

83 Allen Street, Sylva, NC 28779

## **APPLICATION FOR ZONING TEXT OR MAP AMENDMENT**

---

Submit this completed application and all supporting documentation that may be helpful in the review process. In order to ensure that the proposed text amendment or map amendment complies with the Town of Sylva's regulations, we recommend that the applicant review the Town of Sylva Zoning Ordinance prior to application submittal. The request for a Zoning text or Zoning Map amendment may only be initiated by the Town Board of Commissioners, the Town Planning Board, Planning Staff, the owner of property in the Town of Sylva or a citizen of the Town of Sylva.

All responses in this application must be legible and filled out completely. Illegible and/or incomplete applications will be returned to the applicant. The application fee for a text amendment or map amendment is set forth in the Town of Sylva's fee schedule, is non-refundable and must be submitted with the completed application. For map amendment requests, a current survey prepared and sealed by an NC Registered Surveyor will be required. Applications are not accepted via facsimile or email. Please submit application, fees and supporting documentation to the Town of Sylva, 83 Allen Street, Sylva, NC 28779 via hand delivery or U.S. Mail.

Application deadlines are 30 days prior to the Town of Sylva's Planning Board next scheduled meeting. The applicant will be notified of scheduled hearing dates and times. The average text or map amendment petition timeline is 45 days from date of application to Town Hall. Depending on the complexity of the request, it is not unusual for a petition to take up to 6 months to be considered before the Town Board of Commissioners. Hearing schedules are not guaranteed and subject to change.

**Conditional Zoning Districts (CD)** are a zoning tool, permitted in accordance with NCGS 160D-703.b., which may be utilized to create new unique, site-specific districts for uses or developments that may have particular benefits and/or impacts on both the immediate area and the community as a whole. The development of these uses may require deviation of the general district standards. The applicant must provide an initial Master Site Plan and zoning proposal that includes all proposed uses and standards for the conditional zoning district being proposed. It is not the intention of Conditional Zoning to circumvent, reduce, or eliminate particular regulations as they would normally be applied to any particular district or use but rather provide flexibility and design standards unique to the subject property and use.

This negotiated approach between the applicant and the Town through a legislative decision allows maximum flexibility to tailor regulations to a particular site and project. Special restrictions have been placed on Conditional zoning. Conditional Zoning Districts occur at the owner's request and conditions cannot be imposed without the owner's agreement. The individual conditions and site-specific standards that can be imposed are limited to those that are needed to bring a project into compliance with town ordinances and adopted plans and to those addressing the impacts reasonably expected to be generated by the use of the site. The town must assure that all of the factors defining reasonable spot zoning are fully considered and that the public hearing record reflects that consideration.

Conditional Zoning shall be subject to the specific procedural rules located in Articles 3 and 5.

**PLEASE COMPLETE ALL SECTIONS OF THE APPLICATION;  
INCOMPLETE APPLICATIONS WILL BE RETURNED TO THE APPLICANT;  
INDICATE "NOT APPLICABLE" OR "N/A" WHERE APPROPRIATE**

## **APPLICATION REQUIREMENTS:**

All written materials and photographs must be a minimum of 8½"x11" paper; maps, surveys and plans must be submitted on a minimum 11"x17" paper. For the first level of review with the Town of Sylva Planning Board, the applicant must supply one (1) original and ten (10) copies of the completed application, supporting documents, photographs and materials. For Clerk advertisement and Board of Commissioners consideration, the Planning Staff may request additional documents as necessary. Please plan to attend all meetings and be prepared to answer questions or present information as necessary to the Planning Board or Town Board of Commissioners. Failure to attend may result in a delay or denial of your application.

- 1. Legal description and property survey:** For a Major map amendment or if the applicant is seeking to subdivide a property to amend, attach a complete legal description (metes and bounds) of the property. Provide an existing survey of the property, with a scale indicating dimensions. If the applicant is seeking a text amendment, please attach a tax map with PIN number.
- 2. Requested zoning change and use:** Indicate the current zoning classification and the proposed zoning classification being requested.
- 3. Adjacent property zoning and land use:** Provide the current zoning and land use for the parcels immediately adjacent to the subject property (include all directions – north, south, east and west). Do not include right-of-way when considering adjacent uses.
- 4. Land use and future development:** Describe how land use and future development conditions have changed that make the existing zoning designation unsuitable; include detail as to why a rezoning would be compatible with the character of the area.
- 5. Public need:** Indicate the perceived need for the additional land to be zoned to the requested classification stated above.
- 6. Community impact:** Describe the impact the proposed rezoning would generate on the adjacent properties and the surrounding neighborhoods/communities/businesses. Include in your discussion: transportation, utilities, storm water management, fire, public safety, open space, topography, density, property access and economic development. Provide in detail why or why not (and if so, how) the proposed rezoning will affect the surrounding properties.
- 7. Infrastructure demand:** Describe the impact the proposed rezoning would have on public services, facilities and infrastructure (e.g. schools, parks, recreational services, roads, senior services, etc.). Provide in detail estimated demand for existing and/or new services based upon build-out and population projections.
- 8. Zoning Ordinance and Comprehensive Plan compliance:** Explain how the proposed rezoning or development will be in compliance with Town's Land Use Plan and/or Comprehensive Plan.

