Director of
Planning and Inspections
MEREDITH GUNS

Chief Building Inspector
MATT LOWCHER

Building Inspector
MARTY SHAW

Code Enforcement Officer
CHARLES THUMAN

THE TOWN OF KILL DEVIL HILLS
NORTH CAROLINA

PLANNING DEPARTMENT

Assistant Director of
Planning and Inspections
BRYAN BRIGHTBILL

Senior Planner
CAMERON RAY

Zoning Administrator
DONNA ELLIOTT

August 10, 2020

Memorandum

To: Debbie Diaz, Town Manager

From: Ryan Lang, Senior Planner

Subject: **SITE PLAN REVIEW: CONDITIONAL USE**-- Swell Brewery – 1802 S Va Dare Trail in the Commercial Zone – Proposed brewery with tasting room, outdoor dining activity Area, 30 parking spaces and associated site improvements

Enclosed is a proposed site plan submitted by Swell Brewing, LLC to construct a Brewery with tasting room, outdoor dining activity area, 30 parking spaces and associated site improvements at 1802 South Virginia Dare Trail in the Commercial Zone. Attached you will find a Commercial Site Plan Review Application, Site Development Plans, Response to Town Review Comments, Willingness To Serve from KDHWWTP, LLC, Soil Inspection, and the most recent technical review comments from staff.

The Planning Board reviewed this proposal on July 21, 2020 and forwarded it to the Board with a favorable recommendation once all staff conditions have been met. The applicant has since addressed all conditions.

Because an outdoor dining activity area is proposed in the plan the development is a conditional use application. Staff recommends setting the required public hearing for September 14, 2020.

ATTACHMENT PH-2

Lang, Ryan

From: Dail, Derek
Sent: Monday, July 13, 2020 4:46 PM
To: Ray, Cameron; Lang, Ryan
Cc: Albright, Steve; Pete Burkhimer (PBurkhimer@american-ea.com)
Subject: FW: Site Plan Technical Review 2 -- Swell Brewery -- 1802 S Va Dare Trail in the Commercial Zone -- Proposed Brewery with Tasting Room, outdoor dining activity area, outdoor waiting activity area and 30 parking spaces

Public Services concurs with Pete's comments

From: Pete Burkhimer [mailto:PBurkhimer@american-ea.com]
Sent: Wednesday, July 8, 2020 4:16 PM
To: Albright, Steve <Steve@kdhnc.com>; Dail, Derek <derek@kdhnc.com>
Subject: RE: Site Plan Technical Review 2 -- Swell Brewery -- 1802 S Va Dare Trail in the Commercial Zone -- Proposed Brewery with Tasting Room, outdoor dining activity area, outdoor waiting activity area and 30 parking spaces

My proposed comments are as follows:

1. Indicate proposed 12" HDPE in E. Lake Drive to be 12" HDPE N-12 Sock Drain.

2. Change the label for the existing WM in Virginia Dare Trail from 8" PVC C900 to 12" PVC C905.

3. Make minor typo corrections to Site Demolition Notes on S3 per separate email to engineer.

Please let me know if these cut across any of your own findings.

Pete Burkhimer, PE
Senior Consultant
AMERICAN Engineering
448 Viking Drive, Suite 170
Virginia Beach, VA 23452
(757) 468-6800 (office), (757) 478-5970 (cell)
pburkhimer@american-ea.com

.

