

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**

Contact Information:

Applicant/Agent: Edward Hudak & Brianne Hudak

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

Address: 1430 Peeks Creek Rd Franklin, NC 28734

Phone: _____ Fax: _____

Email: edwardhudak@yahoo.com cc: tharp.broker@gmail.com

Property Owner(s): C and J properties

(If the owner is different than the applicant)

Address: PO Box 863 Sylva, NC 28779

Phone: _____ Fax: _____

Email: _____

Property Information:

Property Location/Address(es): 414 Skyland Drive, Sylva, NC 28779

Tax Parcel Identification Number(s): 7642-41-7128 & 7642-51-1400

Current Use of Property(ies): Gymnasium

Acreage to be Rezoned: 13.9

Deed Book: 928 Page: 24 Lot / Tract Size: 13.9 (acres)

Property Street Frontage / Width: _____ Property Depth: _____

Flood Plain: _____ FIRM Panel: _____

Zoning Information:

Current Zoning District(s): B2

Requested Zoning District(s): PB - Professional Business

Purpose of Zoning Change (optional): School

Private school k-8

Spot Zoning Statement:

In the space below, please indicate whether the proposed rezoning *will* or *will not* constitute a spot zoning and explain *why* the proposed rezoning *will* or *will not* constitute a spot zoning. (For more information on spot zoning, refer to the attachment on spot zoning).

The proposed rezoning will not constitute spot zoning because the requested rezoning will be in accordance with the adopted 2040 land use plan.

Town of Sylva LAND USE PLAN CONSISTENCY

All rezoning requests must be consistent with the Town of Sylva's *Land Use Map*

Current Land Use Classification(s): _____

- This rezoning request is: Consistent with the Town's Land Use Map.
 NOT consistent with the Town's Land Use Map.

IF THE REZONING REQUEST IS NOT CONSISTENT WITH THE LAND USE MAP:

A Land Use Map Amendment is *REQUIRED*. All rezoning requests **MUST BE CONSISTENT** with the Town of Sylva's *Land Use Map and/or the Town's Land Use Plan*. All Land Use Amendments must be consistent with one or more of the adopted Land Use Plan Policies located within the Town's Land Use Plan Update document and/or demonstrate a change in the character of the area that warrants a departure from the adopted Land Use Plan. In the space below, please explain *why* the proposed Land Use Amendment will be consistent with the Town of Sylva's Land Use Plan and how the character of the area has changed (A copy of the Town of Sylva's Land Use Plan and Map can be viewed at Town Hall).

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.

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, C and J Properties (Land owner name) am the owner of the property located in the Town of Sylva Zoning Jurisdiction at:

Street address: 414 Skyland Drive Sylva, NC 28779 Property PIN: 7642-41-7128 & 7642-51-1400

I hereby authorize Edward Hudak Jr. and Brianne Hudak (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: 1097 Kitchens Branch Rd

City / State / Zip Code: Sylva, NC 28779

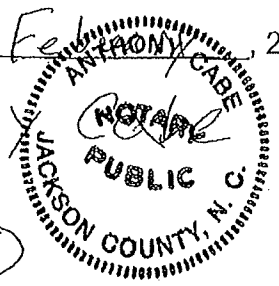
Phone Number: 828 226-5105

Email Address: kluppen@wccu.edu

Owners Signature: [Handwritten Signature]

Sworn to and subscribed before me, this the 22nd day of Feb, 2023

Anthony Carl Anthony
Notary Public



My commission expires: July 15, 2027

Town of Sylva, North Carolina
Zoning Map Amendment Request
Staff Report – April 17, 2023

Applicant: CJ Properties – Property Owners; Edward and Brianne Hudak representatives

Property Location: 414 Skyland Drive, Sylva; PIN’s 7642-41-7128 and 7642-51-1400

Current Property Zoning: General Business - GB

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 change the subject properties from the General Business District (GB) to the Professional Business District (PB). The representative for the applicant would like to operate a private school on the subject property which is not an allowed use in the GB District; however, schools are a permitted use within the PB District.