**Contact Information:**

Applicant/Agent: Ina Sams

(This person will be the contact person and will receive all mailings)

Address: 23 Hensley Circle, Sylva, NC 28779

Phone: 828-269-1904 Fax: 828-477-4345

Email: ina@ncmountainrealestate.net

Property Owner(s): Alvin N. Kinkaid Trust / Virginia H. Kinkaid Trustee

(If the owner is different than the applicant)

Address: 842 Betty's Creek Rd., Sylva, NC 28779

Phone: 828-506-7515 Fax: none

Email: sons\_email\_yelrah172710@gmail.com

**Property Information:**

Property Location/Address(es): 628 E Main Street, Lot 13 & 14 East Main St, 48, 56, 64, 65, 78 Hallie Manor Ct, 5, 8, 15, 18, 21 Cornice Lane

Tax Parcel Identification Number(s): PARCE / numbers combination of PARCE / upon the sale of the property. See Attached SURVEY Plat 25/684

Current Use of Property(ies): Used to be a RESTAURANT / TRAILER PARK

Acreage to be Rezoned: 1.636

Deed Book: 6668 Page: 401-408 Lot / Tract Size: 1.636 (acres)

Property Street Frontage / Width: 100.11' Property Depth: 460.86'

Flood Plain: Not in the Flood zone FIRM Panel: Flood Map Attached

**Zoning Information:**

Current Zoning District(s): HWY 107 GB and Sylva HDR

Requested Zoning District(s): ENTIRE PARCEL Hwy 107 GB

Purpose of Zoning Change (optional): Buyer trying to relocate <sup>his</sup> a business being removed by DOT Condemnation on Hwy 107. The single wifes ARE FROM 1945-1990's and a 2000. Buyer would agree to renting singlewides for a couple of years. Singlewides are in poor condition

1. Legal Description and property survey. Attached new survey. Current Pin#s – 7641-75-0979, 7641-76-0043, 7641-65-9855, 7641-65-9819, 7641-65-8973, 7641-65-9646, 7641-65-9700 A combination of pin numbers at the time of the sale of the property. Deed also attached.
2. Request zoning change and use: Current zoning district: Hwy 107 Commercial General Business and Sylva HDR. The proposed zoning classification would be for the entire parcel of 1.64+/- acres changed to Hwy 107 Commercial General Business.
3. Adjacent zoning properties. North: Hwy 107 Commercial General Business. East: Hwy 107 Commercial General Business. South Hwy 107 Commercial General Business and Sylva HDR. West: Sylva HDR
4. The location of the Soul Infusion Restaurant was never zoned GB District but has also been a beauty shop and a Real Estate Company. The buyer would continue to use Singlewides in the back for 2 years. The condition and age of the Singlewides date back from 1945, the 1990's and 1 at 2000. Removal of homes would be inevitable. Since the buyer has a business on HWY 107 that has been purchased by DOT Hwy 107 Condemnation <sup>this</sup> it would <sup>allow</sup> a way for this business to remain in the Corridor. A new gas station will be on one side that is relocating from the Hot Spot gas station and UPS Business on the other side. However, to have room for parking and the Town of Sylva Ordinances the entire property would need to be zoned Commercial – General Business.
5. Public need: The need for the additional land to be zoned General Business is for jobs in our area, tax base at a higher amount than its current use and replacing a previous business due to condemnation.
6. Community impact: Where once was a restaurant that could be again a place for the adjoining properties to walk to from UPS

