

North Wilkesboro Existing Land Use Survey

May 2018

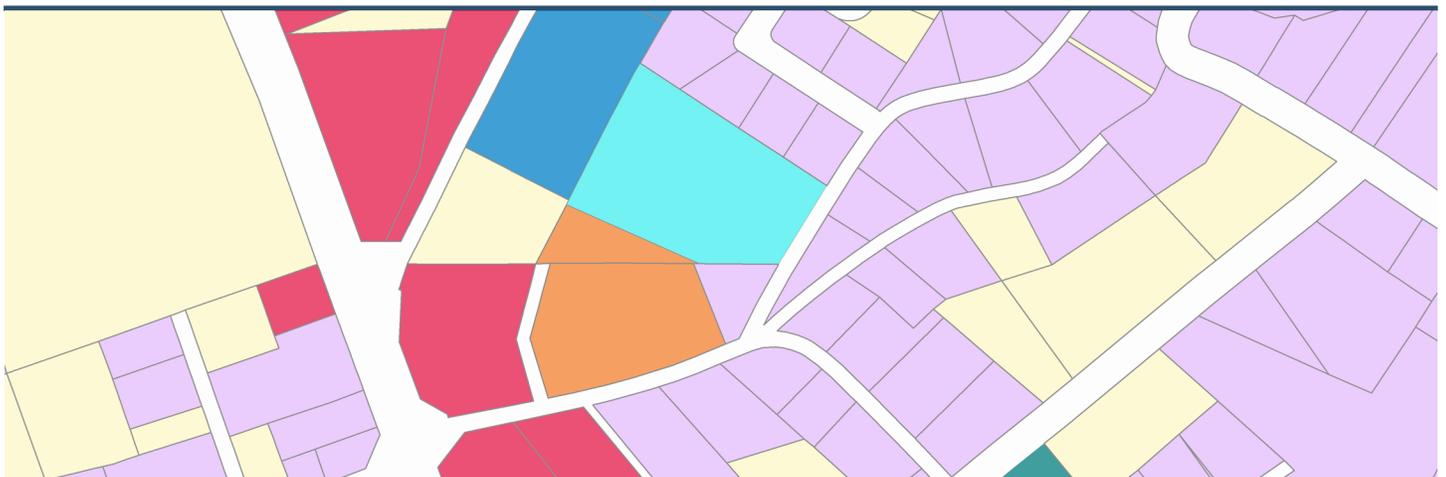
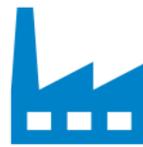


Table of Contents

1. Introduction

Need for Existing Land Use Survey 3

Scope of Work..... 3

2. Methodology

Base map & Land Use Coding Format..... 4-5

Windshield Survey 5-6

3. Results

Summary of Findings..... 6-7

Average Parcel Size per Primary Land Use Category 7

Existing Land Use Maps 8-9

Number of Parcels and Acreage by Primary Land Use within the Corporate Limits 10-11

Number of Parcels and Acreage by Primary Land Use within the ETJ..... 12-13

Parcels with Multiple Land Uses 14

Methodology for Identifying Non-Conforming Parcels 15

Non-Conforming Parcels Map..... 16

Non-Conforming Parcel Totals..... 17

Breakdown of Non-Conforming Parcels within the Corporate Limits..... 18

Breakdown of Non-Conforming Parcels within the ETJ..... 19

4. Conclusion

Relationship to Comprehensive Plan..... 20

Value of Regular Re-Assessment 20

Appendix A - Town of North Wilkesboro Zoning Ordinance, Article III Section 7 21-27

Appendix B - Town of North Wilkesboro Rezoning Petition..... 28-31

Appendix C - Town of North Wilkesboro Zoning Ordinance, Article II 32-37



Introduction

Accurate information on existing land use is a foundational component of effective planning. It enables town staff and policy-makers to assess development patterns, identify areas of non-conformity with zoning districts, and evaluate future policy and regulations. Recognizing this, the Town of North Wilkesboro included a goal of analyzing existing land use through field verification within its recently adopted Comprehensive Plan. High Country Council of Governments was contracted by the Town to update the existing Land-Use Inventory, which was last field verified in 2005. Work on the update took place over the course of six months from December 2017 to May 2018.

The results include a geographic information system (GIS) shapefile containing observed land use classification and Zoning Ordinance conformance status for each parcel within the corporate limits and Extraterritorial Jurisdiction (ETJ), maps displaying existing land use and conformance status, and this summary report. This report contains details on the methodology used to assign land use classifications, analysis and charts summarizing the findings of the survey, and existing primary land use maps. It also contains details on the methodology used to identify non-conforming parcels, a breakdown of non-conformities, and a map displaying the location of non-conforming parcels. It concludes by tying the findings of the land use survey to the Comprehensive Plan, reiterating the potential uses of the information contained herein, and providing reference information related to the rezoning process and non-conformities within the Zoning Ordinance.

Scope of Work

The Town of North Wilkesboro and High Country Council of Governments (HCCOG) entered into an agreement for planning services on November 6, 2017. This agreement set forth a scope of services, outlined below, in order to update the Town's Existing Land-Use Inventory and to compare existing land use to zoning classifications.

Scope of Services

1) *Analysis of Existing Land Use (by Survey)*

- Replicate Town's existing land-use windshield survey from 2005
 - Evaluate land use of approximately 4,700 parcels covering both Town Limits and ETJ
 - Assign land use classification to each parcel using 16 classifications from Comprehensive Plan
 - Create Map

2) *Analysis of Non-Conformities*

- Compare existing land use to existing zoning districts
 - Align current zoning districts to 16 land-use categories
 - Calculate non-conformities by number of parcels and acreage
 - Create maps

Methodology

Base Map

The existing land use survey utilized parcel information from the Wilkes County Tax Administration Office in the form of a GIS shapefile. The parcel shapefile was clipped to include only those parcels that fell within the incorporated town limits of North Wilkesboro and the town's ETJ. Attribute fields were added to each individual parcel record in order to input up to five observed land uses. Zoning GIS data provided by town staff, current as of April 2018, was utilized for the identification of non-conforming parcels.

Land Use Coding Format

Land use categories utilized for the survey originated from the Town of North Wilkesboro's Comprehensive Plan, amended as of 2018. A new land use category, Medical (MED), was added and several definitions of other categories were altered in order to improve clarity for the purpose of the survey. Land use categories and their definitions within the context of the survey and this report are as follows:

Agricultural (AG) – *This land use classification encompasses all open land use for the production of crops, poultry, or livestock products. In order to be classified under the land use, the property must fit, or seem to fit upon observation, into the definition of “bona fide farm” as defined by the North Carolina General Statutes. Parcels that are used solely for the commercial sale of any of the three above-mentioned products shall not be included into the definition.*

Commercial/Retail (COM) – *includes the sale of both wholesale and retail goods and services.*

Executive/Office (EX) – *includes uses pertaining to the rendering of executive, professional, or “white-collar” services.*

Industrial (IN) – *includes all land uses that pertain to the manufacturing, fabrication, mass storing, and/or distribution of goods.*

Institutional (IS) – *includes all land uses that are deemed to be of public importance or of cultural value. This includes civic clubs, churches, cemeteries, schools, nursing centers, non-profits, or any other use that involves the provision or cultural or civic services to the town. This also involves all non- or not-for-profit entities.*

Medical (MED) – *includes all land uses that fall into the medical field including hospitals, doctor's offices, dentists, and medical laboratories. Not included: chiropractor offices, medical supply dealerships, veterinary offices.*

Mobile Home (MH) – *includes parcels that contain only single-wide or double-wide mobile home(s). This includes single mobile homes on a single lot or multiple mobile homes and/or mobile home parks.*

Multi-family Residential (MFR) – *includes any land use that is dedicated to housing multiple families within a larger building including apartment buildings, attached townhouses, condominiums, duplexes, and houses that exhibit multiple separate entrances with multiple addresses. Bed and Breakfast establishments are included in this definition. Motel/hotel operation, however, are excluded.*

(continued on next page...)

Public (P) – includes all uses that are open to and used by the public. Primarily this definition includes public parking lots. Also included are private parking lots when parking is the sole use of the property, unless owned by an adjacent business or institution for their sole use. Public housing, utilities, and recreation facilities are excluded from this classification. All government buildings, including fire and police, are included in this definition.

Recreation (REC) – includes all public and private recreation uses. This includes private golf courses and private parks.

Single Family Residential – Attached (SFR1) – includes all single family uses whereby the units or dwelling units are attached and owner-occupied; such as townhomes, duplexes, and condominium units.

Single Family Residential – Detached (SFR2) – includes all single family homes that are built to NC Building Code and are the primary use of the parcel upon which it rests. Included in this classification are properties with multiple single family homes that may or may not be occupied.

Utilities (UT) – includes parcels that are dedicated to private and/or public utility uses including, but not limited to, sewage, water, telephone, electrical transmission, and telecommunications. All buildings used by public/private utilities including office buildings, staging areas, and equipment storage are included in this definition.

Unknown (UN) – includes parcels where uses of the land or structures cannot be determined upon survey. This usually includes primary structures that are abandoned or dilapidated and/or the current or future use is undetermined or cannot be determined.

Vacant (V) – includes parcels that have minimal indication of past or present secondary structures and/or rest in a natural state.

Multiple Land Uses on One Parcel

In instances where a parcel exhibited more than one of the stated land use categories, all observed uses were recorded into the GIS shapefile. The dominant use of the property was entered in as the primary land use, with additional land uses entered in subsequent attribute columns. To maintain consistency, single family residential units were given primary land use status in all instances except those situations where it was apparent they were a secondary or tertiary use. As an example, numerous parcels contained both a single family residential - detached dwelling along with a mobile home. In these instances, the primary land use was considered to be the single family dwelling and the secondary land use was considered to be the mobile home. Multiple story structures were coded with the ground floor use as the primary land use and upper-level uses as secondary or tertiary uses. For the purpose of illustration, only the primary land use of a parcel is displayed on the existing land use maps found within this document. More information on the frequency of observed secondary and tertiary uses can be found in the Results section of this report.

Windshield Survey

Land uses for each parcel within the study area were captured using a windshield survey. HCCOG staff observed and recorded land uses by visual inspection over a period of six months from December 2017 to May 2018.

All survey activity took place from within the vehicle, with the exception of the downtown area. Land use classifications were made using visual inspection. No properties or structures were entered. HCCOG staff relied on structural design, signage, ownership records, and address research in order to determine land use. Staff looked for the presence of separate entrances, multiple mailboxes, multiple electric meters, and apartment addressing in order to distinguish multi-family residential structures from single-family structures in instances where the structural difference was not readily apparent. In the absence of these distinguishing features, parcels were assumed to be single-family residential. The windshield survey was limited to areas with public right-of-way access. Staff did not enter private drives that displayed “No Trespassing” or similar signs. In these instances, and in situations where a piece of property was landlocked with no access, staff relied on the most recent satellite imagery for classification. This methodology did not allow staff to determine if certain structures, such as townhomes or duplexes, were owner-occupied. Due to this limitation, no parcels were classified as single-family residential - attached.

Results

A total of 4,703 parcels were classified as part of the windshield survey. Of those, 2,330 were located within the North Wilkesboro corporate limits and 2,389 were located within the town’s ETJ. Sixteen parcels fell within both the incorporated portion of town and the ETJ. The statistics for those parcels were included in both sets of data in the following pages. The average parcel size across the entire study area for each primary land use category can be seen on the next page. Agricultural, recreational, industrial, and institutional uses exhibited the largest average parcel size in acres. Unknown, commercial/retail, and executive/office had the smallest average parcel size.

