

## REQUEST FOR BOARD ACTION

### HENDERSON COUNTY BOARD OF COMMISSIONERS

**MEETING DATE:** Wednesday, September 18, 2013

**SUBJECT:** Public Hearing for Rezoning Application #R-2013-02

**PRESENTER:** Matt Champion, Planner

**ATTACHMENTS:**

1. Staff Report
2. Aerial Photo Map and List of Property Owners
3. North Carolina House Bill 671
4. Notice of Public Hearing
5. Certification of Notification of Public Hearing
6. Resolution of Consistency with CCP
7. Power Point Slides

#### **SUMMARY OF REQUEST:**

Rezoning Application #R-2013-02, which was initiated on June 20, 2013, requests the County rezone approximately 74.68 acres of land (hereafter the "subject area"). On June 30, 2013 the Town of Mills River de-annexed twelve (12) individual parcels of land through North Carolina House Bill 671. Henderson County has 90 days, or until September 28, 2013 to determine and apply a County zoning designation to the subject area. The Planning Department recommends rezoning the Subject Area from a Mills River Mixed Use (MR-MU) zoning district to a Residential Two Rural (R2R) zoning district.

The Henderson County Planning Board considered rezoning application #R-2013-02 at its regularly scheduled meeting on August 15, 2013. During that meeting, the Planning Board voted unanimously to send forward a favorable recommendation on rezoning application #R-2013-02 to rezone the Subject Area to Residential Two Rural (R2R).

#### **PUBLIC NOTICE:**

Before taking action on the application, the Board of Commissioners must hold a public hearing. In accordance with §200A-314(C) and §200A-337(B) of the Henderson County Land Development Code and State Law, notices of the September 18, 2013, public hearing regarding rezoning application #R-2013-02 were published in the Hendersonville Tribune on September 5, 2013 and September 12, 2013. The Planning Department sent notices of the hearing via first class mail to the owners of properties adjacent to the Subject Area and the Subject Area property owner on September 4, 2013 and posted signs advertising the hearing on the Subject Area on September 4, 2013.

#### **BOARD ACTION REQUESTED:**

After holding the required hearing, Planning Staff recommends that the Board of Commissioners approve the application to rezone the Subject Area to a Residential Two Rural (R2R) zoning district. State law requires that the Board adopt a written statement of consistency with the County Comprehensive Plan (CCP). A draft resolution is provided.

#### **Suggested Motion:**

*I move that the Board adopt the attached resolution regarding the consistency with the CCP.*