From: Lang, Ryan <rlang@kdhnc.com>
Sent: Wednesday, July 08, 2020 11:23 AM
To: Albright, Steve <Steve@kdhnc.com>; Dail, Derek <derek@kdhnc.com>; Elliott, Donna <DONNA@kdhnc.com>; Guns, Meredith <MEREDITH@kdhnc.com>; Harris, Dana <dharris@kdhnc.com>; Lang, Ryan <rlang@kdhnc.com>; Lindsey, Lynn Earl <LynnEarl@kdhnc.com>; Pete Burkhimer <PBurkhimer@american-ea.com>; Ray, Cameron <Cameron@kdhnc.com>; Risoldi, John <JOHNR@kdhnc.com>; Shaw, Marty <marty@kdhnc.com>; Thuman, Charles <charles@kdhnc.com>; Turner, Tote <TOTE@kdhnc.com>
Subject: Site Plan Technical Review 2 -- Swell Brewery -- 1802 S Va Dare Trail in the Commercial Zone -- Proposed

TOWN OF KILL DEVIL HILLS
PUBLIC SERVICES

Post Office Box 1719, 107 Town Hall Drive
Kill Devil Hills, NC 27948
Administration (252) 480-4080 Fax (252) 441-6136
Office Hours: 8:00 a.m. – 5:00 p.m. Mon. – Fri.
Water Plant (252) 480-4090
www.kdhnc.com

STEPHEN F. ALBRIGHT
Director

DEREK A. DAIL
Assistant Director

MARCIA OLLIS
Administrative Services

ALFRED W. BURTON
Water Plant

WILLIAM H. WATERFIELD
Water Systems

L. RANDOLPH TURNER
Streets

LYNN E. LINDSEY
Solid Waste

July 13, 2020

To: Cameron Ray
Kill Devil Hills Planning

From: Derek A. Dail
Kill Devil Hills Public Services

Re: Site Plan Review II
Swell Brewing
2006 S. Croatan Highway (NC 12)

The Town of Kill Devil Hills Public Services has performed a review of the site plan application for the proposed improvements to the commercial property located at 1802 South Virginia Dare Trail. Comments from Public Services are provided in the following sections and are based on the site plan dated 07/07/2020.

Solid Waste

1. No Comment

Streets

1. The proposed right-of-way drainage is generally acceptable. There is an existing 15" culvert that connects the drop inlet on the northwest corner of Lake Drive and NC 12 to the drop inlet located on the north side of Lake Drive and immediately east of the proposed eastern driveway that needs to be included on the plans. Public Services is working with the engineer to make some minor adjustments to the plan and streamline the drainage in this area.

Water System

1. Provide the Town's water meter sizing form documenting all proposed fixtures to verify that the proposed 1" meter is adequately sized.

2. 1" water service will be installed by Town of Kill Devil Hills Water Systems Division. Details for the 1" water service and instruction to make service tap are not needed on the plans.
3. Public Services will need a copy of the passing test results for the RPZ(s) prior to receiving occupancy.
4. The applicant is advised that the existing 5/8" x 3/4" service is currently disconnected for nonpayment of the $100.00 surety deposit and $174.46 past due charges.
5. Anticipated upgrade fees associated with the proposed service based on the current rate schedule:

System Development 1" meter	=	$6,900.00*
Available Credit (Good Standing Accounts)	=	-$4,000.00*
1" Tap Fee	=	$1,410.00
1" Surety	=	$200.00
Total	=	$4,510.00

*Developer may receive a credit for the $4,000.00 System Development Fee for the existing 5/8"x3/4" service so long as it is in good standing at the time of building permit application.

Wastewater

1. A copy of the NCDEQ Wastewater Extension (Fast Track) permit will need to be provided prior to issuance of a building permit.
2. A copy of the NCDOT encroachment agreement for the wastewater force main will need to be provided prior to the issuance of a building permit.
3. Provide a profile section on the drawings or the wastewater force main and waterline crossing.

Lang, Ryan

From: Risoldi, John
Sent: Friday, July 10, 2020 1:09 PM
To: Lang, Ryan
Cc: Ray, Cameron
Subject: RE: Site Plan Technical Review 2 -- Swell Brewery -- 1802 S Va Dare Trail in the Commercial Zone -- Proposed Brewery with Tasting Room, outdoor dining activity area, outdoor waiting activity area and 30 parking spaces

Ryan,

I met with Mike Robinson for the pressure test at the Marriot this morning and spoke to him about this project.