Background:

The property for this proposed school use is located at 414 Skyland Drive (currently Smoky Mountain Fitness) with access directly to Skyland Drive. This property has a total land area of 13.93 acres (both parcels) with existing structures housing the fitness/pool activities and an accessory storage building. Properties to the east are in the Institutional District, properties to the south are in the High-Density Residential District and properties to the west are in the General Business District. If required by the Town’s Zoning Ordinance, property improvements in this district (PB) are subject to development standards as set forth, including building setbacks, landscaping, architectural standards, sidewalk construction, parking, storm water treatment, etc. Tuckasegee Water and Sewer Authority (water and sanitary sewer) and Duke Power will provide public utilities and the Sylva Fire Department will provide fire safety services.

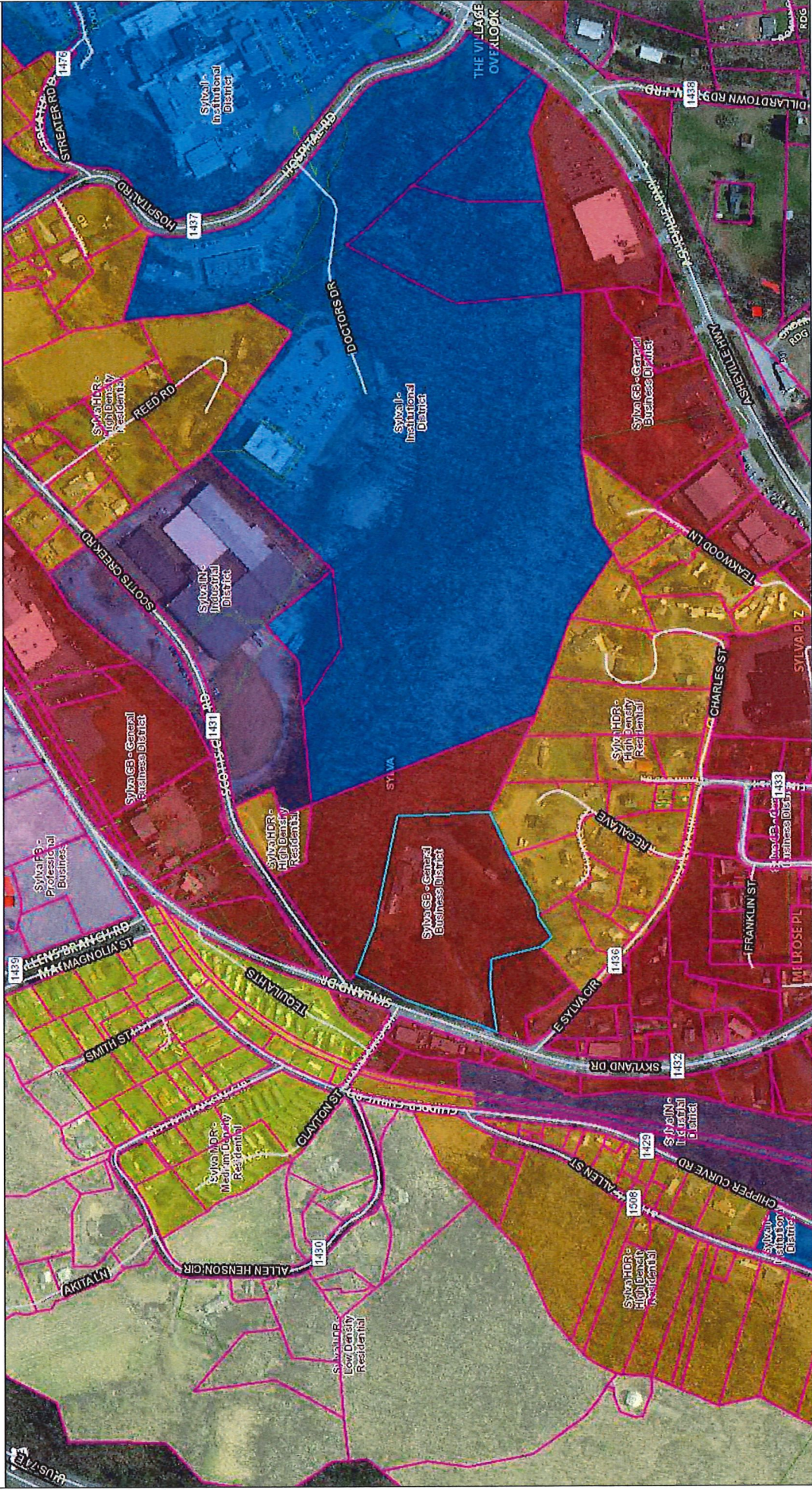
Application Response:

The applicant is requesting that the existing Town of Sylva Zoning Map be amended to designate both properties (PIN’s 7642-41-7128 and 7642-51-1400) as Professional Business.