*I move that the Board adopt the proposed map amendment.*

## Henderson County Planning Department Staff Report

### Rezoning Application #R-2013-02

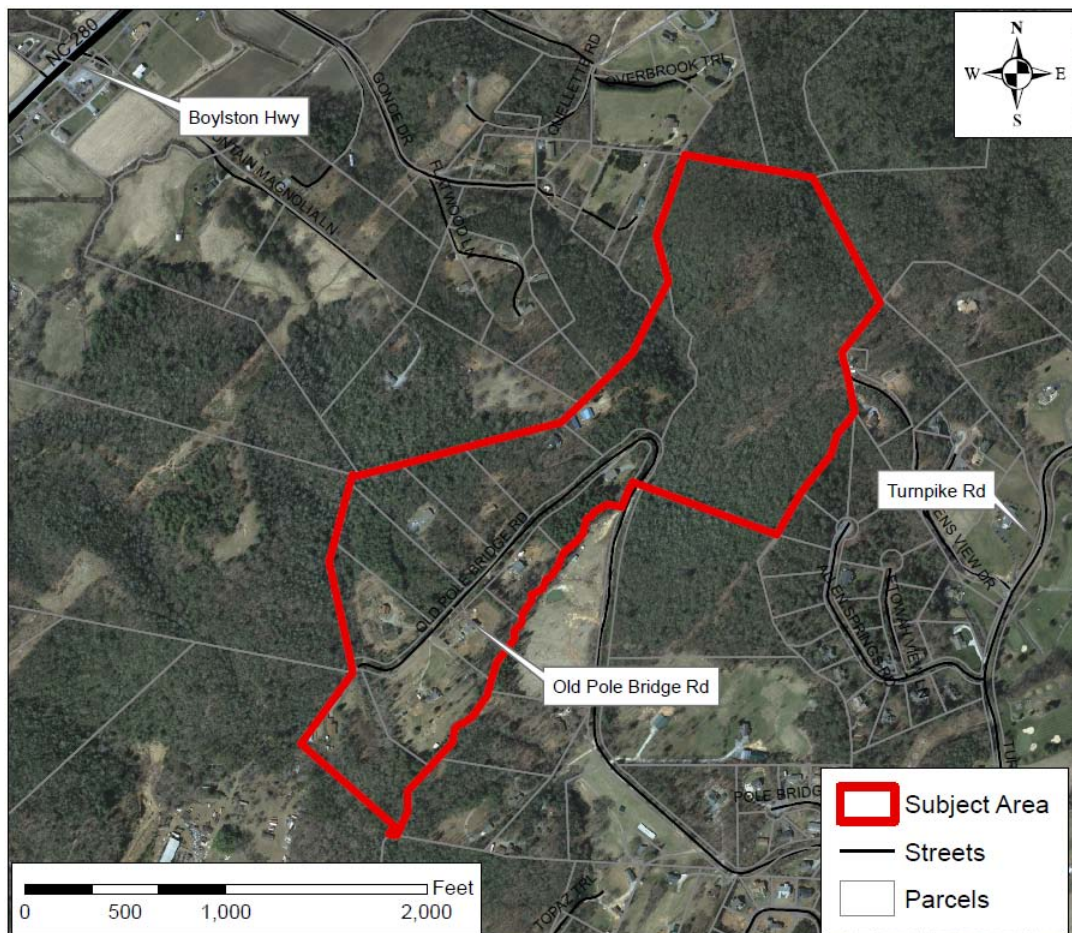
#### Mills River De-Annexation

#### N.C. Session Law 2013-62, N.C. House Bill 671

### 1. Rezoning Request

- 1.1. **Applicant:** Henderson County Planning Department
- 1.2. **Request:** Rezone twelve parcels of land from Mills River Mixed Use (MR-MU) to Residential Two Rural (R2R)
- 1.3. **PINs:** 9519848711, 9519858338, 9519859639, 9519941917, 9519951853, 9519953371, 9519953965, 9519955682, 9519966163, 9519969053, 9519969460, 9529067894 (See Map C)
- 1.4. **Size:** Total of 74.68 acres to be rezoned.
- 1.5. **Location:** The Subject Area is accessed off and surrounds Old Pole Bridge Road approximately 0.75 miles from the intersection of Turnpike Road (SR1325) and Old Pole Bridge Road (Local Road).