The fire hydrant is going to be moved/ installed to the small patch of turf near the dumpsters to accommodate supplying water to the Fire Sprinkler connection.

The pavement will be marked there as a fire lane so when we pull in in the event of an emergency the water hookup will be an easy transition.

He will schedule a hydrant test in the near future.

The other items on the list have been addressed and are acceptable. I did not get the comment list with the packet . I read it off of Mikes.

Let me know if you have any questions.

John L. Risoldi, Sr.
Fire Marshal/Health & Safety Officer
Town of Kill Devil Hills
1634 N. Croatan Highway, P. O. Box 1719
Kill Devil Hills, NC 27948
252-480-4060 – Phone
252-480-4069 – Fax
johnr@kdhnc.com

"Everyday is a Fire Prevention Day"

From: Lang, Ryan
Sent: Wednesday, July 8, 2020 11:23 AM
To: Albright, Steve <Steve@kdhnc.com>; Dail, Derek <derek@kdhnc.com>; Elliott, Donna <DONNA@kdhnc.com>; Guns,

Town of Kill Devil Hills Planning and Inspections
Commercial Site Plan Review Application*

Applicant

Name: Alex Wolcott and Brad Fitzgerald

Address: P.O. Box 2185
Kitty Hawk, NC 27949

Phone: 252-489-0336

Fax:

Cell:

Property Owner

Name: Swell Brewing, LLC

Address: 414 Cameron Street
Kill Devil Hills, NC 27948

Phone:

Fax:

Cell:

Property Location

Address: 1802 South Virginia Dare Trail

Lot, Block: Lots B & C & 1

Subdivision: Bessie C. Harrision & N.C. Douglas

Pin#: 989313143846

Zoning District: ☒Commercial ☐LI-1 ☐LI-2 ☐OIR

Total Lot Size: 27,800 Sq. Ft.

Disturbed Area: Sq. Ft.

Contractor

Company Name: to be determined

License Number:

Name:

Phone:

Address:

Cell:

Fax:

Town Privilege License Number:

Construction Information

Type of Construction:

☒Assembly A-2 ☐Business ☐Educational ☒Factory/Industrial F-1 ☐High Hazard

☐Institutional ☐Mercantile ☐Residential ☐Storage ☐Utility/Misc.

☐New Construction ☐Addition ☐Repair/Replace ☐Remodel ☐Other:

Square Footage Proposed: 1ST FLOOR OPEN REAR DECK = 733 sq.ft.

Interior Space: 4,187 Sq. Ft. Covered Deck(s): Sq. Ft. Storage: Sq. Ft.

Garage: Sq. Ft. # of Bedrooms: # of Open Deck(s):

Proposed Square Footage: 14,354 + Existing Square Footage: = 14,354* Total Sq. Ft.

% Impervious Coverage: 43.8 + % Pervious Coverage: 7.8 = 51.6 Total % Coverage

# of Parking Spaces: *Existing:* 0 *Proposed:* 30 *Total:* 30

Septic Tank Permit #: Off site - KDHWWTP Construction Type: WOOD FRAME ON SLAB

Estimated Construction Cost (including labor and materials): T.B.D.

Flood Information

Flood Zone: ☐ VE ☐ AE ■ X Base Flood Elevation: n/a

Proposed First Floor Elevation: 9.30 top slab Sq. Ft Below Base Flood Elevation: n/a

* ADJUSTED FOR PERMEABLE PAVERS

**This form is designed as a guide for Commercial Site Plan Review.*
Additional plans and information will be required prior to building permits.