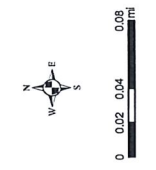
Staff Findings:

The requested map amendment would not constitute “spot zoning” as the subject properties will be in accordance with the Town’s adopted Land Use Plan for 2040. This plan establishes that these properties as well as the entire Professional Business District will be in the future *Skyland Mixed Use Corridor District*. The encouraged land uses for this future district include: mixed use development, residential (live/work, multifamily, townhomes, small-lot single family), neighborhood commercial, small scale restaurants and breweries, small scale hotels, civic and educational uses that support community residents and open space.

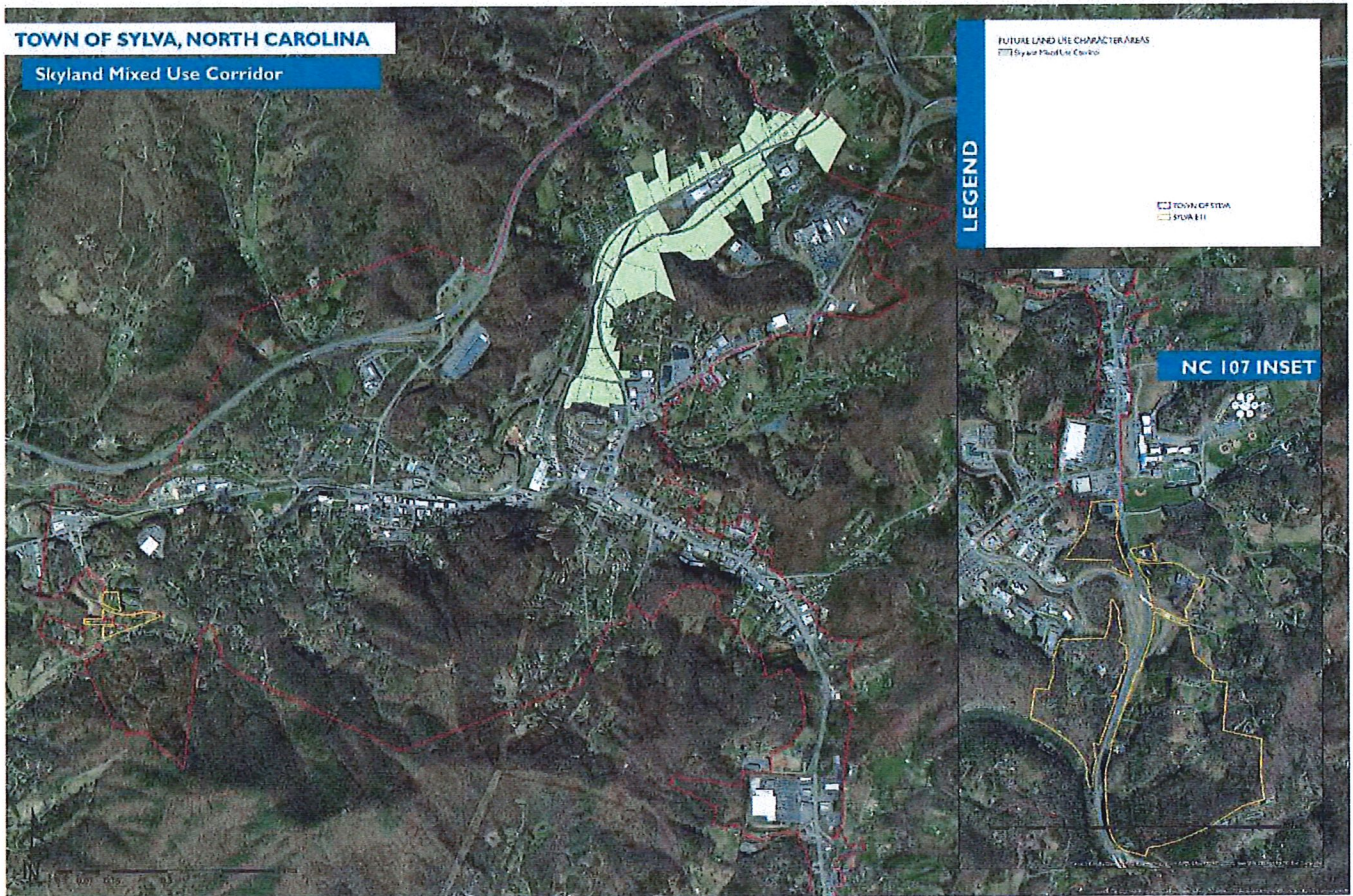
ArcGIS WebMap



WARNING: THIS IS NOT A SURVEY!
 This map is prepared for the purpose 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 does not constitute a survey and that Jackson County or any County representative assumes no legal responsibility for the contents of this map.