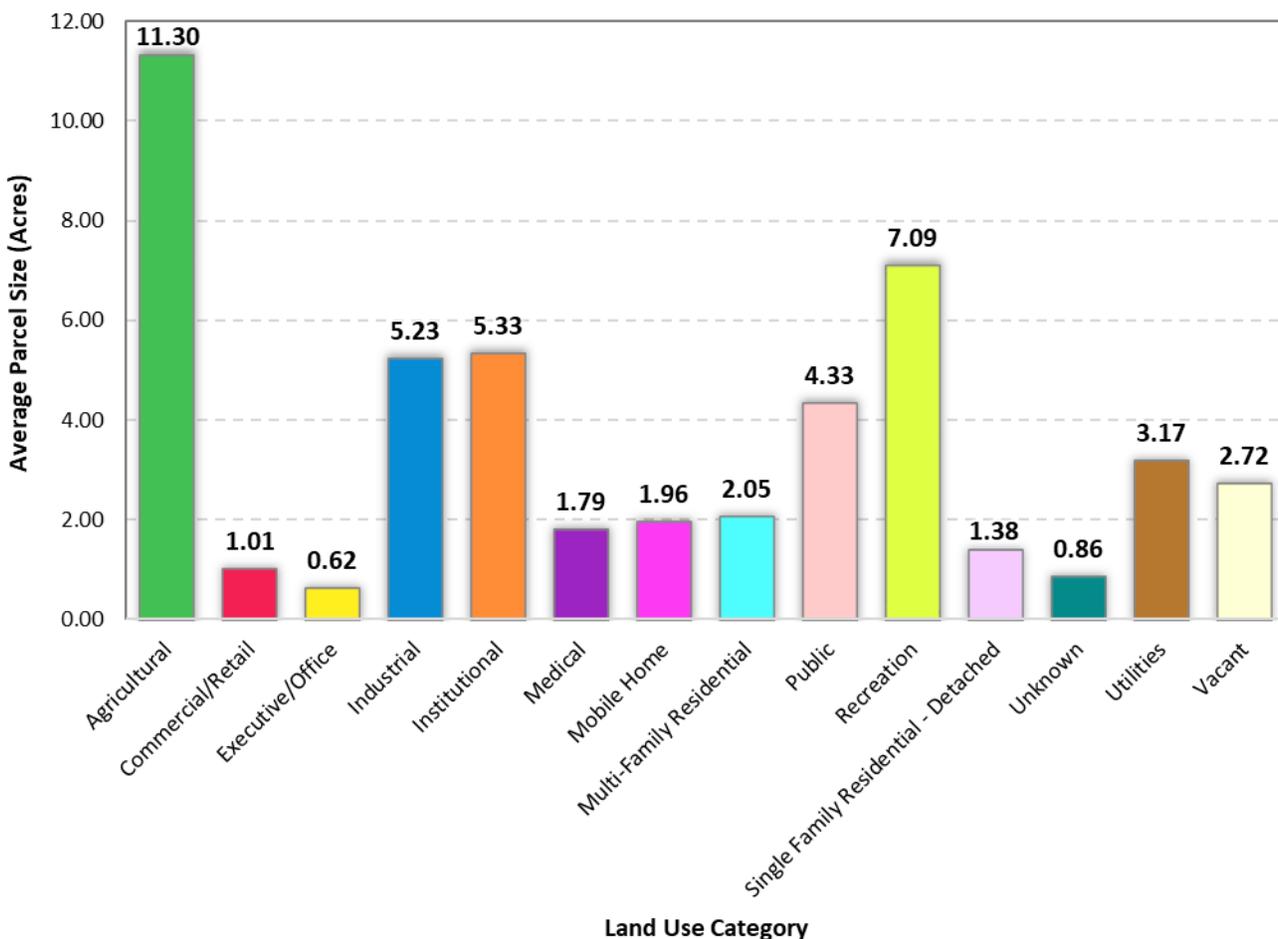
The overwhelming majority of parcels within the corporate limits were classified as single-family residential - detached. With 1,005 total parcels, single-family residential - detached comprised over 43% of all parcels within town. The next closest land use classification in terms of total parcels was vacant, making up just over one-quarter of the total parcels observed. Commercial properties made up just over 12% of parcels within the incorporated area. The remaining land use classifications were fairly evenly distributed in terms of number of parcels. Based on total acreage, parcels classified as vacant were the most predominant land use within the incorporated area. Vacant parcels comprised 1,569 acres within the town limits, or just over 40% of all the land observed. Single-family residential - detached made up 683 acres of land, which was just under 18% of incorporated land. Industrial, commercial/retail, and institutional uses were the next most common in land area. No other land use comprised more than 5% of total acreage within the corporate limits.

Land uses within the ETJ were much less diverse than those in the incorporated portion of the study area. Single-family residential - detached remained the most predominant use in terms of total parcels, but at a much higher rate than within the corporate limits. Single-family residential - detached made up over 55% of all parcels within the ETJ, followed distantly by parcels with vacant and mobile home uses. Together, these three uses accounted for over 93% of all parcels within the ETJ. Some uses, such as executive/office, medical, and recreation were not present at all within this part of the study area. Land use within the ETJ is slightly more diverse in terms of acreage, but still less diverse than within corporate limits. Land classified as single-family residential - detached made up 2,546 acres (39.4%) of property within the ETJ, followed by vacant property with 2,009 acres (31.1%). Agricultural (769 acres) and mobile home (527 acres) uses were much more prominent within the ETJ than within corporate limits. Only eight acres of commercial/retail property was observed within this portion of the study area, confirming that land use patterns within the ETJ are primarily rural and residential in nature.

Of the 4,703 total parcels that were classified as part of this survey, only 126 had multiple land use categories. Of those, 113 had two land uses and 13 had three land uses. No parcel contained more than three observable uses. The most frequent secondary and tertiary use in the study area was mobile home, with 64 total parcels, distantly followed by agriculture, multi-family residential, and commercial/retail, respectively. Similarly, the most frequent land use pairing consisted of single-family residential - detached with one or more mobile homes, followed distantly by single-family residential - detached paired with agriculture. Only twelve parcels had an observed pairing of commercial/retail with multi-family residential, suggesting that mixed use structures are an underutilized building form within the study area.

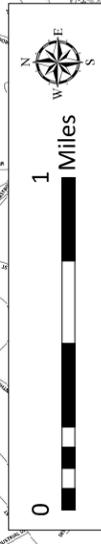
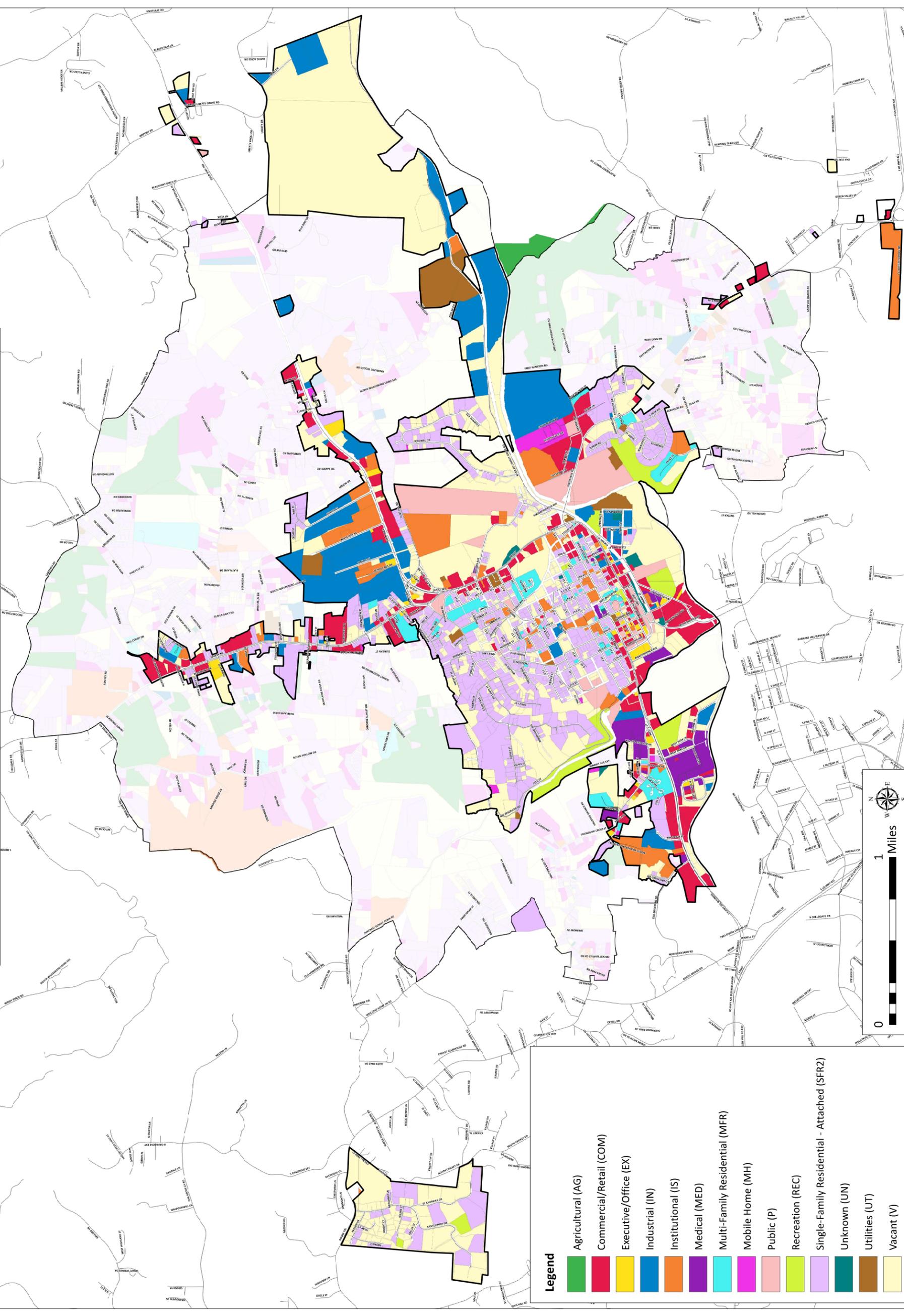
The Wilkes County Tax Administration Office’s GIS parcel shapefile contains a “State Class” code for each parcel. This code classifies parcels using one of 135 possible values. High Country COG staff sorted and grouped the state class codes to match the land use classifications used within this document in order to compare the differences between the Tax Administration Office land use code for each parcel and the land use observed during the windshield survey. The results revealed that 806 parcels, or 17% of total parcels observed, had a state code that did not match the code assigned during the windshield survey. Land use is often dynamic, with changes and development occurring frequently. This level of discrepancy highlights the value of performing field-verified land use surveys on a frequent basis. Maps displaying primary land use within the study area and charts showing the predominance of each land use classification can be found on the following pages.

Average Parcel Size per Primary Land Use Category



North Wilkesboro Existing Primary Land Use, May 2018

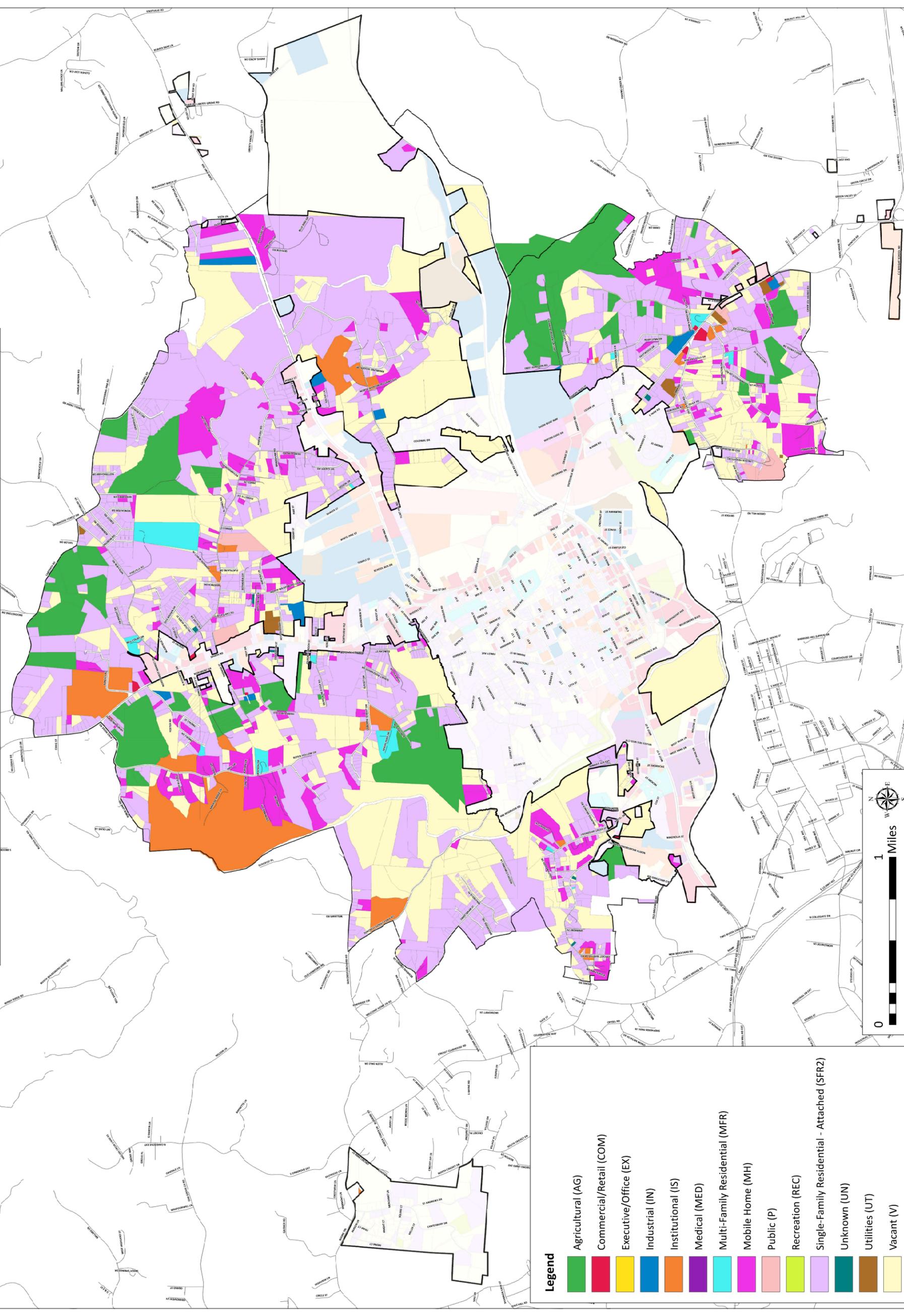
Incorporated Area



Legend

■	Agricultural (AG)
■	Commercial/Retail (COM)
■	Executive/Office (EX)
■	Industrial (IN)
■	Institutional (IS)
■	Medical (MED)
■	Multi-Family Residential (MFR)
■	Mobile Home (MH)
■	Public (P)
■	Recreation (REC)
■	Single-Family Residential - Attached (SFR2)
■	Unknown (UN)
■	Utilities (UT)
■	Vacant (V)