Project Description

Brewery with tasting room, outdoor dining activity area and outdoor waiting activity area

Required Site Plan Information Checklist:

- ☐ Permit Application (Completed)
- ☐ Site Plan Including the following
  - Submittal Requirements:
    - ☐ Vicinity Map
    - ☐ 15 Copies of Site Plan & Building Plan Elevations – Front, Side, and Rear
    - ☐ Tentative Health Department Approval
    - ☐ Site Plan Development Review Fee Paid in Full
  - Existing Conditions:
    - ☐ Boundary of Entire Lot
    - ☐ Width and Location of Existing Right of Ways
    - ☐ Nature, Purpose, Locations, and Size of Existing Easements
    - ☐ Iron Pins and Concrete Monuments
    - ☐ Scale (1" = 50" Minimum)
    - ☐ North Arrow
    - ☐ Streets Including Width of Pavement
    - ☐ All Underground Utilities, Gas/Propane Below or Above Grade
    - ☐ Dare Co. Register of Deeds Map Book/Subdivision Ref.
    - ☐ Street Address
    - ☐ Present Recorded Owner, Developer, Engineer contacts
    - ☐ Adjacent Property Owners, Adj. Use & Zone
    - ☐ Corp. of Engineers Report / Wetland Study
    - ☐ NFIP Flood Zone (ref: Elevation Datum (NAVD 1988))
    - ☐ Minimum, Lot Size indicated
  - Proposed Improvements:
    - ☐ Zoning Use Compliance/Setbacks labeled
    - ☐ Landscaping Plan / Buffers / Screening (per section 153.073)
    - ☐ Lighting Plan - photometric showing point output (section 153.074)
    - ☐ Sedimentation & Erosion Control Plan including details
    - ☐ Disturbed Areas delineated & areas calculated
    - ☐ Location of Sidewalks on the Croatan Highway and Curbs
    - ☐ Location of Sewer Facilities and Drain field
    - ☐ Proposed Building Type, # of Floors and dimensions, floor area ratio, Height
    - ☐ Existing and Finished Grades of Entire Site
    - ☐ Storm Water Management Plan including calculations
    - ☐ Total Units and Density per Acre (Multi-Family) or floor area ratio (in OIR)
    - ☐ Lot Size and Lot Coverage Calculation
    - ☐ Utility Plan indicating location & sizes of proposed improvements
    - ☐ Water Service Sizing Checklist
    - ☐ Layout, Size and Number of Parking Spaces including handicap w/ setbacks (Each Space Numbered)
    - ☐ Fire Lane and Driveways
    - ☐ Loading Zone (Commercial Sites)
    - ☐ Mail Delivery Cluster Sites (Multi-Family)

- ■ Proposed First Floor Elevation
- ■ Dumpster Pad Location
- ■ Proposed Sign Location
- ■ Sight triangle shown
- ■ Commercial Building Plans showing architectural compliance
- ☐ Plans to N.C.D.O.T. (if required)
- ■ NC Engineer/Land Surveyor Seal on Site Plan

*** The items listed in the Site Plan portion of the above checklist represent information that must be indicated on any site plan submitted for review by the Kill Devil Hills Planning Department, Planning Board, and Board of Commissioners. All of the above required documents shall be submitted on or before the 3rd Tuesday of each month. Upon completion of review, the Planning Board shall transmit its recommendations to the Board of Commissioners. The Board of Commissioners shall review site plans on the second Monday of each month.

Signature of Applicant: _____ (Date) 06-16-20

AGENT FOR APPLICANT: MICHAEL W. ROBINSON P.E., P.L.S.

PURCHASE AND SALE AGREEMENT

WHEREAS, KDHWWTP, LLC, ("KDHWWTP" or "Seller") is the owner and franchised operator of a wastewater treatment plant located in Kill Devil Hills, N.C.; and

WHEREAS, in its treatment plant, KDHWWTP has unused and available wastewater treatment capacity which is available for sale to existing and future customers; and

WHEREAS, Swell Brewing, LLC and or assigns, hereafter referred to as "Purchaser," is the owner of a property whose physical address is 1802 S. Virginia Dare Trail, Kill Devil Hills, Dare County, NC 27948, Legal Description, Lot B & C & 1, Bessie C. Harrison & N C Douglas Subdivision as recorded in BkPg : 2339/0577, Dare County, NC, PIN 98931343846, desires to purchase a portion of the unused and available treatment capacity belonging to KDHWWTP and therefore.