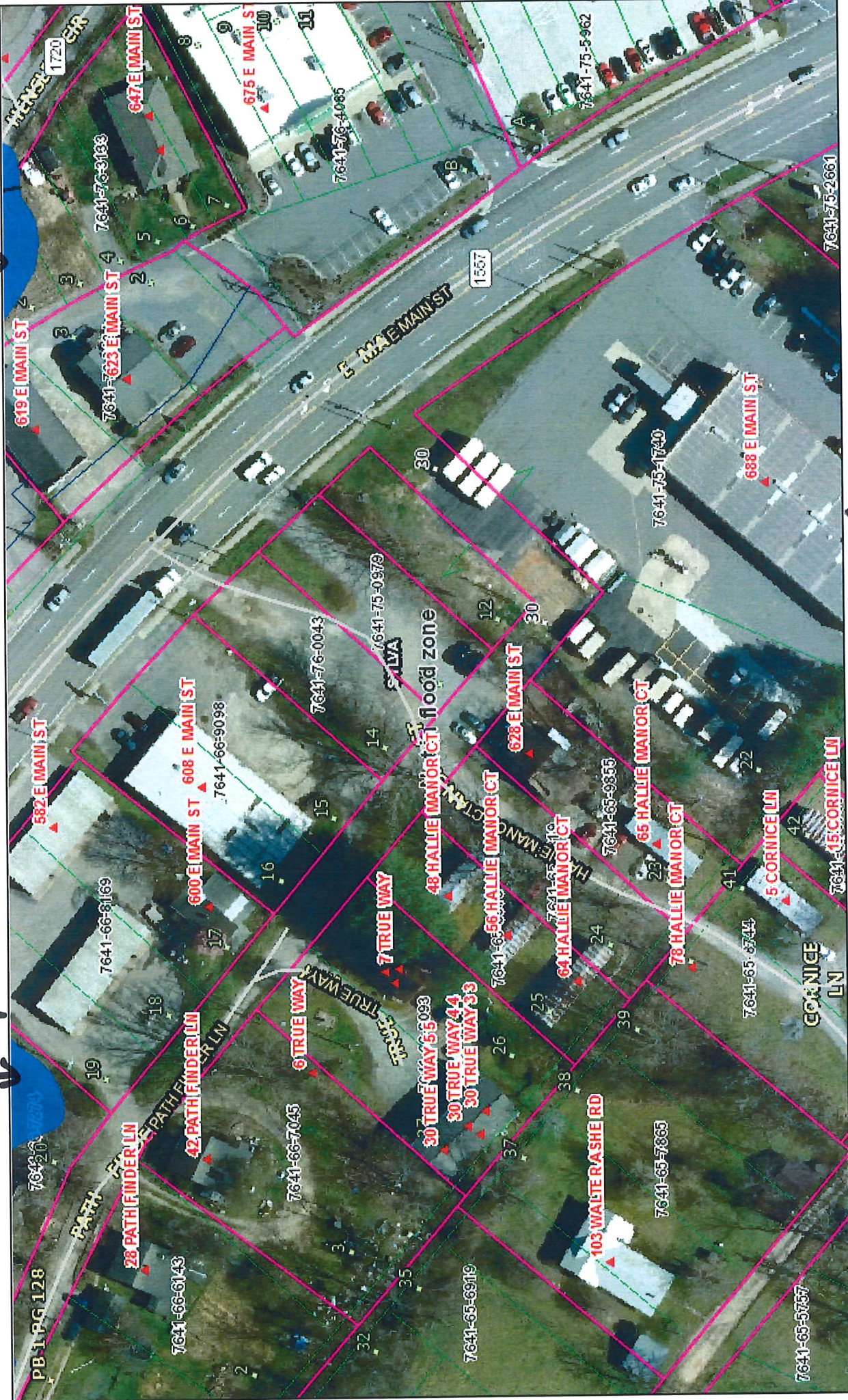


employees and the High-Density Residential properties of the community. TWSA is already in place for water and sewer and Duke Energy for electrical. WCU and SCC students and Travel and Tourism would appreciate the business as well as our local community. In line for a stop at a gas station for gas, an eating establishment and then drop or pick up from UPS.

7. Infrastructure demand. The removal of this business and placing it back on HWY 107 enroute to WCU, SCC and Council on Aging etc. with the utilities in place with the population growth is a much-needed replacement.
8. Zoning Ordinance and Comprehensive Plan Compliance: The new owner of this property is familiar with the Towns Land Use Plan and has had businesses in the Town of Sylva for many years. He has worked with the Planning Department and abiding by all regulations. Therefore, rezoning with the new owner of this property will be compliant with Town's Land Use Plan. With the entire parcel being rezoned the space for the vegetation, parking, sidewalks etc.. is in recognition of the purpose of the rezoning.



# GIS Flood Map Custom Jackson County, NC Property Map



**Legend**

- ▲ Address Points
- Base Flood Elevations
- Floodway
- 100 Year Flood Zone
- Not in Flood Zone
- 500 Year Flood Zone
- Centerlines
- Parcel Annotation
- Dimension

**Legend**

- Easement
- Hydro
- Lot Number
- Miscellaneous
- Road Parcel Lines
- State
- Sub
- Leader Line
- Subdivision
- ROW
- Parcels

**NOT IN Flood Zone**

0 0.005 0.01 0.02 mi

**\*WARNING: THIS IS NOT A SURVEY\*:**  
 This map is prepared for inventory of real property within Jackson County. It is compiled from recorded deeds, plats, and public data records. Users of this map are hereby notified that the aforementioned public information sources should be consulted for verification. Jackson County or any County representative assumes no legal responsibility for the content.