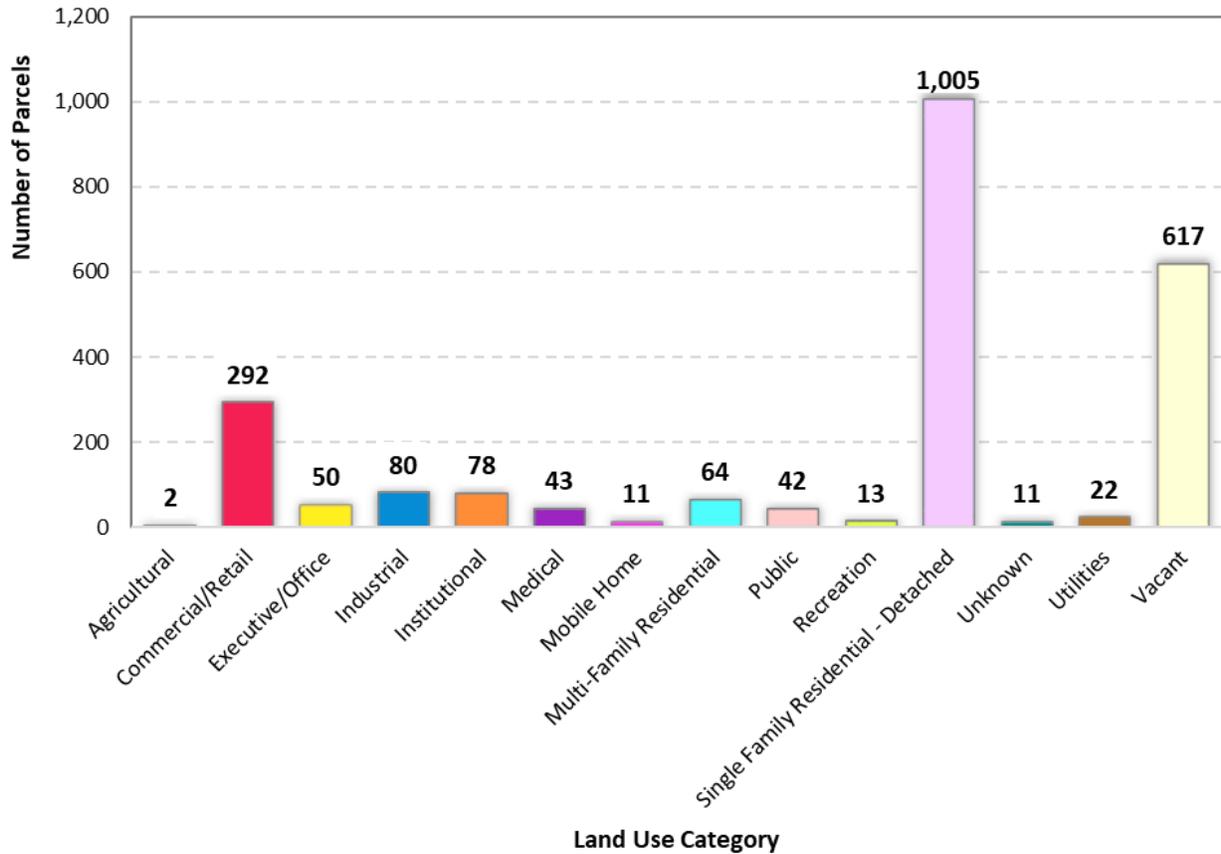
North Wilkesboro Existing Primary Land Use, May 2018 Extraterritorial Jurisdiction (ETJ)



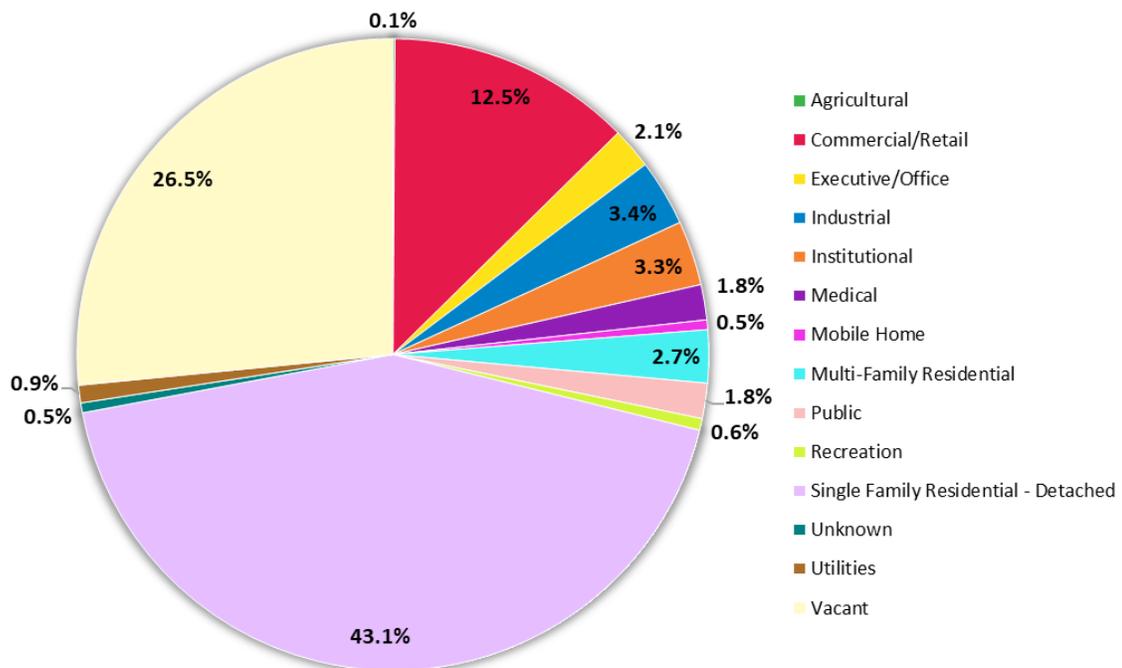
Legend

- Agricultural (AG)
- Commercial/Retail (COM)
- Executive/Office (EX)
- Industrial (IN)
- Institutional (IS)
- Medical (MED)
- Multi-Family Residential (MFR)
- Mobile Home (MH)
- Public (P)
- Recreation (REC)
- Single-Family Residential - Attached (SFR2)
- Unknown (UN)
- Utilities (UT)
- Vacant (V)

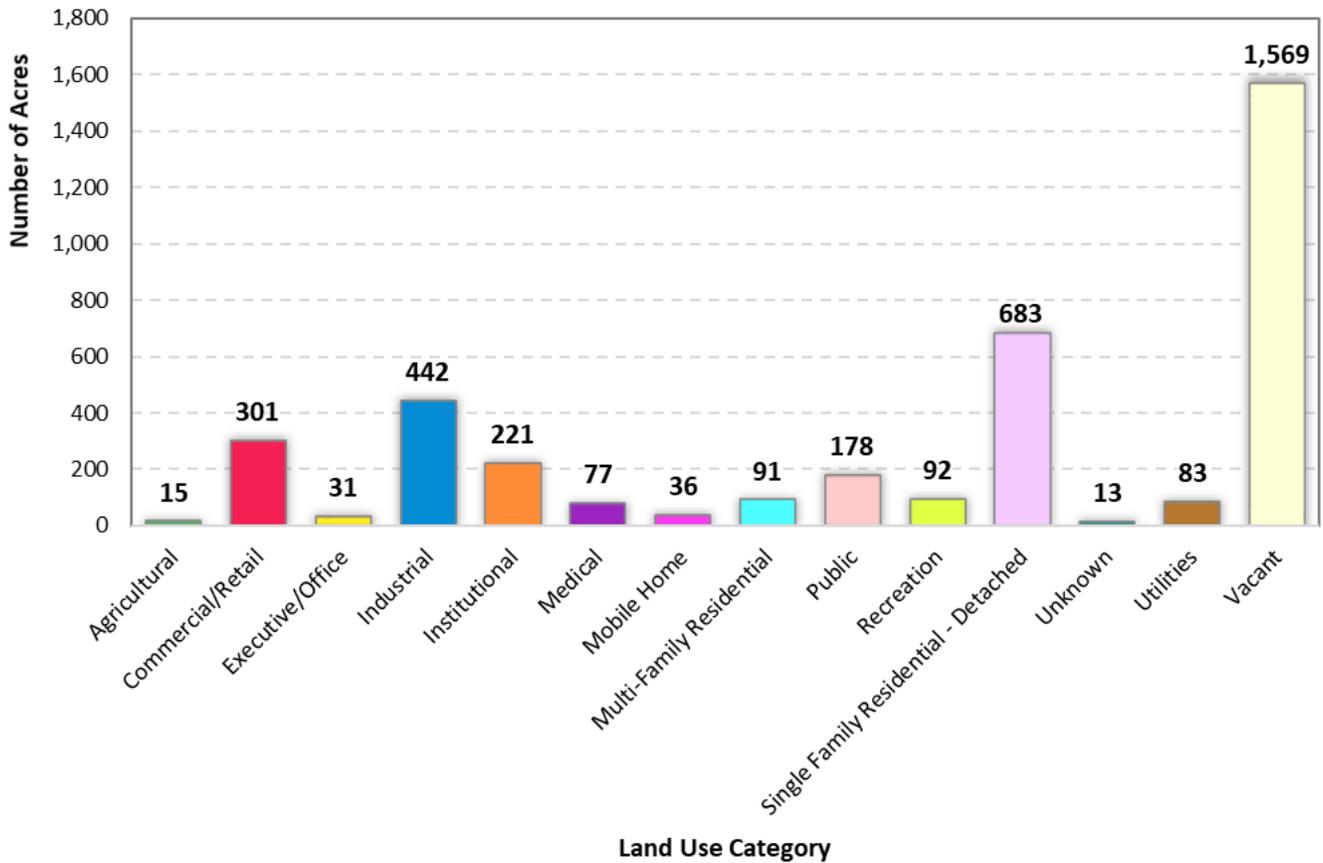
Parcels Within the Corporate Limits by Primary Land Use Category



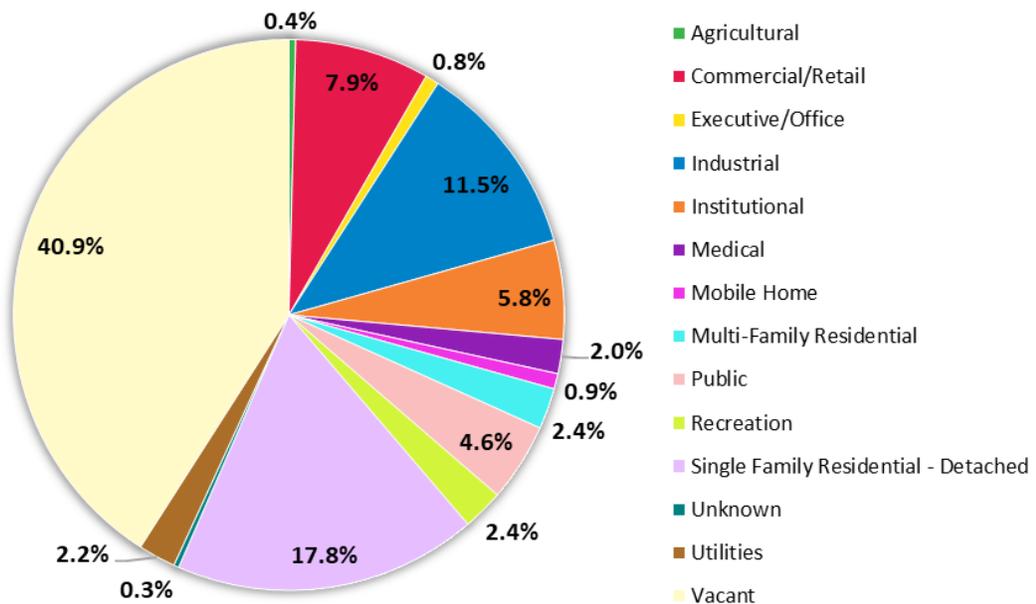
Percentage of Parcels by Primary Land Use Within the Corporate Limits