WITNESSETH:

1. **Purchase and Sale.** Purchaser hereby agrees to purchase, and Seller agrees to sell, capacity in the KDHWWTP treatment plant, such purchase to consist of the right to use 1420 gallons per day ("gpd") of the plant's treatment capacity.

2. **Purchase Price**. The purchase price for this purchase of capacity is $12.98 per gpd for a total purchase price of $18,431.60. In addition to the purchase price the purchaser shall be required to pay, by separate check, an additional $5,464.97 as required by the North Carolina Utilities Commission as the Gross-Up for Taxes on all Contributions in Aid of Construction for a total of $23,896.57.

3. **Down Payment**. A down payment of 20% of the Capacity Purchase Price, which equals $3,686.32 shall be paid upon the execution of this agreement.

4. **Retention of Capacity**. The purchased capacity will be held by KDHWWTP on Purchaser's account with the Public Utility. Purchaser must connect to the Public Utilities facilities within two years from the date of the approval of the addition of the subject property to the Public Utilities Service area by the NCUC. Should the addition of the property, which is the subject of this agreement and described above, be denied by the North Carolina Utilities Commission, the Seller shall refund to the Buyer, within 30 days, the $3,686.32 referenced in Article 3 above as the Down Payment.

5. **Completion of Payment of Purchase Price**. The remaining balance of $14,745.28 of the total Capacity Purchase Price and the $5,464.97 for Gross Up for Taxes, paid by separate check, shall be paid within 30 days after the addition of the property to the Public Utility's Service Area by the North Carolina Utilities Commission and shall be paid before the final connection to the Public Utilities System is made and service to the customer begins.

6. **Conditions Precedent to Finalization of Agreement**. This Agreement will not become final until it is submitted to, and acknowledged by, the North Carolina Utilities Commission ("NCUC"). Seller will be responsible for submitting the Agreement, and any necessary request for expansion of the NCUC-franchised service territory to the NCUC. Purchaser will cooperate with Seller by providing any required data, information or documents requested of Purchaser by the NCUC or the Public Staff and the full completion of Article 8 of this agreement.

7. **Late Payment.** If Purchaser is late in paying the final total purchase price payment, Seller may, at its option, cancel this Agreement and refund any sums theretofore paid by the Purchaser. If Seller does not exercise this option, interest on any late payment amount will accrue at the rate of one and one-half percent (1.5%) per

month or eighteen percent (18%) annually. If this interest rate is determined, for any reason, to be unlawful, then interest will accrue and the highest legal rate of interest.

8. **Connection to System; Succession**. It shall be Purchaser's responsibility to construct the necessary collection pipes and associated equipment, including any required lift stations, the location of which must be approved by the Public Utility, which are required to connect Purchaser's premises with Seller's existing plant facilities. Such construction shall meet standards prescribed by the North Carolina Department of Environmental Resources, Division of Environmental Quality and the Public Utility. Upon completion and upon request of the Seller all such pipes, lift stations, other equipment, easements and rights-of-way associated with the sewer lines and facilities, and any facility plans and specifications including as-built surveys shall be conveyed at no cost by the Purchaser to the Seller, or to any successor-in-interest of the Seller. Purchaser and Seller may convey their rights and obligations hereunder to third-parties upon giving written notice to the other party. Purchaser must connect to the KDHWWTP facilities within one year of approval by the NCUC. Purchaser further agrees to pay all associated costs, including but not limited to, attorney fees, engineering fees, survey fees permit fees and all construction costs required to add the Purchaser's property to the Public Utilities Service Area.

9. **Paragraph Headings**. The underlined paragraph headings are for the convenience of the parties and are not part of the substance of this Agreement.

10. **Interpretation**. This Agreement shall be construed pursuant to the laws of the State of North Carolina.