## ***Notification:***

All property and business owners within 100 feet of the property being considered for a text or map amendment must be mailed an Adjacent Property Owner Notification a minimum 10 days prior to the Town of Sylva Planning Board and Town Board of Commissioners meetings. The applicant is responsible for supplying a list of the names and mailing address for these properties and businesses affected by the possible text or map amendment change. In addition, the applicant must supply two (2) set of stamped, addressed #10 envelopes for each property and business owner within a 100' radius. The return address should read:

Town of Sylva  
83 Allen Street  
Sylva, NC 28779

---

## ***SPOT ZONING***

### ***SPOT ZONING DEFINED:***

"A zoning ordinance, or amendment, which singles out and reclassifies a relatively small tract owned by a single person and surrounded by a much larger area uniformly zoned, so as to impose upon the smaller tract greater restrictions than those imposed upon the larger area, or so as to relieve the small tract from restrictions to which the rest of the area is subjected, is called spot zoning."

### ***How to determine whether a particular rezoning is spot zoning when a relatively small tract of land is:***

- o Zoned differently from the surrounding area
- o Not taking into account the larger community context
- o Not in accordance with the comprehensive plan

### ***Factors to Consider:***

#### ***1. Size of Rezoning Area***

The smaller the area/tract the more likely the rezoning can be considered a spot zoning. The size of the tract must be looked at in context for the larger area.

#### ***2. Compatibility with the Plan***

How consistent is the rezoning with the Land Use Plan(s). Relationship of the Town's Land use policies and objectives. Is the land suitable for the following:

- o Development (e.g., topography, soil types, wetland locations, and flood areas)
- o Availability of Services (e.g., water, sewer, roads)
- o Existing and Needed Land Uses.

#### ***3. Benefits & Detriments***

Look at who will benefit and be harmed (if anyone) from the result of the rezoning (e.g. owner, adjacent owners & community at large).

#### ***4. Relationships of Uses***

The relationship of the proposed uses versus the current uses on adjacent land.

**Authorization:**

**Note: If the person requesting of The Town of Sylva, to take action on a particular piece of property is not the owner of the property, or under contract to purchase, then the actual owner of the land must complete this form with his/her signature notarized. If the property owner is the applicant please complete the section below and sign as indicated.**

Fax, Scan or Copied images of the original document will not be accepted.

I, Virginia H Kirkaid (Land owner name) am the owner of the property located in the Town of Sylva Zoning Jurisdiction at:  
Lt 13 + 14 E Main St. 48, 56, 64, 65, 78 Hallie Manor  
Street address: 628 E Main, 58, 15, 18, 21 Property PIN: 7641-75-2919, 7641-76-0043, 65-9640, 7641-65-9855, 7641-65-9819, CORNICE LN / 7641-65-8973, 7641-65-8744, 7641-65-9700

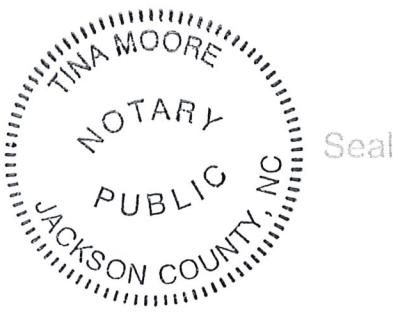
I hereby authorize Ina SAMS (owner or applicant's name) to appear with my consent before the Town of Sylva Planning Board and Board of Commissioners in order to request a rezoning for the above noted location. I authorize the Town of Sylva to advertise and the applicant to present this matter in my name as the owner of the property. I hereby authorize the Town Officials to enter my property to conduct relevant site inspections as deemed necessary to process the application. All information submitted and required as part of the approval process shall become public records. I, as the land owner, hereby CERTIFY THAT THE INFORMATION CONTAINED HERIN IS TRUE TO THE BEST OF MY KNOWLEDGE; AND BY ACCEPTING THIS REZONING, if approved, shall in every respect conform to the terms of this application and to provisions of the Statutes and Ordinances regulating development in the Town of Sylva. Any VIOLATION of the terms above stated and/or Town Ordinances or Regulations will result in civil penalties. If there are any questions, you may contact me at:

Street Address: 842 Bethus Creek Rd, Sylva  
City / State / Zip Code: Sylva, NC 28779  
Phone Number: 828-506-7515  
Email Address: velroh172710@gmail.com  
Owners Signature: Virginia H. Kirkaid

Sworn to and subscribed before me, this the 30 day of June, 2023

Tina Moore  
Notary Public

My commission expires: Jan 30 2025





**Town of Sylva, North Carolina  
Zoning Map Amendment Request  
Staff Report – August 15, 2023**

**Applicant:** Alvin and Virginia Trust – Property Owners

**Property Location:** Off East Main Street, Sylva NC 28779; PIN's 7641-65-8973, 7641-65-9819, 7641-65-9855, 7641-65-8744, 7641-65-9700 and 7641-65-9646.