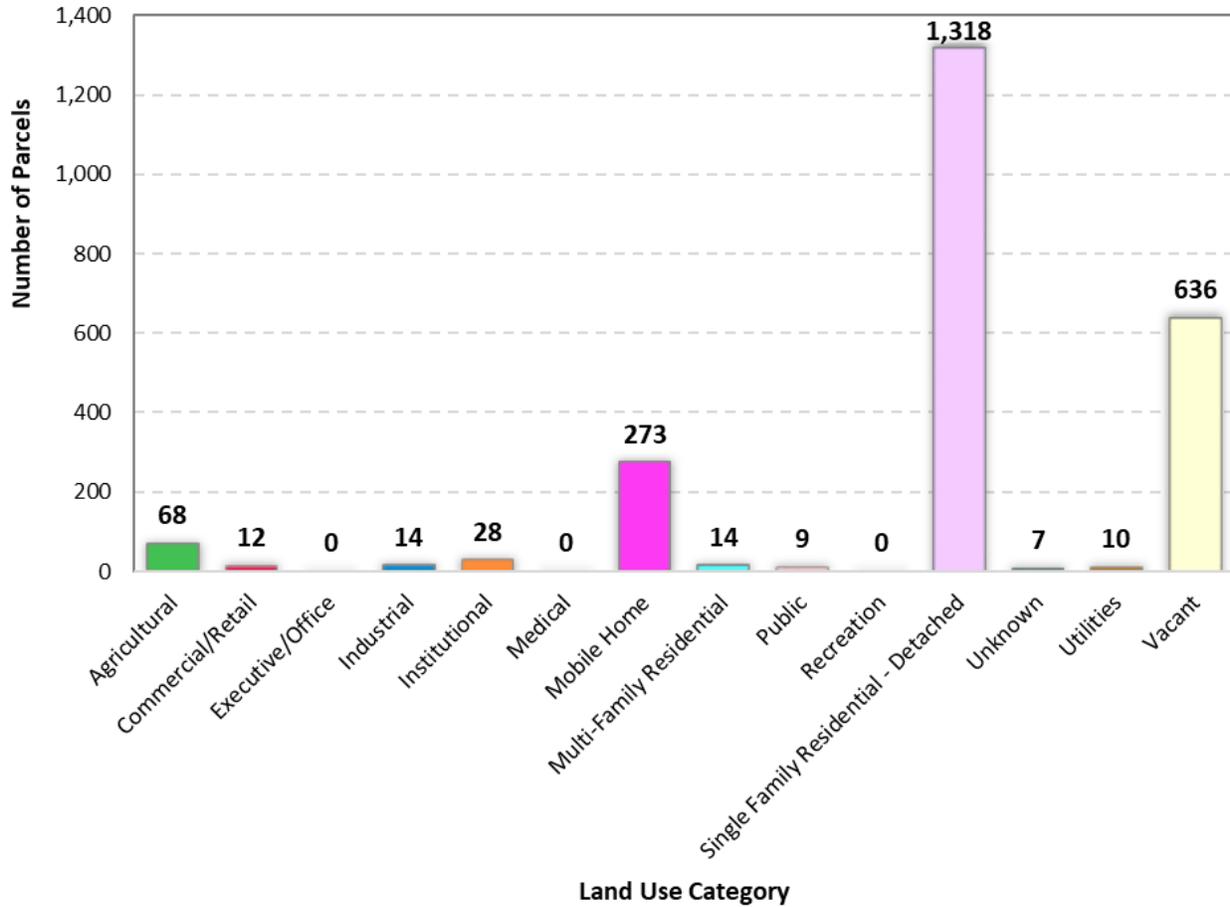
Amount of Acreage by Primary Land Use Category Within the Corporate Limits



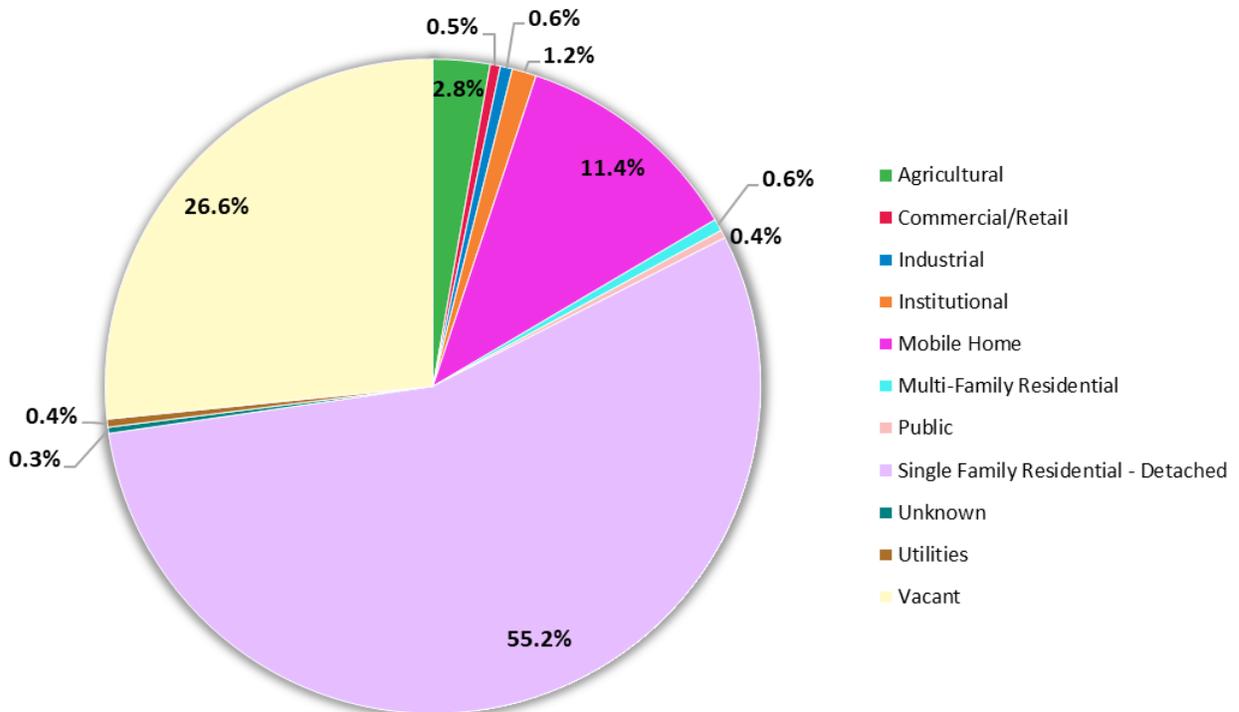
Percentage of Total Acreage by Primary Land Use Within the Corporate Limits



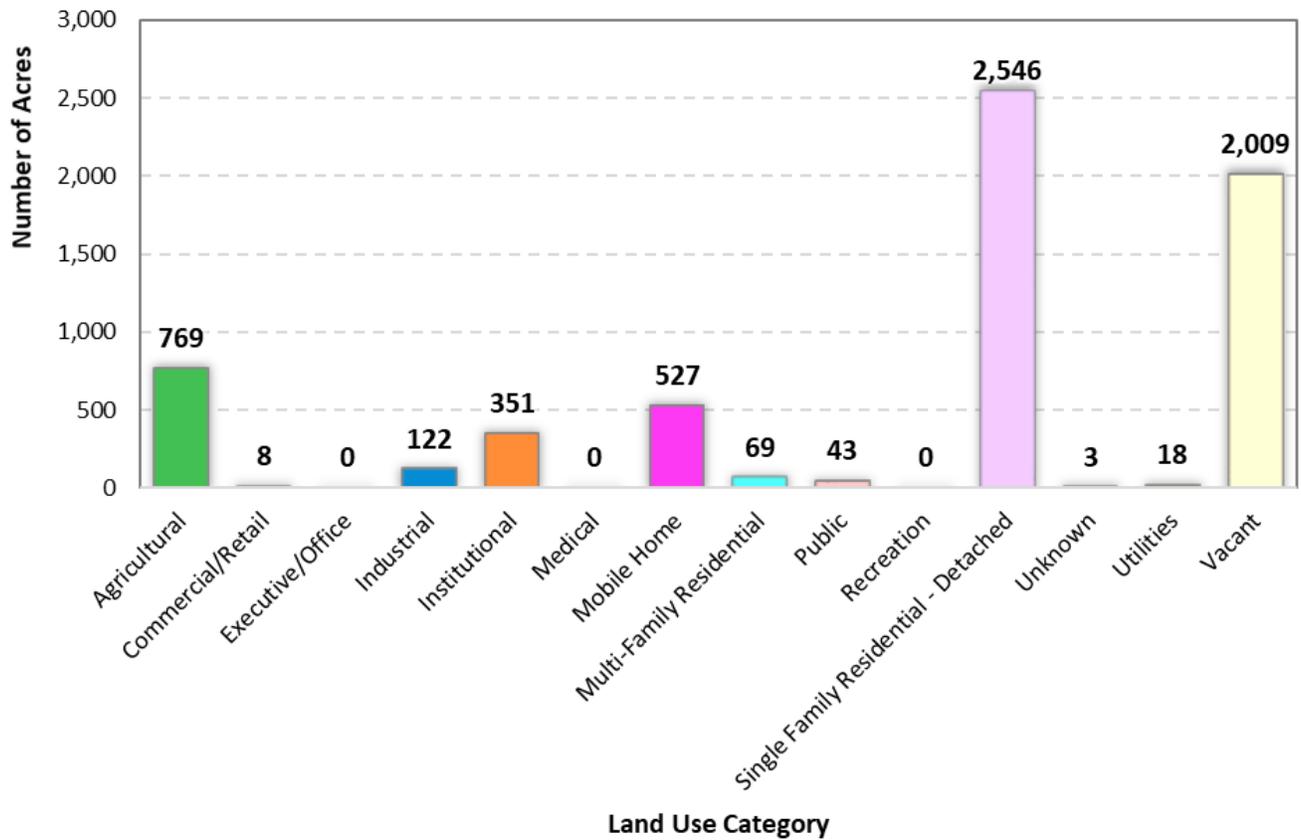
Parcels Within the ETJ by Primary Land Use Category



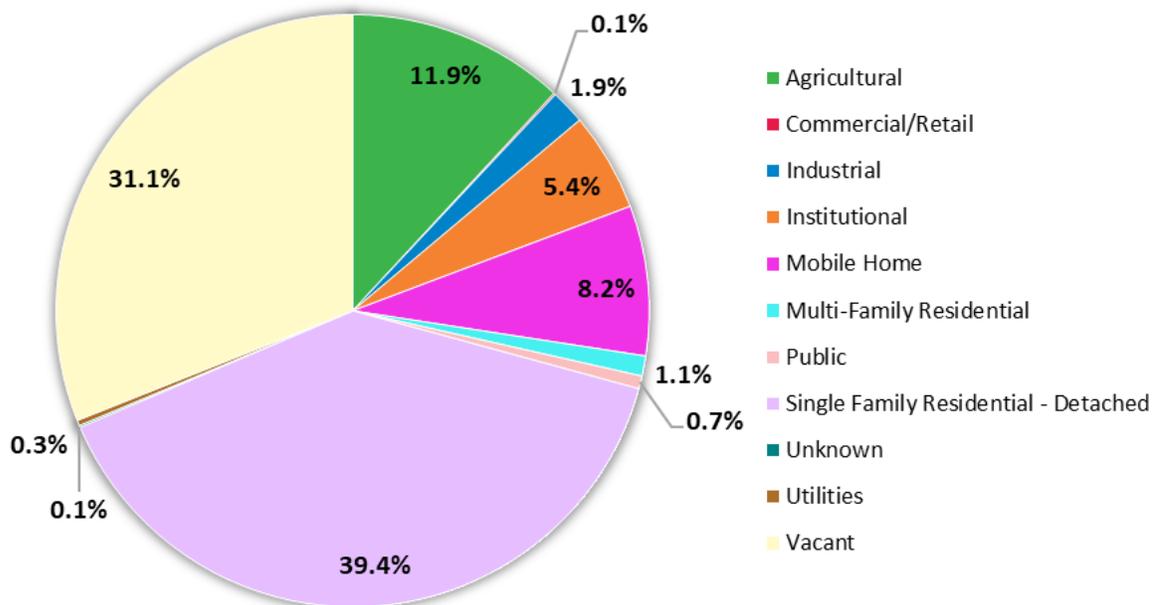
Percentage of Parcels by Primary Land Use Within the ETJ



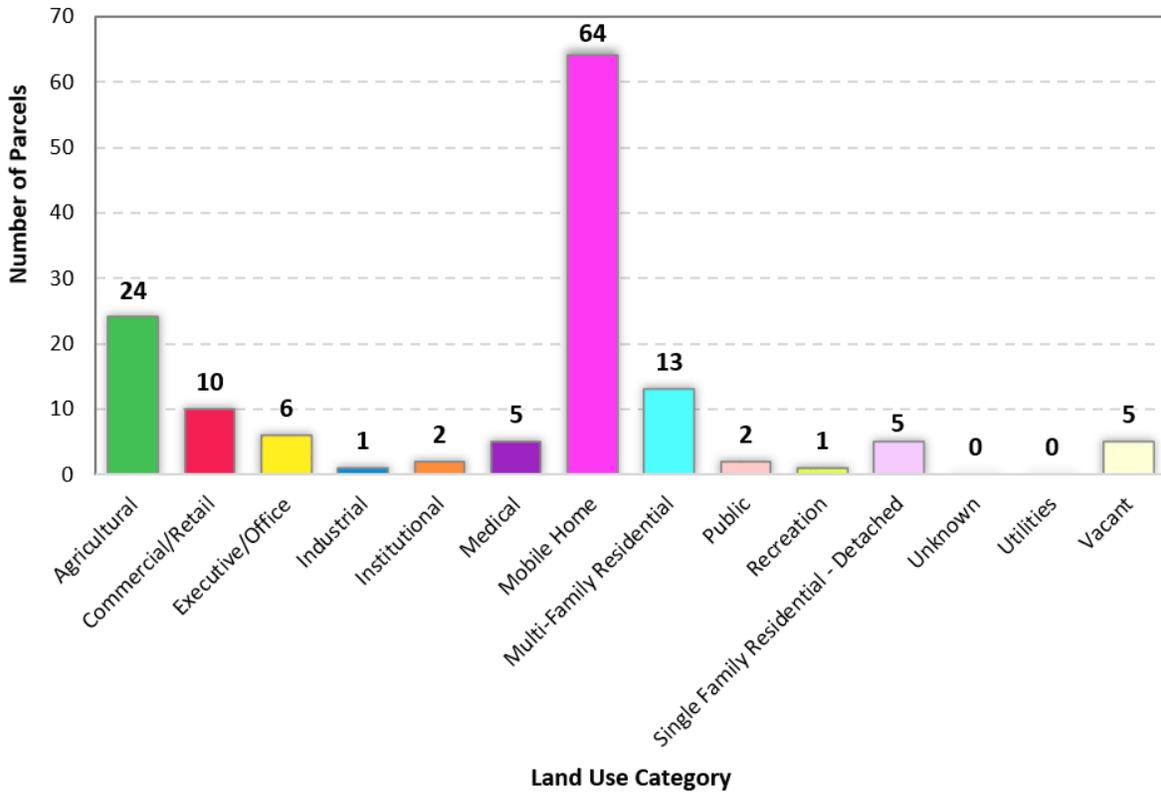
Amount of Acreage by Primary Land Use Category Within the ETJ