11. **Entire Agreement**. This Agreement represents the entire Agreement between the Purchaser and Seller in regard to the subject matter of this Agreement. All prior discussions and negotiations are merged in this Agreement.

12. **Dispute Resolution**. In the event of disagreement or dispute concerning any of the terms of this Agreement, the Purchaser and Seller shall first attempt to negotiate a resolution themselves. If that fails, the parties will petition the North Carolina Utilities Commission for a resolution of the dispute. No lawsuits shall be filed by either party.

13. **Amendment**. This Agreement may be amended, in writing, with such written Amendment to be signed by both Purchaser and Seller or their respective successor(s) in interest.

14. **Date of Agreement**. This Agreement is executed on or as of the 13th day of June, 2020.

SELLER	**PURCHASER**
KDHWWTP, LLC	**Swell Brewing, LLC**
By: George E. Goodrich	By: _____
George E. Goodrich Manager	(Name) (Title)

Soil Science
Geology
Hydrogeology

Protocol Sampling Service, Inc.
"Experts in Environmental Compliance"

4114 Laurel Ridge Drive
Raleigh, North Carolina 27612

(919) 210-6547

Protocolsampling@yahoo.com
Environmentalservicesnc.com

April 10, 2020

Mr. Mike W. Robinson, P. E.
Engineering and Surveying
Post Office Box 2852
Kill Devil Hills, North Carolina 27948

Re: Soil Inspection – Stormwater – Swell Brewing
1802 South Virginia Dare Trail
Lot B and C and 1, Bessie C. Harrison and NC Douglas Division
Kill Devil Hills, Dare County, North Carolina
Protocol Project No. 20-19

Dear Mr. Robinson:

The subject property that will be developed as a brewery-restaurant commercial structure was inspected by Protocol Sampling Service, Inc., personnel on Wednesday, December 4, 2019. Protocol personnel inspected the lot by advancing two (2) soil borings for lithologic descriptions, depth to the seasonal high water table, if evident, and the depth to static water table in the proposed storm water infiltration area.

The subject property was found to be slightly convex in shape, with an average elevation of 8.0 feet msl. The seasonal high water table was found at 32 inches below land surface and the static water table was found at a depth of 33 inches below the soil surface across the study area. The soil profile exhibited excellent structure (single-grained), consistence (loose) and texture (sand). Given a 20% porosity value for the well-sorted fine to medium beach sand and an infiltration rate of at least 20.0-inches/hour, the infiltration area should easily accept any storm water flow from the impervious areas.

Please call me at (919) 210-6547 if you have any questions or comments.

Sincerely,
Protocol Sampling Service, Inc.

