

**SHARP, GRAHAM, BAKER AND VARNELL, L.L.P.
ATTORNEYS AT LAW**

KITTY HAWK, NORTH CAROLINA
TELEPHONE: (252) 261-2126
FACSIMILE: (252) 261-1188

STARKEY SHARP
JOHN C. GRAHAM, III
RONALD G. BAKER
CASEY C. VARNELL
JAMIE G. VARNELL

Website Address
www.ncobxlaw.com

SENDER'S EXTENSION:
244

MAILING ADDRESS:
POST OFFICE DRAWER 1027
KITTY HAWK, NC 27949-1027

STREET/SHIPPING ADDRESS:
4417 N. CROATAN HIGHWAY
KITTY HAWK, NC 27949-1027

Sender's E-mail Address:
varnell@ncobxlaw.com

January 9, 2019

MEMORANDUM

FROM: Casey C. Varnell, Town Attorney

TO: Kill Devil Hills Board of Commissioners

**RE: MEETING PACKAGE/January 14th, 2018 Public Hearing
Proposed Text Amendment to Chapter 153, Zoning**

Dear Board:

After being contacted by the Town Manager concerning a potential issue with the materials in your packet regarding January 14th's public hearing on the proposed text amendment to Chapter 53, Zoning of the Kill Devil Hills Town Code, I would like to make a simple report to you of my legal opinion on the same.

Background: The subject applicant, Eddie Goodrich, appeared at the Planning Board meeting at which this subject amendment was considered. The original application used the language "Zero Lot Coverage Development" when coining the type of development that the applicant is proposing. For reasons outlined in the Planning Department's report on the meeting, the Planning Board recommended approval of the applicant's proposed text amendment, conditioned on replacement of the phrase "Zero Lot Coverage Development" with the terminology "Cluster Homes" in order to better caption the applicant's suggested development. As noted in the report, the applicant agreed with the aforesaid language change. The Planning Board's motion on approval also incorporated the consistency statement contained in the staff report issued in this matter. It was the Planning Board's understanding that the incorporated consistency statement contained the language "Cluster Homes" when referring to the type of development subject of your review at the upcoming public hearing. Inadvertently, however, the

language in the consistency statement ultimately attached to the duly published materials regarding this application was not altered to incorporate the new language suggested by the Planning Board as the same is defined above.

Opinion: I find that the above-described event was a true mistake and/or inadvertence that, in no way, materially affects the rights of the applicant or the citizens of Kill Devil Hills. Given this, it is my opinion that republication of a corrective consistency statement is not necessary and that the public hearing on this matter may proceed as scheduled on January 14th, 2019.

Sincerely,



Casey C. Varnell

cc: Debora P. Diaz, KDH Town Manager



TOWN OF KILL DEVIL HILLS
Land Where Flight Began

(KDH Town Logo)

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on Monday, January 14, 2019, at 5:30 p.m. in the Meeting Room at the Administration Building, 102 Town Hall Drive, off Colington Road, the Kill Devil Hills Board of Commissioners will hold a public hearing to receive public comment, both written and oral, on the following item:

B. Request for removal of property at 2024 North Virginia Dare Trail from Municipal Service District.

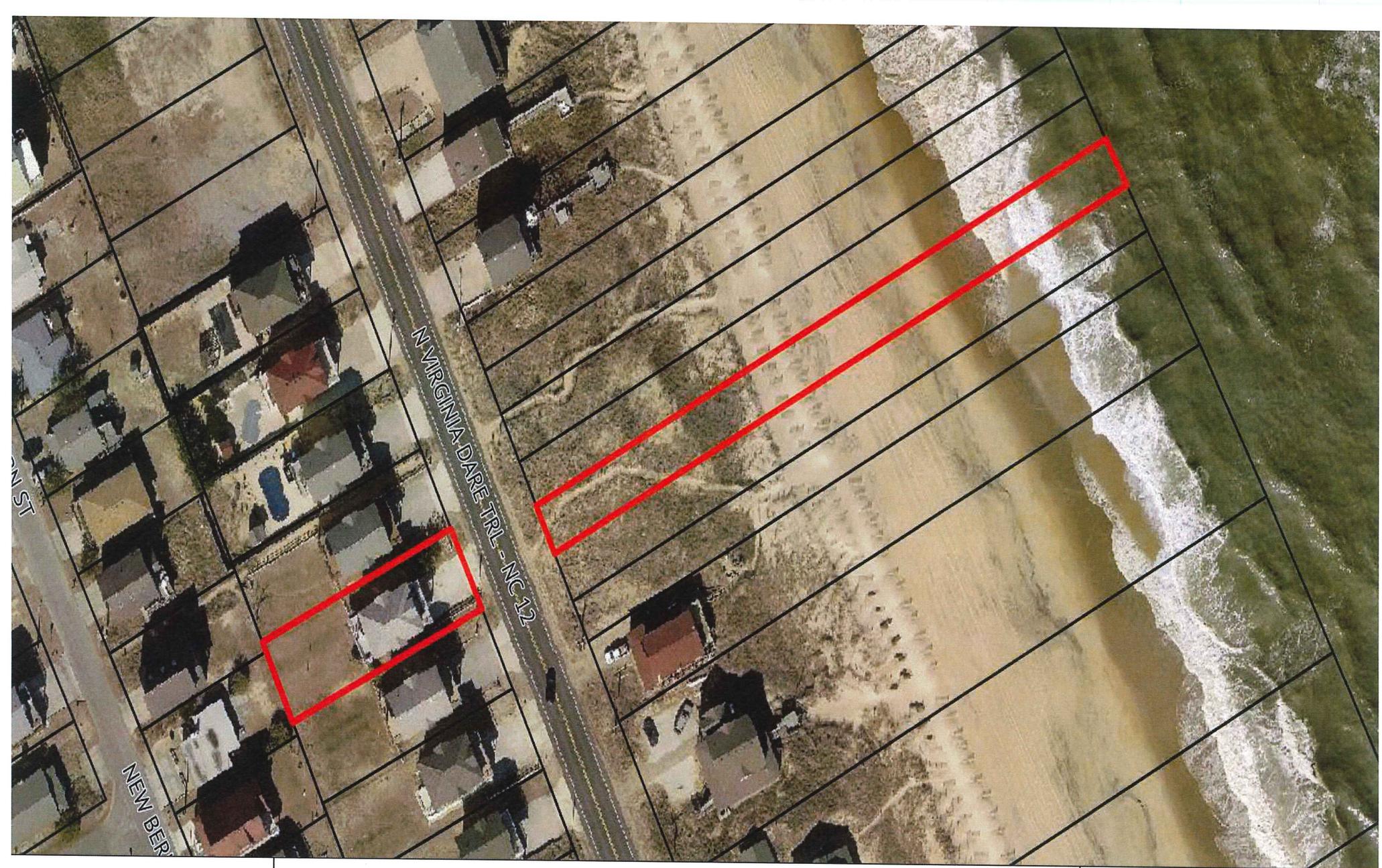
The request may be viewed in the Town Clerk's Office, 102 Town Hall Drive, Kill Devil Hills; or, on Kill Devil Hills' website, <https://www.kdhnc.com/438/News>. Written comments, which will be included with the record of the public hearing, may be submitted to the Town Clerk, P.O. Box 1719, Kill Devil Hills, NC 27948, or by e-mail to: odell@kdhnc.com.

At the conclusion of the public hearing, the Board of Commissioners may take action on the item, with such action to include approval, disapproval, or tabling the item for further consideration.

Posted this 12th day of December 2018.

James Michael O'Dell
Deputy Town Clerk

Coastland Times: please publish as a legal ad in the following editions: 01/02/2019 & 01/09/2019



This map is prepared from data used for the inventory of the real property for tax purposes. Primary information sources such as recorded deeds, plats, wills, and other primary public records should be consulted for verification of the information contained in this map.