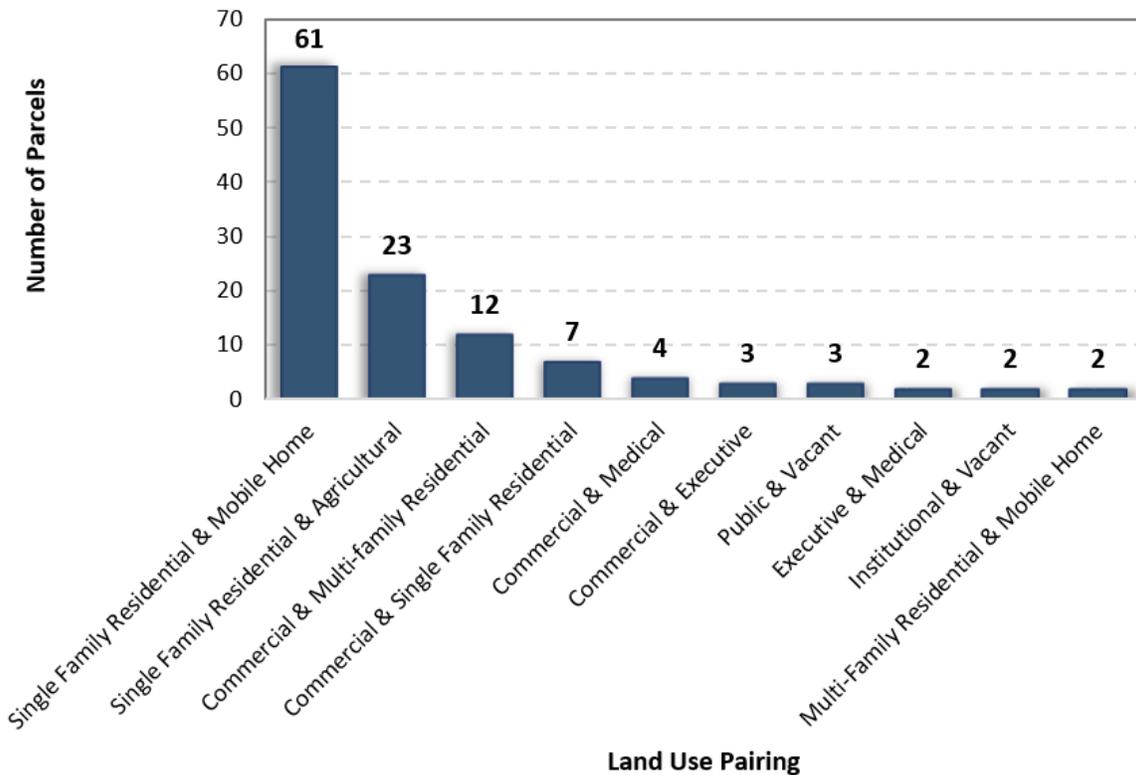
Percentage of Total Acreage by Primary Land Use Within the ETJ



Frequency of Secondary and Tertiary Land Uses



Frequency of Land Use Pairings



***Note** - The following land use pairs were each found on one parcel: COM & IS, EX & IS, EX & P, EX & MFR, IN & MH, IN & COM, MED & P, MH & AG, MH & COM, SFR2 & IN, UT & EX, UT & REC

Non-Conforming Parcels

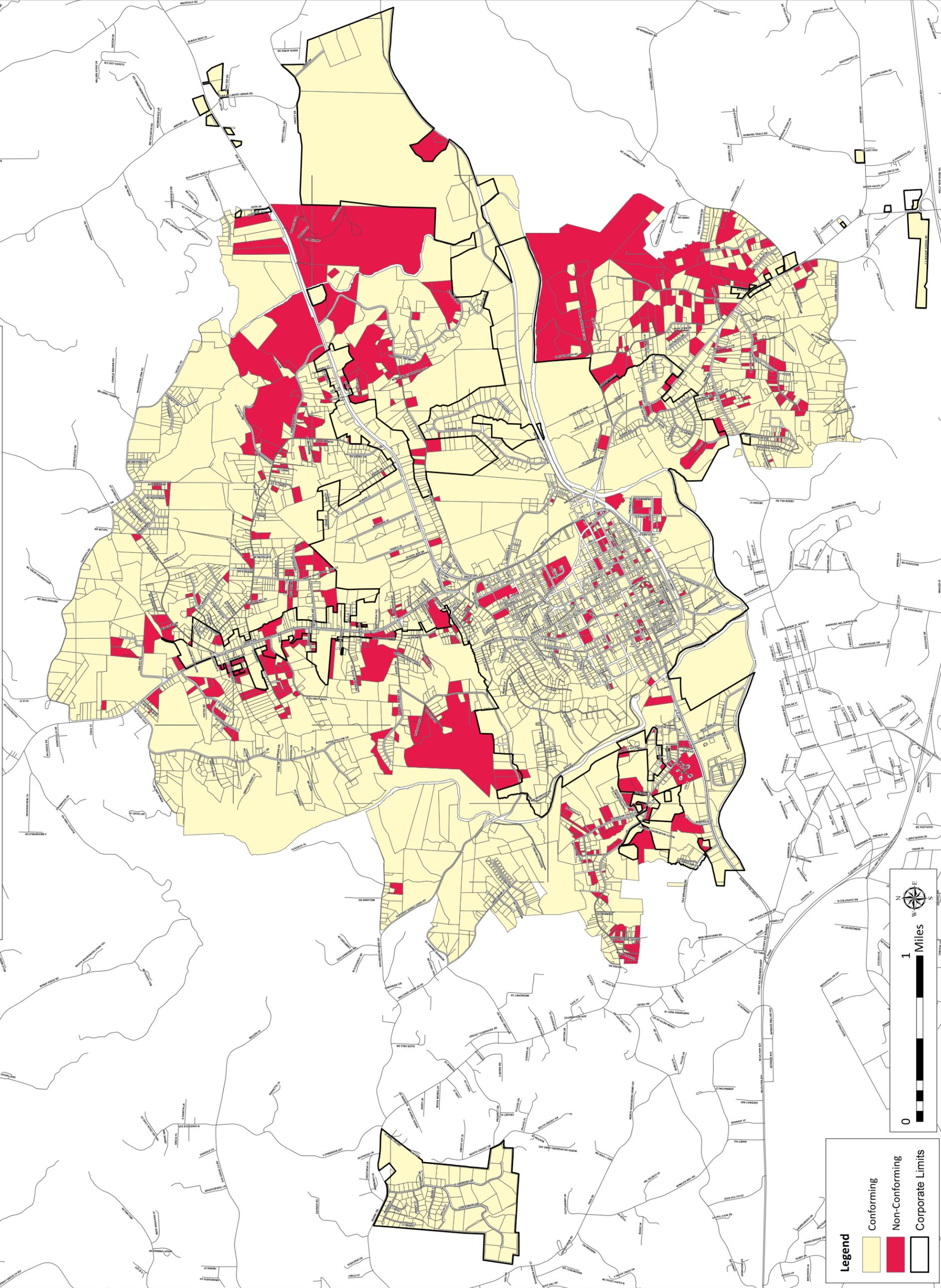
High Country COG staff cross-referenced the newly coded land use data with current zoning district information in order to identify non-conforming parcels. These are parcels where either the primary, secondary, or tertiary land use is not permitted by virtue of the overlying zoning district provisions. To do this, staff utilized GIS software to perform a spatial join of the land use parcel layer with a North Wilkesboro zoning layer dated April 2018. The result of this process was a layer that contained land use classification and zoning classification for each parcel. Duplicate records were created for parcels that featured multiple zoning districts, such that each record featured the same land use classification and only one zoning classification. In this manner, a parcel with two zoning districts would result in two parcel records, one for each zone. For the purpose of determining non-conformities on properties like this, the location of the non-conforming structure on the parcel was used. The non-conforming attribute field was joined back to the original parcel layer to ensure that duplicate non-conforming parcels were not counted twice. However, the two charts on pages 18 and 19 that display non-conforming parcels per zoning district include duplicate records for parcels where the land use was non-conforming to both overlying zoning districts. Non-conforming parcels that straddle the corporate limits/ETJ boundary are included in both sets of data in the following pages.

In order to determine non-conformities, staff relied on the permitted uses table contained within Article VI of the Town of North Wilkesboro Zoning Ordinance. The review process was performed zone-by-zone with staff selecting all parcels that fell within a certain zone, then removing those parcels with land uses that were wholly permitted within that zone. Because the land use classifications are more broad than the specific permitted uses within the Zoning Ordinance, staff reviewed the remaining parcels individually to determine their specific use where possible and cross-reference it with the permitted use chart. Parcels that featured a specific use prohibited by virtue of their zoning district were flagged as non-conforming. In situations where there was ambiguity as to the specific use, or where the Zoning Ordinance did not clearly list the applicable use, the parcel was not flagged.

The process resulted in the identification of 496 non-conforming parcels, or just over 10% of all parcels within the study area. These parcels represented 1,632 acres of land, or just over 16% of the acreage included within the study area. The most predominant non-conforming use was mobile home, which was responsible for 53% of all non-conformities. Nearly 75% of all non-conforming parcels fell within a residential zoning district, primarily within the R10 (Low Density Residential) District. The data suggests that mobile homes within the R10 and R6 zoning districts are the primary cause of non-conformities.

Non-conforming property was much more prevalent within the ETJ portion of the study area than within the corporate limits. Non-conforming parcels made up over 15% of total parcels in the ETJ, as compared to just over 5% within the town limits. The difference in terms of acreage was even more pronounced, with over 22% of land area in the ETJ considered non-conforming, as opposed to just over 5% within the corporate limits. Much of this imbalance can be attributed to the higher concentration of mobile homes within the ETJ, which are prohibited in most zoning districts. A map and charts displaying information on the nature and location of non-conforming parcels can be found in the following pages.

North Wilkesboro Non-Conforming Parcels, May 2018

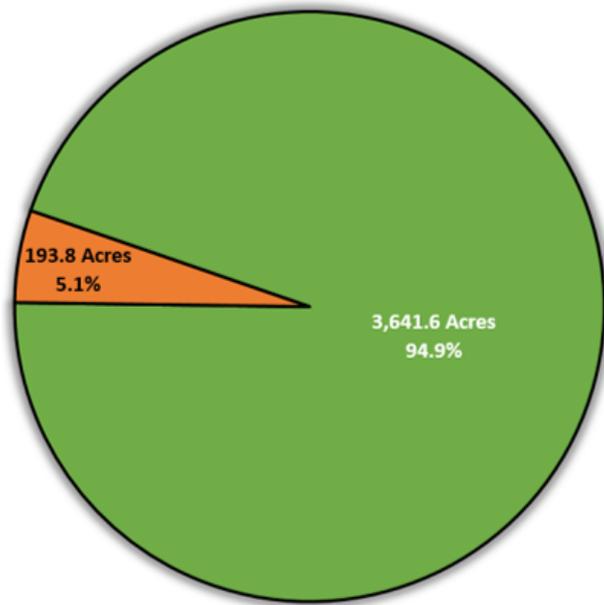


Legend

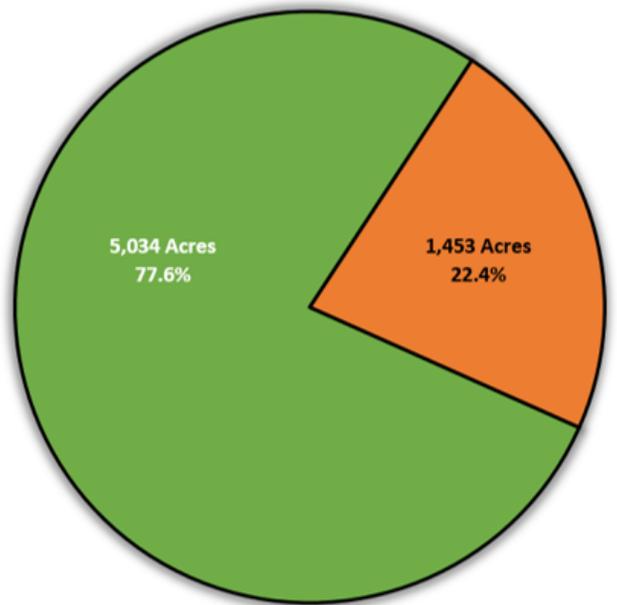
- Conforming
- Non-Conforming
- Corporate Limits