- Septic Tanks
 - Septic Tank Parcel Lines
 - Septic Areas
 - Override 1
- Centerlines
- Leader Line
- Lot Line
- Easement
- Hooks
- Parcels
- Municipal_Li...
- Subdivision ROW



Skyland Mixed Use Corridor

The future land use pattern for the area identifies as the Skyland Mixed Use Corridor will be determined through a small area planning process. The corridor is at risk of becoming a disconnected mix of uses. Additionally, the Corridor has distinguishing features that Sylva can maximize and protect. A small area plan will allow the community to determine a land use pattern that blends a mix of land uses and maximizes what the corridor has to offer.

Encouraged Land Uses:

- Mixed use development (consider at least two stories)
- Residential (live/work, multifamily, townhomes, small-lot single family)
- Neighborhood commercial
- Small scale restaurants and breweries
- Small scale hotels
- Civic and educational uses that support community residents
- Open space



April 27, 2023

TOWN OF SYLVA PLANNING BOARD

Statement of Consistency pursuant to G.S. 160D

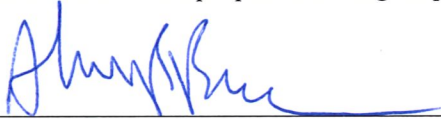
Re: Proposed zoning map amendment from General Business (GB) to Professional Business (PB) for parcels identified by PIN# 7642-41-7128 and 7642-51-1400.

The Town of Sylva Planning Board has found the zoning map amendment to parcels identified by PIN# 7642-41-7128 and 7642-51-1400 to be supported by the Town of Sylva 2040 Land Use Plan.

We find the proposed amendment to be consistent with The Plan for Sylva corridor specifications found on page 34 of the Town of Sylva 2040 Land Use Plan. More specifically:

- Skyland Mixed Use Corridor: The requested map amendment would not constitute “spot zoning” as the subject properties will be in accordance with the Town’s adopted Land Use Plan for 2040. This plan establishes that these properties as well as the entire Professional Business District will be in the future Skyland Mixed Use Corridor District. The encouraged land uses for this future district include: mixed use development, residential (live/work, multifamily, townhomes, small-lot single family), neighborhood commercial, small scale restaurants and breweries, small scale hotels, civic and educational uses that support community residents and open space.

We therefore consider the proposed zoning map amendment to be reasonable and in the public interest.

Signed:  _____

Alan Brown, Chairman, Town of Sylva Planning Board



May 11, 2023

TOWN OF SYLVA BOARD OF COMMISSIONERS

Statement of Consistency pursuant to G.S. 160D

Re: Proposed zoning map amendment from General Business (GB) to Professional Business (PB) for parcels identified by PIN# 7642-41-7128 and 7642-51-1400.

The Town of Sylva Board of Commissioners has found the zoning map amendment to parcels identified by PIN# 7642-41-7128 and 7642-51-1400 to be supported by the Town of Sylva 2040 Land Use Plan.

We find the proposed amendment to be consistent with The Plan for Sylva corridor specifications found on page 34 of the Town of Sylva 2040 Land Use Plan. More specifically:

- Skyland Mixed Use Corridor: The requested map amendment would not constitute “spot zoning” as the subject properties will be in accordance with the Town’s adopted Land Use Plan for 2040. This plan establishes that these properties as well as the entire Professional Business District will be in the future Skyland Mixed Use Corridor District. The encouraged land uses for this future district include: mixed use development, residential (live/work, multifamily, townhomes, small-lot single family), neighborhood commercial, small scale restaurants and breweries, small scale hotels, civic and educational uses that support community residents and open space.

We therefore consider the proposed zoning map amendment to be reasonable and in the public interest.

Signed: _____

David Nestler, Mayor, Board of Commissioners