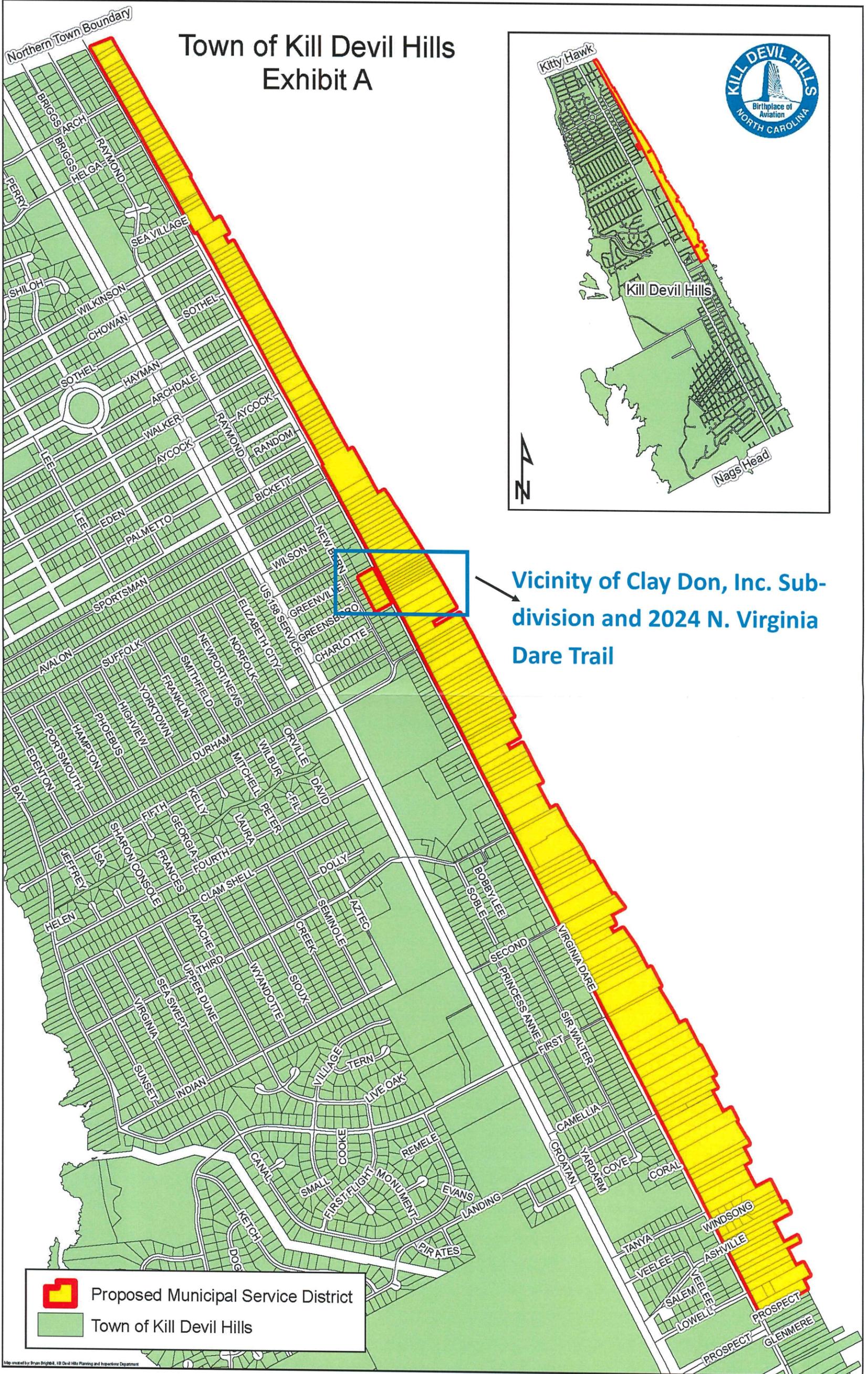
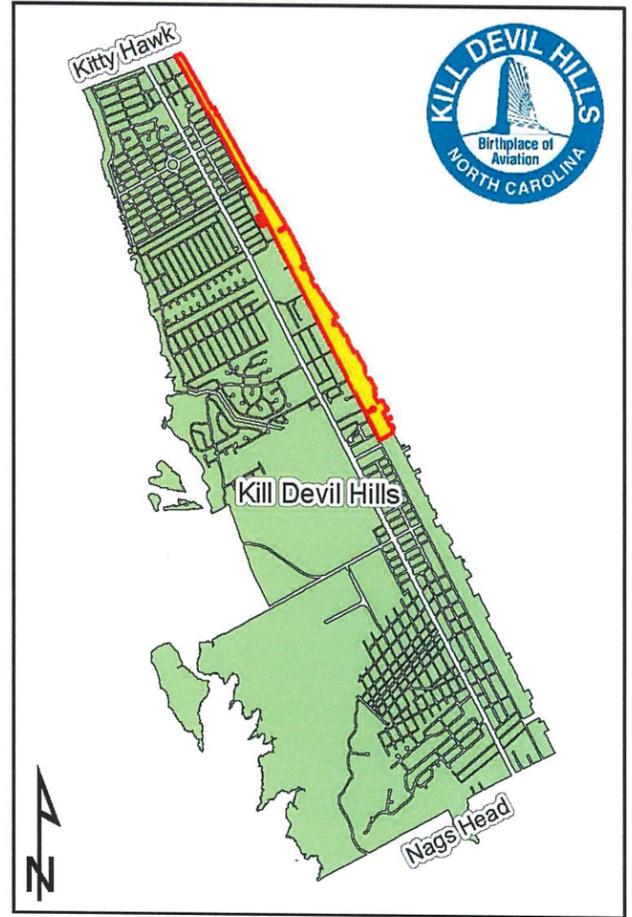
2024 N Va Dare TRL
Kill Devil Hills NC, 27948
Parcel: 030653000
Pin: 988518302212

Owners: Appleton, Randall E
Appleton, Debbie O
Building Value: \$186,200
Land Value: \$289,300
Misc Value: \$0
Total Value: \$475,500

Tax District: Kill Devil Hills
Subdivision: Clay Don Inc.
Lot BLK-Sec: Lot: 34 & 34a Blk: Sec:
Property Use: Residential
Building Type: Beach Contemporary
Year Built: 1991



Town of Kill Devil Hills Exhibit A



Vicinity of Clay Don, Inc. Sub-division and 2024 N. Virginia Dare Trail

-  Proposed Municipal Service District
-  Town of Kill Devil Hills

Map created by Brian Brightbill, Kill Devil Hills Planning and Inspection Department