0 1 Miles

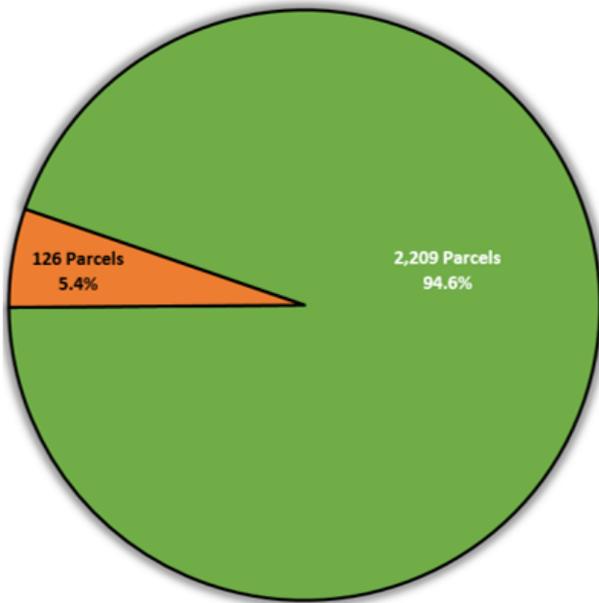
**North Wilkesboro Incorporated Land Area
by Conforming Status**



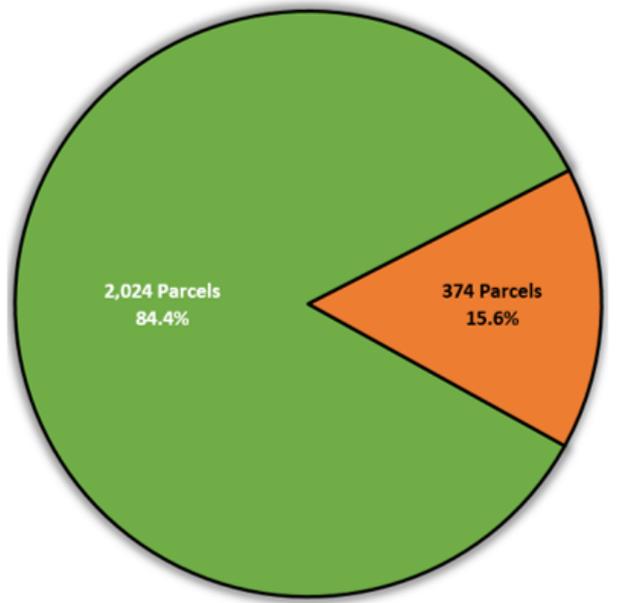
**North Wilkesboro ETJ Land Area
by Conforming Status**



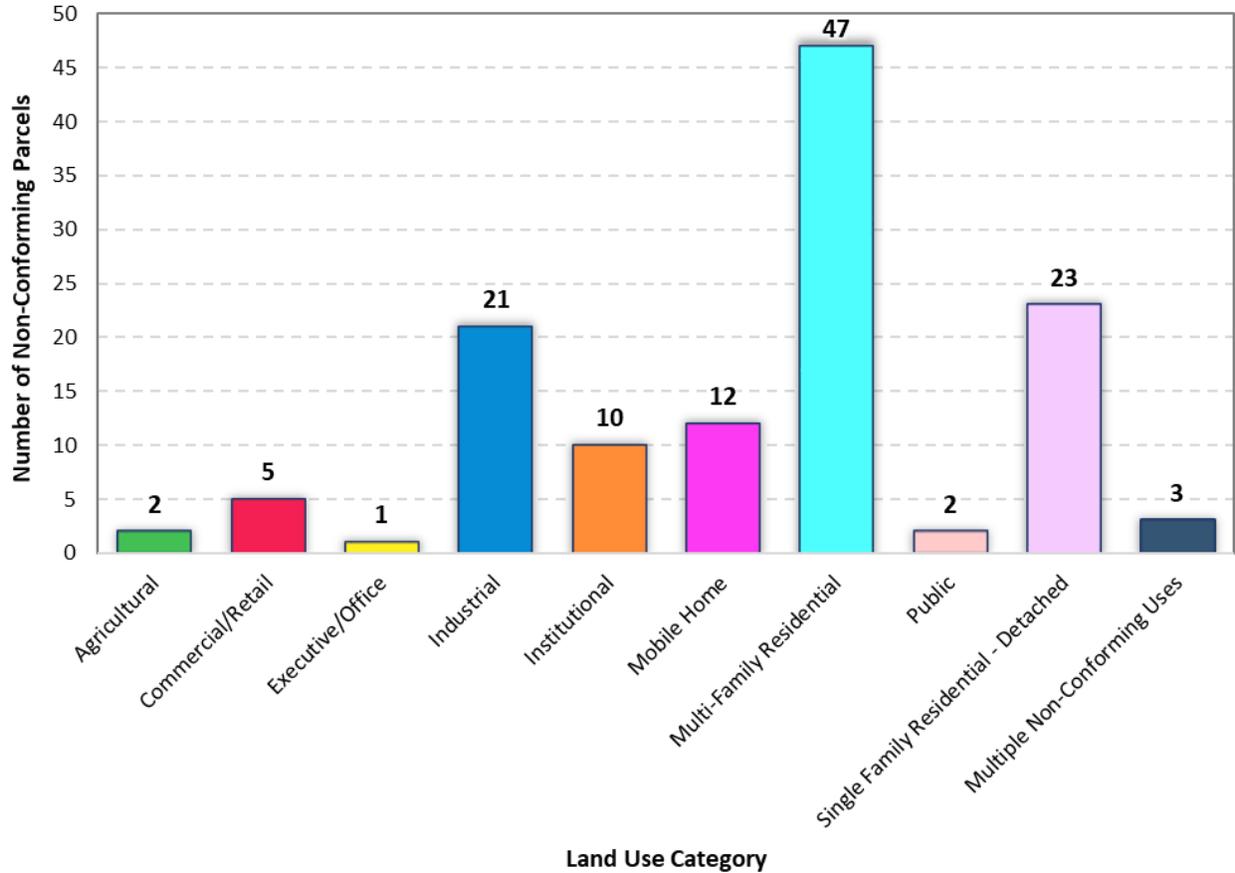
**North Wilkesboro Incorporated Parcels
by Conforming Status**



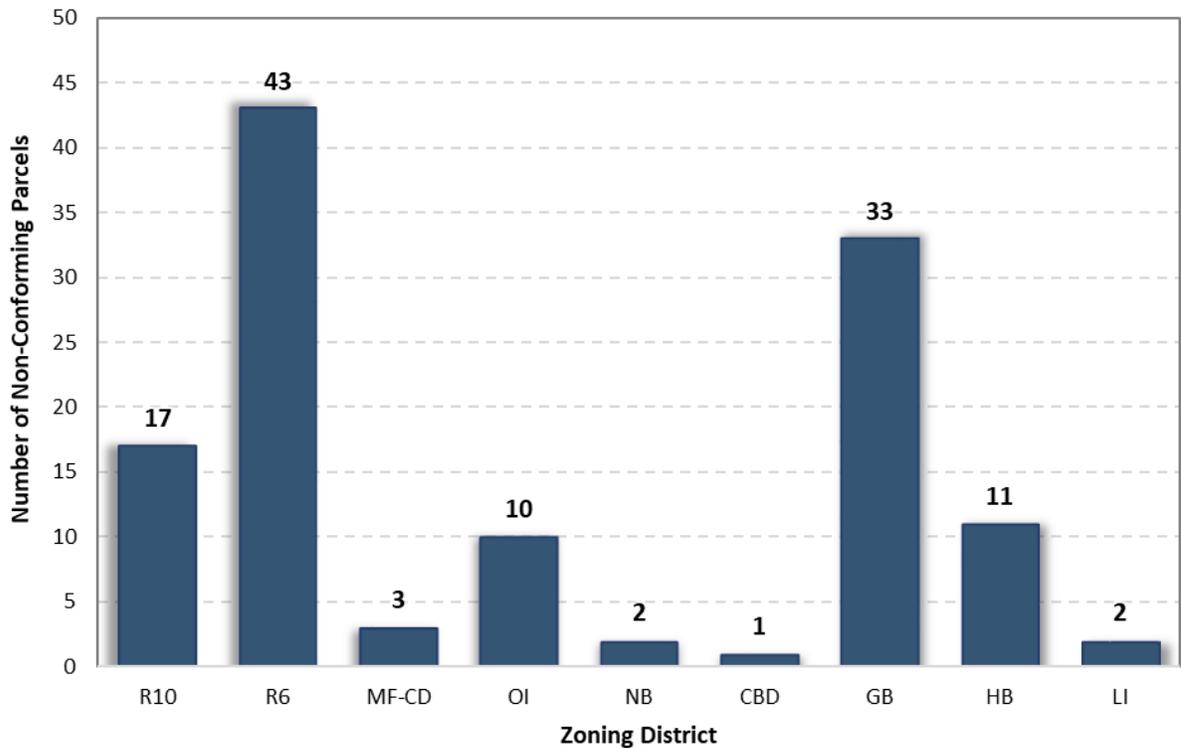
**North Wilkesboro ETJ Parcels
by Conforming Status**



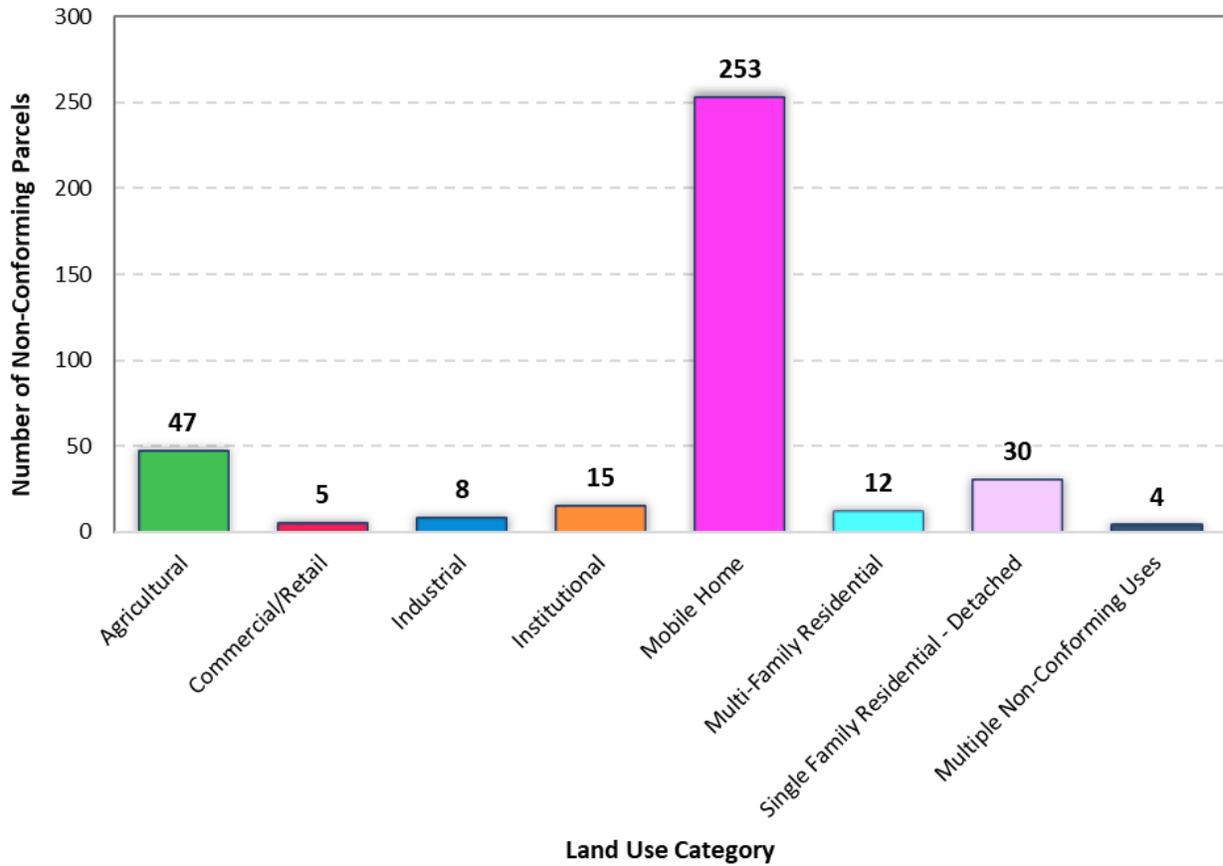
Prevalence of Non-Conforming Land Uses Within Corporate Limits



