wide road which can carry the weight of a 42,000 lb fire truck/ vehicle.

Our treehouse eco resort project is very unique, and we kindly request that, for fairness, you evaluate it accordingly. It is much more closely related to an agritourism use (which, according to Public Works, would not be required to pave their roads) than it is to a traditional hotel use.

Sincerely,

A handwritten signature in black ink that reads "Kristin Boekhoff". The signature is written in a cursive style with a long horizontal line extending to the right.

Kristin Boekhoff
Chief Executive Officer

Enclosures: Variance Application and Supporting Materials

**Final Development Order
VAR-21-84-5
Nest Treehouse Resort**

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

WHEREAS, Kristin Boekhoff (the "Applicant"), on behalf of Brett Lawicki (the "Owner") requested a variance to LDR Section 3.02.09 to allow for the construction of structures less than 850-square feet in size; and to the paved access requirements contained in LDR Section 9.04.01(B), and the Lake County Transportation Planning, Design, and Construction Standards (also known as Appendix "A"), to accommodate for the development of an ecotourism treehouse resort; and

WHEREAS, the subject property consists of 43.38 +/- acres, located at 43505 Indian Mound Trail, in the unincorporated Deland area of Lake County, Florida, in Section 25, Township 17 South, Range 29 East, having Alternate Key Number 3450698, and more particularly described below; and

That part of Government Lot 7, West of Shell Creek, in Section 25, Township 17 South, Range 29 East, Lake County, Florida;

AND the East 495 feet of Government Lot 9 in Section 25, Township 17 South, Range 29 East, Lake County, Florida, LESS the North 495.00 feet thereof;

AND the East 495 feet of Government Lot 10 in Section 25, Township 17 South, Range 29 East, Lake County, Florida.

WHEREAS, after giving notice of the hearing on the petition for a variance to the Lake County Land Development Regulations, including notice that the variance would be presented to the Board of Adjustment of Lake County, Florida, on December 9, 2021; and

WHEREAS, the Board of Adjustment reviewed the 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 December 9, 2021, the Lake County Board of Adjustment approved the variance for the above property.

NOW THEREFORE, BE IT ORDAINED by the Board of Adjustment of Lake County, Florida, that:

Section 1. Terms: The County Manager or designee shall amend the Official Zoning Map to reflect the approval of VAR-21-84-5 to LDR Section 3.02.09 to allow for the construction of structures less than 850-square feet in size; and to the paved access requirements contained in LDR Section 9.04.01(B), and the Lake County Transportation Planning, Design, and Construction Standards (also known as

Appendix "A"), to accommodate for the development of an ecotourism treehouse resort.

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, the holding will in no way affect the validity of the remaining portions of this Ordinance.

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

ENACTED this 9th day of December 2021.

EFFECTIVE December 9, 2021.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

James Argento, Vice Chairman

State of Florida

County of Lake

Sworn to (or affirmed) and subscribed before me by means of physical presence or online notarization, this 9th day of December 2021, by James Argento, as Chairman of the Lake County Board of Adjustment.

Personally Known OR Produced Identification

Type of Identification Produced _____

Notary Signature

(SEAL)