**Current Property Zoning:** High Density Residential - HDR

**Ordinance Section for which the Text Amendment is requested:** Article 3 - Procedures - Section 3.9.B – Zoning and Map Amendments

**Description of Request:**

The applicant is requesting a map amendment that would designate the subject properties as General Business (GB) District.

**Background:**

The General Business District (GB) is the largest district within Sylva's commercially zoned jurisdiction. The GB District offers a broad range of permitted (use-by-right) and special uses (SUP) such as lodging, retail/commercial, restaurants, public/civil and recreational uses. Property improvements in this district are subject to development standards as set forth in the zoning ordinance including building setbacks, landscaping, architectural standards, sidewalk construction, parking, storm water treatment, etc.

The subject properties are located on the south side of Highway 107 approximately 582 lf east of the Highway 107/Cope Creek Road intersection. These properties total 1.19 acres in land area with 9 existing residential dwellings (manufactured homes) and a vacant restaurant (former Soul Infusions Tea House). Access to these properties are from the public right-of-way of Highway 107 and a private access road known as Path Finder Lane. These properties are adjacent to properties to the east that are in the GB District and are not located within the 100-year flood plain. These properties are or can be served by Tuckasegee Water & Sewer Authority for public utilities.

**Application Response:**

The applicant is requesting that the existing Town of Sylva Zoning Map be amended to designate the six subject properties (1.19 acres) to the General Business District.

**Staff Findings:**

The requested map amendment would not constitute "spot zoning" as the properties to the east are zoned GB District.

The Town's adopted Land Use Plan for 2040 establishes that these properties will be in the future *Urban Neighborhood District*. The encouraged land uses for this future district include: primarily residential: small lot single family, townhome residential, two-, three- or four-family units, and multifamily; civic and educational uses that support community residents, live-work units, small scale in-home businesses and small scale public open space (e.g. active pocket parks, passive open space, greenways). However, if the map amendment request is approved, these properties will be in the future *Community Corridors District* with encouraged land uses for this district being mixed-use buildings, institutional uses, walkable neighborhood commercial (retail, office, personal services), large scale commercial, business centers, community services and civic/educational services. In addition, this requested map amendment will create available property and opportunity in the GB District that may be needed to serve the community during/after the proposed Highway 107 improvement project.





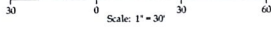


Certificate of Approval for Recording  
I certify that the plat shown hereon complies with the Subdivision and Mountain and Hillside Development Ordinance and is approved for recording in the Register of Deeds Office

Date \_\_\_\_\_ Planning Director or Designee \_\_\_\_\_

Total Project  
**1.64 Acres**  
Coordinate Computation

**PLAT NORTH**  
"RLJOC Holdings Co., LLC"  
Plat Cabinet 25/Slide 654



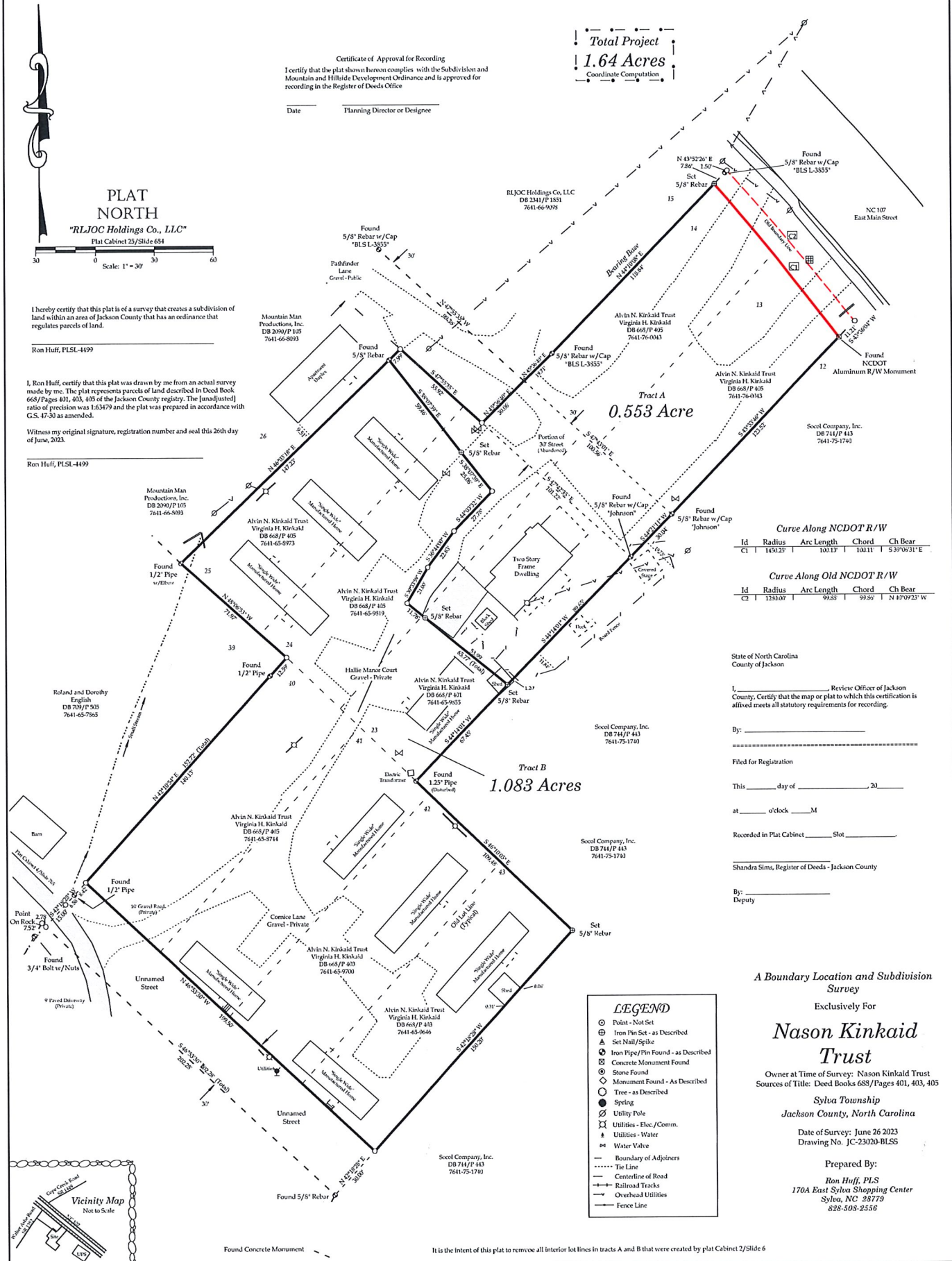
I hereby certify that this plat is of a survey that creates a subdivision of land within an area of Jackson County that has an ordinance that regulates parcels of land.