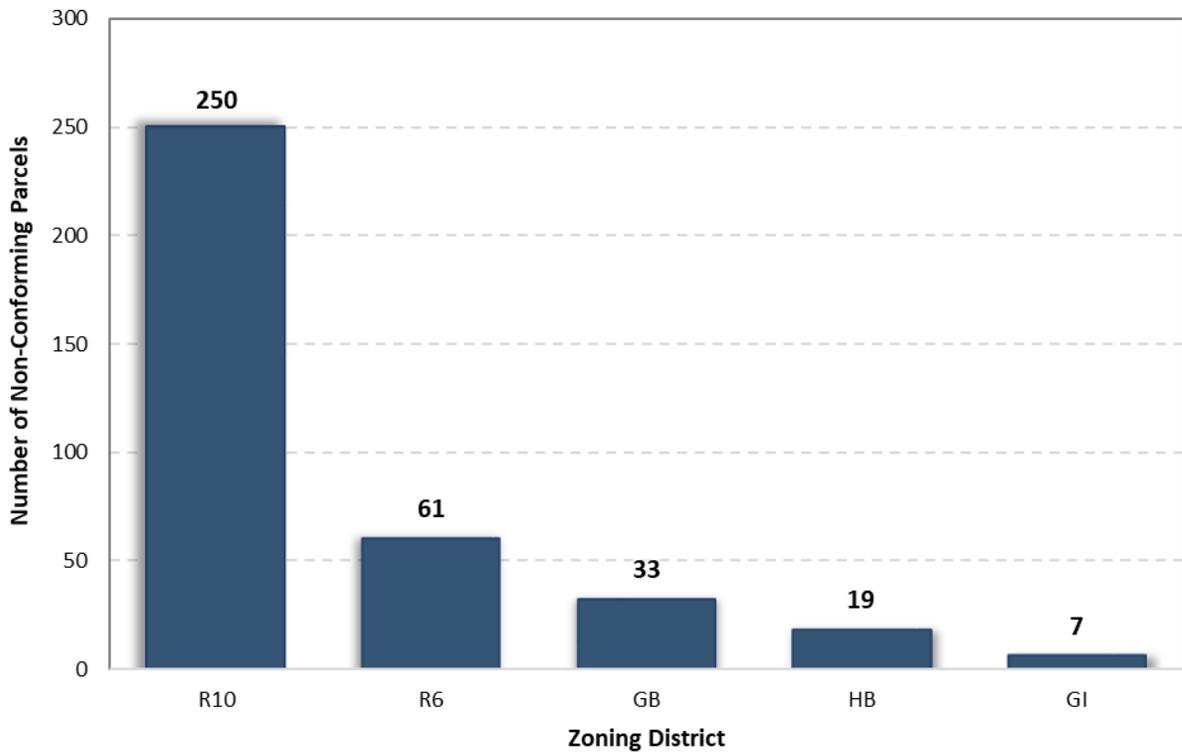
Number of Non-Conforming Parcels per Zoning District Within Corporate Limits



Prevalence of Non-Conforming Land Uses Within the ETJ



Number of Non-Conforming Parcels per Zoning District Within the ETJ



Conclusion

In addition to providing information that is of interest to government staff and community leaders, the existing land use survey is a tool that can be referenced to advance local planning objectives. The recently approved Town of North Wilkesboro Comprehensive Plan outlines numerous goals and policies related to the future of land use and development within the community. As mentioned in the introduction, the completion of this land use survey fulfills two specific policies named in the plan. Policy 15 called for an analysis of existing land use through field verification. Policy 16 called for an analysis of current non-conforming uses. The information contained within this document, coupled with the GIS shapefile transmitted to town staff, should provide valuable data for future decision-making related to other policies contained within the Comprehensive Plan.

As an example, Policy 14 states that the Town should rezone commercial properties that have residential homes and zero (0) commercial development potential to an appropriate district. The information gathered during this survey will allow staff to quickly identify parcels with a non-conforming residential home and review the property's commercial potential to determine the appropriateness of rezoning. Non-conforming parcel information and statistics contained within this document can also be used in the analysis of potential zoning text amendments. A copy of Article III Section 7 of the North Wilkesboro Zoning Ordinance, which outlines the procedure for zoning amendments, is attached to this document for reference as Appendix A. A copy of the town's rezoning petition is attached as Appendix B. A copy of Article II of the Zoning Ordinance, containing provisions related to nonconformities, is included in Appendix C.

Land use is a dynamic classification. Ownership and development of property is fluid, often making information on existing land use outdated as soon as it is compiled. Because of this dynamic nature, it is recommended that Town staff regularly update the provided GIS data during the building permit process, zoning permit process, or through property investigations related to ordinance/code compliance. Field verification of existing land use via a windshield survey or similar method should ideally occur at least once every five years. This time frame balances the value of possessing accurate land use data with the constraints of staff time and finances.

Appendix A
Town of North Wilkesboro Zoning Ordinance
Article III Section 7



3.7 Amendments.

(A) *Authority.* The Town Board shall have the authority to amend the zoning text and maps as follows, except that amendments to this text which affect one or more watershed requirements, shall also follow the procedures outlined in Section 5.5(C) for amendments.

(B) *Initiation.* Any amendment to the zoning text or map, except for the classification of property to a conditional district, may be initiated by:

(1) The Town Board or the Planning Board.

(2) The property owner(s), upon filing an official petition including a complete application.

(3) A petitioner other than a board or property owner.

(C) *Application for a text amendment.* A petition for amendment to the text of this article shall consist of:

(1) A completed application form.

(2) A written justification for the requested amendment including consistency of the proposal with town planning policies.

(3) All appropriate fees.

(4) Any other information deemed necessary by the Zoning Administrator or review board.

(D) *Application for a map amendment.* A petition for amendment to the zoning map shall consist of:

(1) A completed application form.

(2) A list of adjoining properties, including tax parcel numbers and the name and address of each owner. For the purposes of this section, adjoining property owners shall include owners of properties lying public or private street.

(3) A map of the parcel and its relationship to the general area in which it is located.

(4) All appropriate fees.

(5) Any other information deemed necessary by the Zoning Administrator or review board.

(E) *Conditional district rezoning.*

(1) *Initiation.* Only the property owner(s) may initiate the classification of property to a conditional district, or an agent authorized by affidavit to act on the owner's behalf. The developer is strongly encouraged to work closely with staff and/or Zoning Administrator

and neighboring property owners before and during the application and review process to minimize delays and address concerns that may arise.

(2) *Petition.* A request for rezoning to a conditional district shall include an official petition consisting of the following:

- a) A completed application form.
- b) A list of adjoining properties, including tax parcel numbers and the name and address of each owner. For the purposes of this section, adjoining property owners shall include owners of properties lying within one hundred feet of the subject property if located across a public or private street.
- c) A map of the parcel and its relationship to the general area in which it is located.
- d) All appropriate fees.
- e) A site plan as outlined in Section 3.3(F).
- f) A written description or notation on the map explaining the proposed use of all land and structures, including the number of residential units, permitted uses, yard requirements or the total square footage of any nonresidential development and planned amenities.
- g) A preliminary subdivision plat that meets all of the requirements of the subdivision ordinance, including type and quantity for submission, where subdivision of land is proposed.
- h) Any other information deemed necessary by the Zoning Administrator or review board.

(3) *Conditions placed on modifications or changes of conditional district rezoning.*

Changes: The following changes and/or modifications to a Conditional District ordinance and site plan require consideration and approval by the Town Board. All other changes and/or modifications require consideration and approval by the Planning Director. However, if in the judgment of the Planning Director, the requested changes and/or modifications alter the basic development concept, the Planning Director may require concurrent approval by the Planning Board and Town Board.

1. Land area being added or removed from the Conditional District.
2. Modification of special performance criteria, design standards, or other requirements specified by the Conditional District ordinance.
3. A change in land use or development type beyond that permitted by the Conditional District ordinance.
4. When there is introduction of a new vehicular access point to an existing street, road or thoroughfare not previously designated for access.
5. When there is an increase in the total number of residential dwelling units originally authorized by the Conditional District ordinance.
6. When the total floor area of a commercial or industrial classification is increased more than ten percent (10%) beyond the total floor area originally authorized by the Conditional District ordinance.

7. When the Town Board mandates their consideration and approval, as a conditional of approval, if any change or variation is proposed to the Conditional District site plan and Conditional District ordinance.

(4) *Additional Requirements for Planned Developments.* In addition, the following must be submitted prior to the public hearing for PD-CD rezonings:

- a) Evidence of unified control of the area of the proposed district.
- b) Statement of agreement of all present owners and their successors in title to proceed with the proposed development according to regulations in effect when the map amendment creating the PD district is established. This statement shall be filed at the Wilkes County Register of Deeds on the subject property after approval is made for the amendment. All costs associated with filing shall be at the owner's expense.
- c) Statement of agreement of all present owners and their successors in title to provide bonds, dedications, guarantees, agreements, contracts and deed restrictions acceptable to the Town Board of Commissioners for completion of the development according to approved plans and for continuing operation and maintenance of areas and facilities not provided at public expense and such dedications, contributions or guarantees as required for public facilities and services. This statement shall be filed at the Wilkes County Register of Deeds on the subject property after approval is made for the amendment. All costs associated with filing shall be at the owner's expense.
- d) Statement of agreement of all present owners to bind future successors in title to any commitments made under (b) and (c) above.
- e) Detailed proposals in accordance with (b) and (c) above as a basis for specific modification of applicable regulations where such modification is intended to serve public purposes.

(5) *Conditions.* Prior to the action on the proposed amendment (which may also include a period after the public hearing) any Planning Board or Town Board member (or any group of members not comprising a majority of such board) may meet with the petitioner to discuss the proposed plan and suggest features to be included in the rezoning proposal. The specifics of the plan may be negotiated to address community issues or concerns and to insure that the spirit and intent of this article are preserved. During the public hearing, the Town Board may suggest additional features to be included or reflected in the proposal prior to taking action on the request.

(6) *When development not begun within three years.* The property owner shall commence construction in accordance with the approved development plan within two years after the rezoning. If the Planning Board determines that construction has not commenced in

accordance with the plan within such time period, it may, at its discretion, recommend to the Town Board that the town rezone the property to an appropriate general-use zoning district.

(F) *Copies.* The Zoning Administrator shall determine the number of copies of each petition and other required documentation to be submitted by the petitioner so that copies may be circulated to all appropriate staff, agencies, and boards for review and comment.

(G) *Withdrawal or amendment of petition.*

(1) A petition filed according to this article may be withdrawn by the petitioner at any time up to the scheduling, by the Town Board, of the date of the public hearing on the petition.

(2) If the petitioner wishes to withdraw the petition after the scheduling of the public hearing, the petitioner may file a request to withdraw with the town clerk. On the date scheduled for the hearing, the Town Board may approve the request for withdrawal if it finds that there are substantial circumstances favoring the withdrawal and that the withdrawal will not be detrimental to the interests of citizens affected by the petition.

(3) Once the petition has been filed, the petitioner shall not be allowed to amend it except by request to the Zoning Administrator no later than three weeks prior to the scheduled public hearing date. No changes to the petition shall be accepted in the intervening weeks prior to the public hearing. No changes to the petition shall be made at the hearing, although potential changes proposed by the petitioner, Planning Board, Town Board, and other interested parties may be presented at the hearing and considered by the Planning Board and Town Board during their deliberations.

(4) If the Town Board deems any amendment to be a substantial change to the petition, it shall defer action on the petition for thirty days to allow interested parties the opportunity to comment on the amendment to the petition.

(5) If the Town Board deems any amendment to be an intensification of the petition, it shall call a new public hearing.

(H) *Hearing.*

(1) The Town Board may refuse to call for a public hearing on any petition for amendment to the zoning text or zoning map if, in the board's opinion, such petition lacks merit.

(2) Notice of public hearings required under these regulations shall be in accordance with the North Carolina General Statutes.

(3) Notice of any request for a change in the zoning map shall state that the Planning Board and Town Board may consider the application of any of the zoning districts to the property, not just the classification requested.

(4) Conduct of public hearing.

- a) No amendment shall be adopted until after the Town Board has held a public hearing on the proposed amendment.
- b) The hearing shall be conducted in accordance with rules and procedures established by the Mayor and Town Board.
- c) When presenting a petition for the reclassification of property to a general-use district, as opposed to a conditional zoning district, the petitioner shall refrain from using any graphic materials or descriptions of the proposed use or development site design, except for those which would apply to any use or development site design permitted in the requested district.

(I) *Recommendation and decision.*

(1) No proposed amendment shall be approved unless it is first submitted to the Planning Board for a recommendation. If the Planning Board does not make a recommendation to approve, approve with conditions, deny, or defer a decision on the proposed amendment within thirty-one calendar days after the petition has been referred to it, then the Planning Board shall be considered to have recommended deferral for additional deliberation. The petition, along with the recommendation of the Planning Board, shall be placed on the agenda of the Town Board at its next regular zoning meeting.

(2) The Town Board, after receiving the recommendation of the Planning Board, shall within a reasonable time either reject the proposed amendment or approve the proposed amendment, with or without modifications.

(3) The Planning Board shall include, in its written recommendation and report to the Town Board, comments on the consistency of the proposed change with the adopted Comprehensive Plan and with any other relevant plans that have been adopted by the Town Board.

(4) The Town Board shall include in making its decision, comments on the consistency of the requested change to the adopted Comprehensive Plan.

(5) Both boards in their recommendations and/or decisions shall consider all of the following:

- a) Whether the proposed reclassification is consistent with the purposes, goals, objectives, and policies of adopted plans for the area.
- b) Whether the proposed reclassification is consistent with the overall character of existing development in the immediate vicinity of the subject property.
- c) The adequacy of public facilities and services intended to serve the subject property, including but not limited to roadways, parks and recreational facilities, police and fire protection, hospitals and medical services, schools, stormwater drainage systems, water supplies, and wastewater and refuse disposal.
- d) Whether the proposed reclassification will adversely affect a known archaeological, environmental, historical, or cultural resource.

(6) When considering a petition to reclassify property to a general use district, the Planning Board and the Town Board shall not evaluate the petition based on any specific proposal for the use of the property or design of the site.

(7) In approving an amendment to reclassify property to a general-use district or, with the consent of the petitioner, to a conditional district, the Town Board may change the existing classification of the property, or any part of the property covered by the petition, to the classification requested or to any other classification or classifications permitted by this article.

(8) The Town Board may modify any proposed text amendment upon withdrawal or modification of the petition or further public hearings, when, in the opinion of the board, such a change would not require a separate public hearing.

(J) Effect of the denial of a petition.

(1) A petition for the reclassification of property that has been denied in whole or in part shall not be re-submitted within one year of the date of the Town Board's action on the original petition.