David E. Meyer, N.C.L.S.S.
President

cc: file

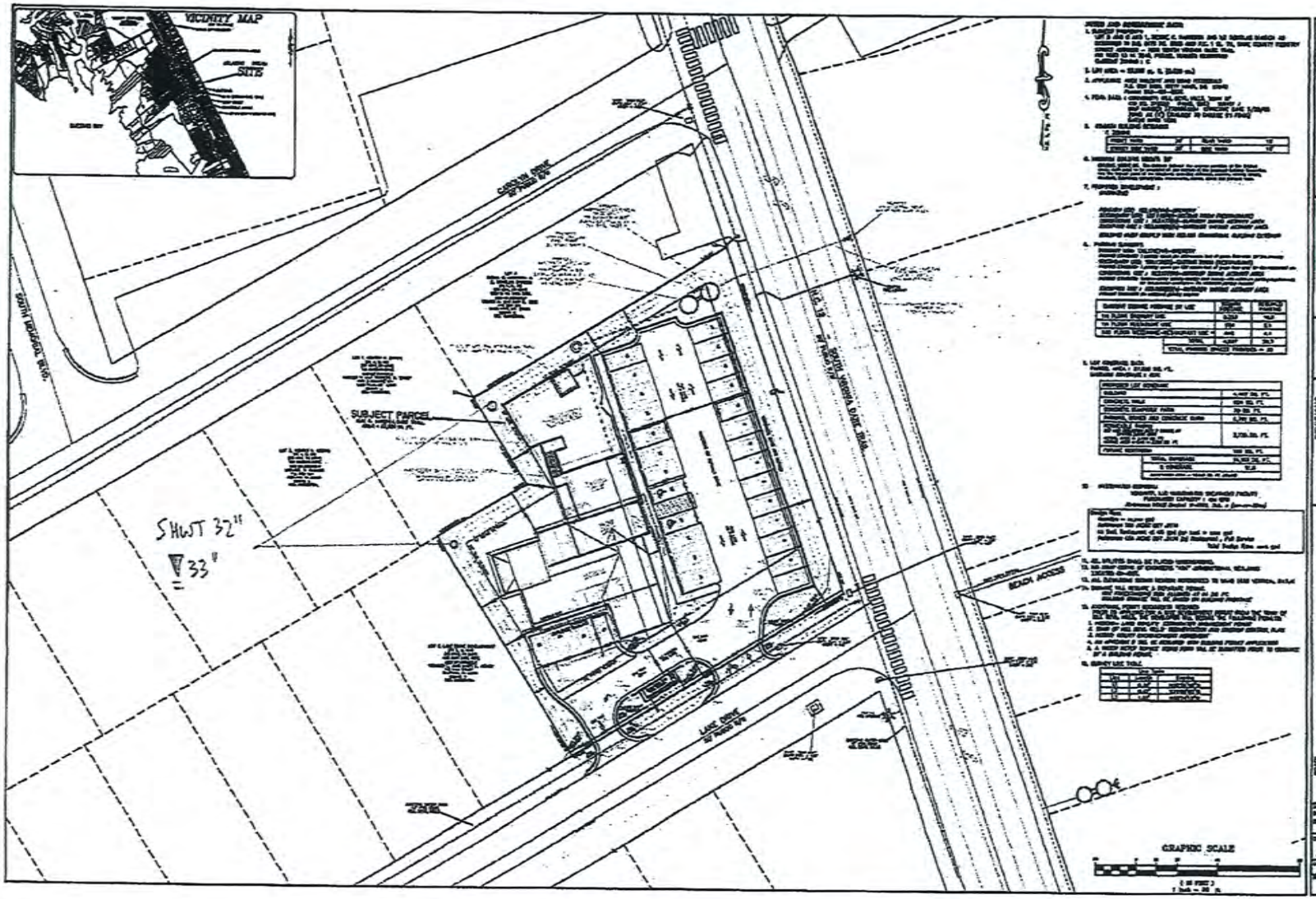
Soil Profile Description
1802 S. Virginia Dare Trail – Profile 1&2

A1 0 – 15 inches; dark brown (10YR 3/3) fine sand; single grained; loose.

C1 15 – 32 inches; light brownish gray (10YR 6/2) fine sand; single grained; loose.

C2 32 – 60 inches; gray (10YR 6/1) fine sand with strong brown (7.5YR 5/6) concentrations; single grained; loose.

Soil Series: Corolla
Landscape: Coastal Plain
Landform: dune flat
Parent Material: Marine sediments
Drainage Class: moderately well
Particle Size Class: sandy
Temperature Regime: thermic
Subgroup Classification: Aquic Udipsamments
Examination Method: auger boring
Date: December 4, 2019
Weather: Sunny
Investigators: David Meyer
Shwt: 32"
Measured water table depth: 33"


VICINITY MAP
SITE
SUBJECT PARCEL
SHWT 32"
33"
BEACH ACCESS
GRAPHIC SCALE
HICHAEL W. ROBINSON, P.E., P.L.S.
ENGINEERING AND SURVEYING
PRELIMINARY SITE PLAN
SWELL BREWING
BREWERY AND TASTING ROOM
S-1
110717