Ron Huff, PLSL-4199

I, Ron Huff, certify that this plat was drawn by me from an actual survey made by me. The plat represents parcels of land described in Deed Book 668/Pages 401, 403, 405 of the Jackson County registry. The [unadjusted] ratio of precision was 1:63799 and the plat was prepared in accordance with G.S. 47-33 as amended.

Witness my original signature, registration number and seal this 26th day of June, 2023.

Ron Huff, PLSL-4199



Curve Along NCDOT R/W

Id	Radius	Arc Length	Chord	Ch Bear
C1	1490.23'	100.13'	100.11'	S 37°09'31" E

Curve Along Old NCDOT R/W

Id	Radius	Arc Length	Chord	Ch Bear
C2	1253.07'	99.55'	99.55'	N 10°02'23" W

State of North Carolina  
County of Jackson

I, \_\_\_\_\_ Review Officer of Jackson County; Certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

By: \_\_\_\_\_

Filed for Registration

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

at \_\_\_\_\_ o'clock \_\_\_\_\_ M

Recorded in Plat Cabinet \_\_\_\_\_ Slot \_\_\_\_\_

Shandra Sims, Register of Deeds - Jackson County

By: \_\_\_\_\_  
Deputy

**A Boundary Location and Subdivision Survey**

Exclusively For

**Nason Kinkaid Trust**

Owner at Time of Survey: Nason Kinkaid Trust  
Sources of Title: Deed Books 668/Pages 401, 403, 405

Sylva Township  
Jackson County, North Carolina

Date of Survey: June 26 2023  
Drawing No. JC-23030-BLSS

Prepared By:

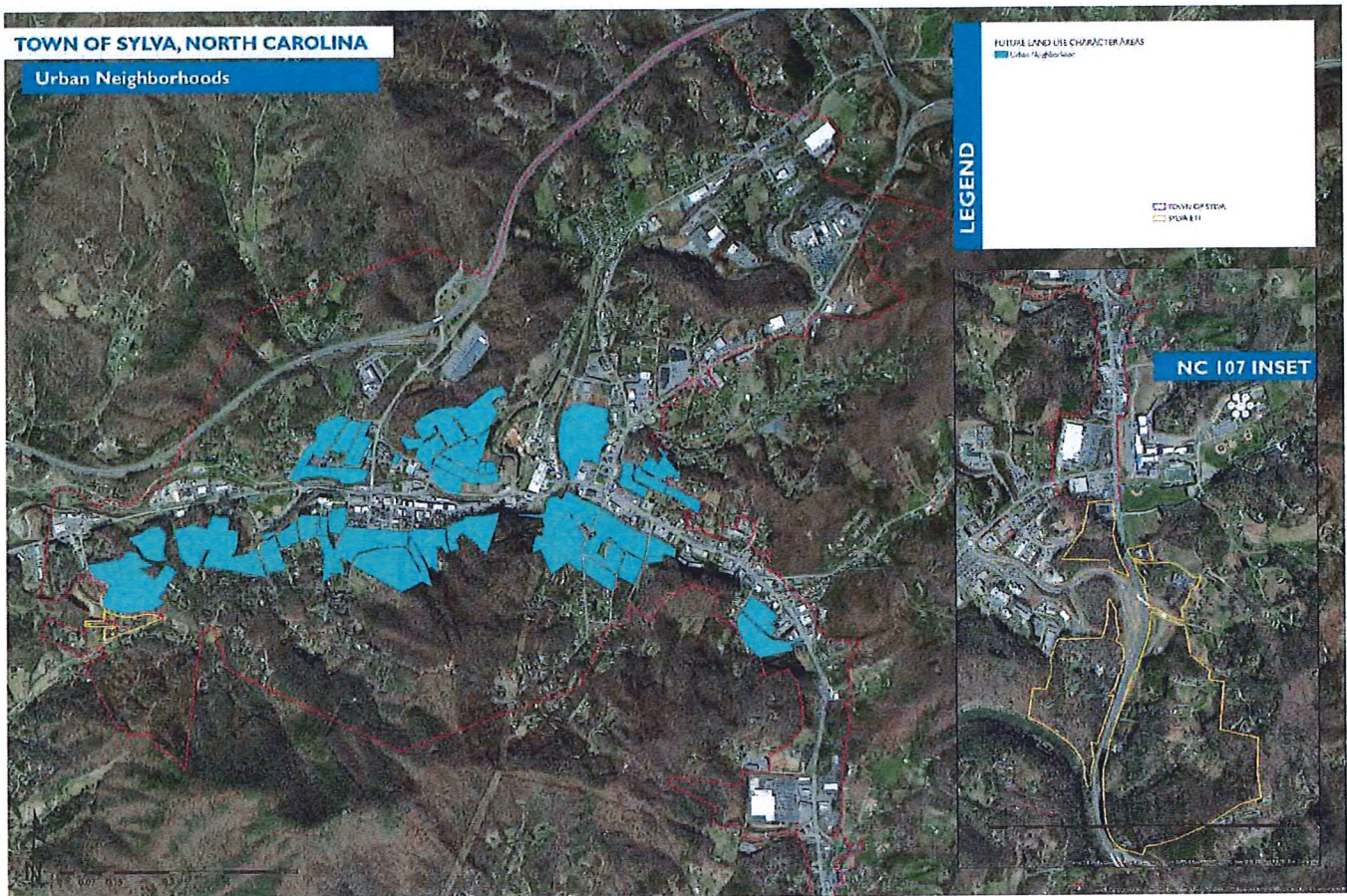
Ron Huff, PLS  
170A East Sylva Shopping Center  
Sylva, NC 28779  
828-258-2556

**LEGEND**

- Point - Not Set
- ⊗ Iron Pin Set - as Described
- ⊕ Set Nail/Spile
- ⊙ Iron Pipe/Pin Found - as Described
- ⊗ Concrete Monument Found
- ⊙ Stone Found
- ⊙ Monument Found - As Described
- Tree - as Described
- ⊙ Spring
- ⊙ Utility Pole
- ⊗ Utilities - Elec./Comm.
- ⊙ Utilities - Water
- ⊙ Water Valve
- Boundary of Adjoiners
- Tie Line
- Centerline of Road
- Railroad Tracks
- Overhead Utilities
- Fence Line

It is the intent of this plat to remove all interior lot lines in tracts A and B that were created by plat Cabinet 2/Slide 6