(2) The Town Board may, however, allow re-submission of a petition within the one-year restricted period if it determines that, since the date of action on the prior petition, one of the following criteria has been met:

a) There has been a similar change in the zoning district classification of an adjacent property.

b) The Town Board has adopted a new or amended plan for the area that changes public policy regarding how the property affected by the amendment should be developed.

c) Construction or expansion of a road, water line, sewer line, or other infrastructure has occurred or is to occur in such a time frame as to serve the property and comfortably accommodate the intensity of development allowed under the proposed classification.

d) There has been a substantial change in conditions or circumstances, outside the control of the petitioner, which justifies waiver of the one-year restriction on a new petition. This shall not include a change in the ownership of the subject property nor in the case of a petition for reclassification to a conditional or overlay district, a change in the scale or features of the development proposed in the prior petition.

Appendix B
Town of North Wilkesboro
Rezoning Petition



**PROCEDURE FOR OBTAINING AMENDMENT
TO ZONING ORDINANCE
OF THE TOWN OF NORTH WILKESBORO**

Please note that the Town Board Policy requires that you or a Representative attend the Public Hearing. The Town Board will not take any action on this petition unless you or a representative attend the public hearing!

1. **PETITION.** Complete the enclosed petition by filling in the date, the description of the property requested to be rezoned, the zoning district now applicable to the property, the zoning district desired to be applicable to the property, and the reasons for desiring this change. Present this petition to the Chairman of the Zoning Board.

2. **NOTICES.** Complete the notices by inserting the names of the petitioners and the description of the property to be rezoned, the zoning district now applicable to the property and the zoning district desired to be applicable to the property. Do not complete any dates on the notices. Present these notices to the Chairman of the Zoning Board at the same time you present the petition. The Chairman of the Zoning Board will insert the date on the notice of the Planning Board Meeting and, if the Planning Board approves the change, the Town Manager will insert the date of the Town Board Meeting. Insert on petition the names and addresses of all adjoining property owners. The Town Manager will mail a copy of this notice to each adjoining property owner.

3. **FILING FEE.** **At the time you file this with the Chairman of the Zoning Board, enclose a check made payable to the "Town of North Wilkesboro" in the amount of \$200.00.** If the Zoning Board turns down your petition, this money will be refunded unless you appeal to the Board of Commissioners. If the Zoning Board approves your request and recommends it to the Board of Commissioners, or if they disapprove your request and you appeal this decision to the Board of Commissioners, the \$200.00 is not refundable from the time the matter reaches the Town Clerk's Office whether the Board of Commissioners approves or disapproves your petition. The filing fee pays for the cost of legal notices and advertisement.

4. **MEETINGS.** This involves a meeting of the Zoning Board and a meeting of the Board of Commissioners of the Town of North Wilkesboro. Except in most unusual cases, the Zoning Board will not act upon your petition until at least 14 days after you have presented it to the Chairman. **You must attend the meeting of the Zoning Board unless the Chairman notifies you to the contrary. If the matter then goes before the Board of Commissioners of the Town of North Wilkesboro, you must attend the public hearing on the question of rezoning the property. It is important to note that you must attend. If you fail to attend, no action will be taken.**

5. **ORDINANCE.** If the Board of Commissioners approves your petition, the town attorney will draft the ordinance rezoning the property.

TOWN OF NORTH WILKESBORO

Larry South
Town Manager

DATE: _____, 20____

TO THE ZONING BOARD AND BOARD OF COMMISSIONERS OF THE TOWN OF NORTH WILKESBORO:

The undersigned respectfully request the Zoning Board and the Board of Commissioners of the Town of North Wilkesboro to rezone the property described from () _____ to () _____.

The property petitioned to be rezoned is described as follows:

Petitioners request that the property described above be rezoned as set out above for the following reasons:

Respectfully submitted the day and year first above written (**signatures & phone #**)

_____ Ph # _____	_____ Ph # _____
_____ Ph # _____	_____ Ph # _____
_____ Ph # _____	_____ Ph # _____

List below all names and mailing addresses of property owners adjoining your property. Adjoining means on either side, to the immediate rear and front, to include directly across the street if applicable.

Name

Mailing Address

The Zoning Board of the Town of North Wilkesboro met on the ____ day of _____, 20____, at which meeting the foregoing petition was (approved) (disapproved) by a vote of _____ FOR and _____ AGAINST.

CHAIRPERSON

**NORTH CAROLINA
WILKES COUNTY**

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Board of Commissioners of the Town of North Wilkesboro will, at their regular meeting to be held on Tuesday the _____ day of _____, 20 _____, at 5:30 p.m. in the commissioners' room in the Town Hall located on Main Street in the Town of North Wilkesboro, act upon a petition filed with the Town of North Wilkesboro by

requesting that the property hereinafter described be rezoned from () _____ to () _____. The property for which this zoning amendment is requested is described as follows:

This _____ day of _____, 20 _____.

**TOWN OF NORTH WILKESBORO
Larry South, Town Manager**

Appendix C

Town of North Wilkesboro Zoning Ordinance Article II. Applicability of Ordinance (Nonconformities)



Article II.
Applicability of Ordinance

2.1 Applicability.

No building, structure, or land shall be used, occupied, or altered; nor shall any building, structure, or part thereof be erected, constructed, reconstructed, moved, enlarged, or structurally altered; nor shall any changed use be established for any building, structure, or land, unless in conformity with the general provisions of this ordinance and the specific provisions for the district in which it is located, except as otherwise provided by these regulations.

2.2 Vested Development Rights.

(A) *In general.* Any amendments, modifications, supplements, repeal or other changes in these regulations or the zoning maps shall not be applicable or enforceable without the consent of the owner with regard to buildings and uses:

- (1) For which a building permit has been issued prior to the effective date of the ordinance making the change so long as the permit remains valid and unexpired pursuant to G.S. 160A-418 and the building permit has not been revoked pursuant to G.S. 160A-422; or;
- (2) For which a zoning permit has been issued prior to the effective date of the ordinance making the change so long as the permit remains valid and unexpired pursuant to this article; or
- (3) For which a vested right has been established and remains valid and unexpired pursuant to this section.

(B) *Additional procedures for establishing a vested right.* A vested right to commence a planned development or use of property according to a site specific development plan shall be established upon approval of a special use permit, a conditional use permit, or conditional zoning by the appropriate board. The vested right thus established is subject to the terms and conditions of the site plan. Only those design elements shown on or made a part of the site plan or permit shall be vested.

(C) *Term of a vested right.* A right, which has been vested by the Town of North Wilkesboro, shall remain vested for a period of two years from date of approval. Modifications or amendments to an approved plan do not extend the period of vesting unless specifically so provided by the appropriate board when it approves the modification or amendment. A vested right obtained under this sub-section is not a personal right, but shall attach to and run with the subject property. A right which has been vested under the provisions of this sub-section shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit has been issued except that:

- (1) When a vested development plan has been at least fifty percent completed by the end of the vesting period, the project as a whole shall be given two more years to complete development in conformance with the approved plan not to exceed a total vested period of five years; and

(2) Prior to the vested right terminating at the end of the two-year period, the owner of the property may petition the appropriate board for a one-time, two-year extension of the vested right not to exceed a total vested period of five years. In its deliberations regarding the extension request, the board may consider, among other things:

- a) the percentage of the project completed;
- b) a demonstration by the petitioner of good faith efforts made towards project completion;
- c) the reasons for the delay of project build-out; and
- d) the compatibility of the planned development with current town plans and the surrounding landscape. The board may choose to extend the vested right for the entire project or only a portion of the project and may require one or more design features shown on the plan or incorporated in the permit to meet the current code.

(D) *Declaration of a vested right upon voluntary annexation.* A petition for annexation filed with the town under G.S. 160A-31 or G.S. 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established. A statement that declares that no zoning vested right has been established under G.S. 160A-385.1 or G.S. 153A-344.1, or the failure to sign a statement declaring whether or not a zoning vested right has been established shall be binding on the landowner, and any such zoning vested right which may have existed shall be terminated.

2.3 Nonconformities

(A) Purpose and applicability.

The purpose of this article is to regulate and limit the continued existence of uses and structures that were established prior to the effective date of these regulations and that do not conform to these regulations. Any nonconformity created by a change in the text of these regulations or by the reclassification of property shall be regulated by the provisions of this Section. The “effective date” referenced below shall be the date the text of these regulations or the zoning map is amended to render a particular use, structure, or lot nonconforming. Many nonconformities may continue, but the provisions of this chapter are designed to curtail substantial investment in nonconformities, and to bring about their eventual improvement or elimination.

(B) Nonconforming uses.

(1) Nonconforming uses of land or structures may continue only in accordance with the provisions of this section.

(2) A nonconforming use shall not be expanded.

(3) A nonconforming use shall not be changed to any other use unless the new use conforms to the standards of the zoning district in which it is located. Once a nonconforming use is changed to a conforming use, a nonconforming use shall not be re-established.

(4) Where a nonconforming use is discontinued or abandoned for a period of one hundred eighty days, then the use shall not be reestablished or resumed and any subsequent use of the land or structure shall conform to the requirements of these regulations.

(5) No structural changes shall be made in any structure occupied by a nonconforming use except as follows:

- a) Those structural changes ordered by an authorized official in order to insure the safety of the structure shall be permitted.
- b) Maintenance and repairs to keep a structure in sound condition shall be permitted.
- c) Structural changes necessary to convert the nonconforming use to a conforming use shall be permitted.
- d) An existing nonconforming structure may be enlarged or altered provided that any such enlargement or alteration shall be in compliance with all yard requirements of the district and/or use.
- e) The nonconforming structure and its accompanying use may be moved to another location on the lot so long as the structure meets all applicable requirements of the district.

(C) Nonconforming structures.

(1) A nonconforming structure, devoted to a use permitted in the zoning district in which it is located, may continue only in accordance with the provisions of this section.

(2) Normal repair and maintenance may be performed to allow the continuation of a nonconforming structure.

(3) Any nonconforming structure may be enlarged if the expansion does not increase the nonconformity as relating to the dimensional criteria specified in Section 6.6.

(4) A nonconforming structure shall not be moved unless it thereafter conforms to the standards of the zoning district in which it is located.

(5) A nonconforming structure destroyed or damaged so that more than fifty percent of the value of such structure remains, may be repaired or restored if a building permit for the repair or restoration is issued within six months of the date of the damage. A nonconforming structure destroyed or damaged so that no more than fifty percent of its value remains, may be repaired or restored only if the structure conforms to the standards of these regulations for the zoning district in which it is located. The extent of damage or destruction shall be determined by comparing the estimated cost of repair or restoration with the current assessed tax value.

(6) The front yard setback requirements of this ordinance for residential dwellings shall not apply to any lot where the average setback of existing buildings located wholly or partially within 100 feet on either side of the proposed dwelling and on the same side of the street in the same block and use district as such lot is less than the minimum required front yard depth. In such case the front yard on such lots may be less than the required front yard and such lots may be less than the average of the existing front yard on the aforementioned lots, or a distance of 10 feet from the edge of the street right-of-way, whichever is greater.

(D) Nonconforming vacant lots.

(1) Except as provided in section (2) below, a nonconforming vacant lot may be used for any of the uses permitted by these regulations in the zoning district in which it is located, provided that the use meets all yard, parking, and screening requirements of this ordinance for the zoning district in which it is located.

(2) If two or more adjacent, nonconforming, unimproved lots are held in single ownership, such lots shall be considered to be a single building lot for the purposes of this article.

(E) Nonconforming Signs.

Nonconforming signs shall be allowed to continue provided as follows:

(1) Upgrades and improvements shall be limited to legal, existing, conforming billboards and outdoor advertising where the sign area or height is not increased over what was pre-existing.

(2) Once a nonconforming advertising sign is removed, taken down, or destroyed, (that is, receiving damage to an extent of no more than 60% of the replacement cost at the time of destruction) such sign shall not be replaced with another sign unless in conformance with this section.

(3) Where digital billboards are being used for the upgrade or improvement to an existing billboard, the area shall not be larger than the pre-existing sign face. Messages shall change no more than once every hour.

Signs associated with a legal nonconforming use of a structure or land shall be allowed to continue provided that the nonconforming signs associated with a nonconforming use of a structure or land shall not be changed except to make such signs comply with the applicable sign regulations for the district in which the use or land is located.

(F) Additional requirements for nonconforming accessory uses and structures.

No nonconforming accessory use or accessory structure shall continue after the principal use or structure is terminated by abandonment, discontinuance, damage, or destruction unless such accessory use or accessory structure thereafter is made to conform to the standards for the zoning district in which it is located.

(G) Additional requirements for manufactured homes and manufactured home parks.

(1) Nonconforming manufactured home parks may not be expanded or increased in size which shall include adding spaces to the park;

(2) When a site at a nonconforming manufactured home park is vacated, another manufactured home may be placed on the site if the replacement home is of the same class of manufactured home as the one existing. (For example, Class A for Class A; Class B for Class B, however Class B to Class A is prohibited) and is replaced within 90 days of removal. Setbacks and spacing must be met in accordance to Town manufactured home park standards when replacing the home as detailed in Section 11.7-7(C) and (E).

(3) Any replacement manufactured home whether on an individual lot or in a park must be constructed with approved HUD standards and dating no earlier than 1976.

(H) Changes of tenancy and/or ownership.

There may be a change in tenancy or ownership of an existing nonconforming use or structure, provided there is no change in the nature or character of such nonconforming use or structure except as provided herein and all other applicable requirements of this ordinance are met (e.g., parking, screening, landscaping, etc.).