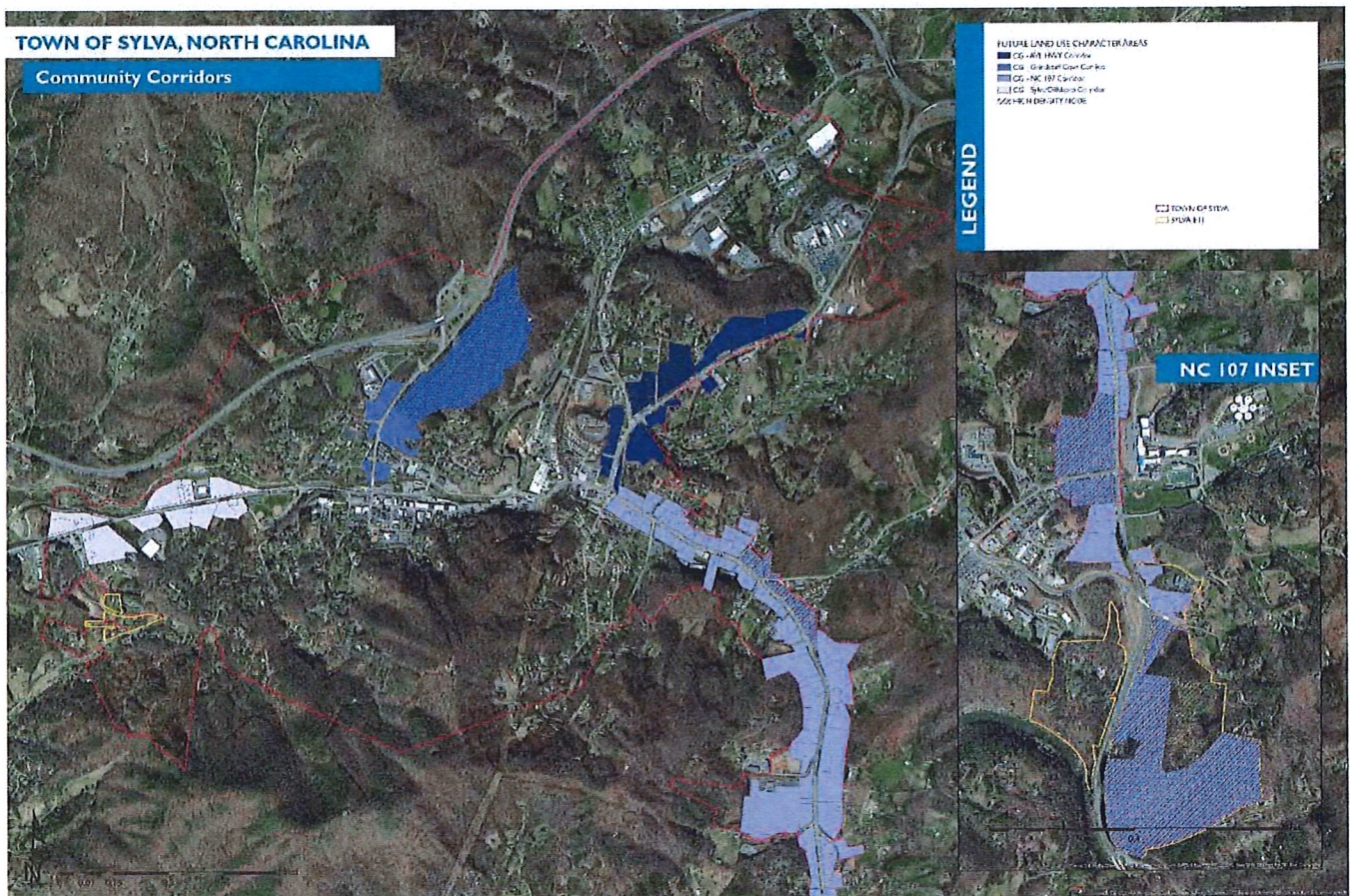
## Urban Neighborhoods

The Urban Neighborhood character area includes existing residential and new areas where it is envisioned that reinvestment in the community can and will occur, with a focus on providing a variety of housing options that are walkable to Downtown Sylva and the Town's other commercial areas. Higher-density residential uses (**greater than 12 units per acre**), including multifamily residential, small-lot single-family residential, higher-density townhomes, condominiums, and du-, tri-, and quadruplexes are appropriate for and encouraged within this character area. Building heights should fall into the 3 to 4 story range.

### Encouraged Land Uses:

- Primarily residential: small lot single family, townhome residential, two-, three- or four-family units, and multifamily
- Civic and educational uses that support community residents
- Live-work units
- Small scale in-home businesses
- Small scale public open space (e.g. active pocket parks, passive open space, greenways)
- Areas that currently allow manufacture housing will continue to allow for this land use





## Community Corridors

The intent of the Community Corridor character areas is to create an authentic “Sylva Look and Feel” for the town’s entryways. Community Corridors will be the town’s “workhorse” corridors – connecting commercial areas to residential neighborhoods while providing a major transportation link between job centers and areas outside of Sylva. The key to success is redevelopment that incorporates a mix of land uses in compact development patterns, links downtown and neighborhoods, and provides additional housing options, neighborhood amenities, and job opportunities. With some exceptions, the form the uses take is more important than land use. The corridors also include high-density nodes which are the points along the corridors that are most appropriate for high density mixed-use development.

### Encouraged Land Uses:

- Mixed use buildings and mixed-use projects (including residential, office and ground-floor retail/commercial)
- Institutional uses
- Commercial uses (see the list of Generator types in the Existing Land Use section)
  - Neighborhood commercial: retail, office, or personal services intended to serve surrounding neighborhoods, consume are 4-5 acres of land, should be walkable from nearby residential neighborhoods
  - Community commercial: Commercial uses with 125,000 to 400,000 leasable square feet, often with one or more anchor tenants, commercial uses serve a large portion of the community; focus on multimodal access
- Light industrial & Office / Business centers: with the right development standards in place, light industrial uses can be appropriate along the community corridors, particularly where the corridors are further away from Downtown Sylva.
- Community services
- Civic and educational uses that support community residents