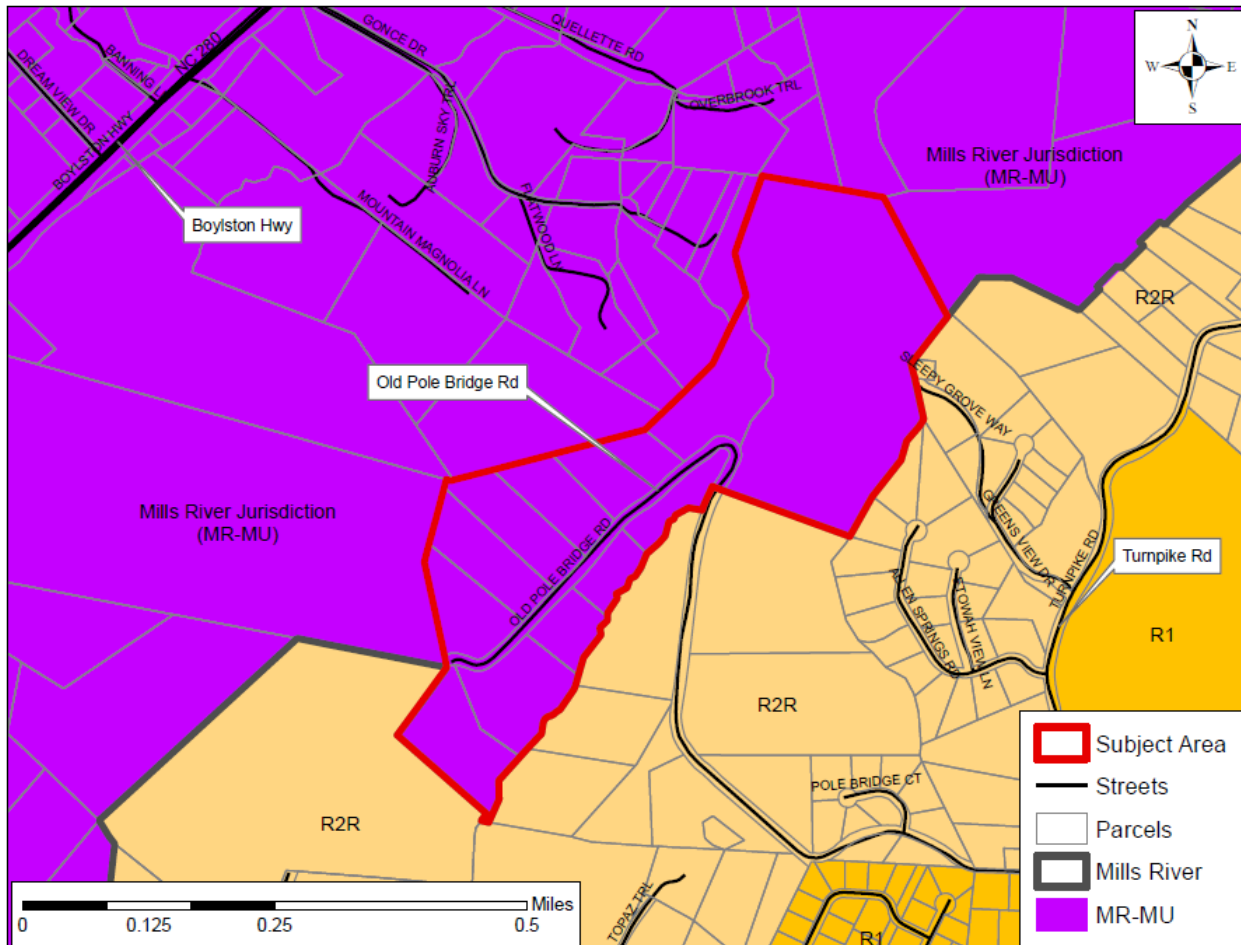
**Map A: Aerial Photo**



**2. Current Zoning**

2.1. **Application of Current Zoning:** The Subject Area was zoned Mills River Mixed Use (MR-MU) on March 1, 2004 with the adoption of the Zoning Ordinance of the Town of Mills River. The subject area was located within the Town of Mills River jurisdiction until a recent De-Annexation request passed the North Carolina Legislature (N.C. House Bill 671).

**Map B: Current Zoning**



2.2. **Adjacent Zoning:** The Subject Area is adjacent to a Residential Two Rural(R2R) zoning district to the south, east, and southwest. The Subject Area is surrounded by Mills River Mixed Use (MR-MU) to the north, west, and northeast.

**2.3. District Comparison:**

2.3.1. **Mills River Mixed Use (MR-MU):** *“The Mills River Mixed Use District (MR-MU) is established to allow all uses (excluding hazardous waste disposal facilities and radioactive waste disposal facilities and adult establishments) but to regulate certain uses so as to ensure that neighborhood impact is mitigated.”* (Zoning Ordinance of the Town of Mills River, N.C. §154.066).MR-MU requires 30 foot side and rear setbacks, maximum height of 40 feet, and residential lot sizes shall be no less than 30,000 square feet (0.7 acres).

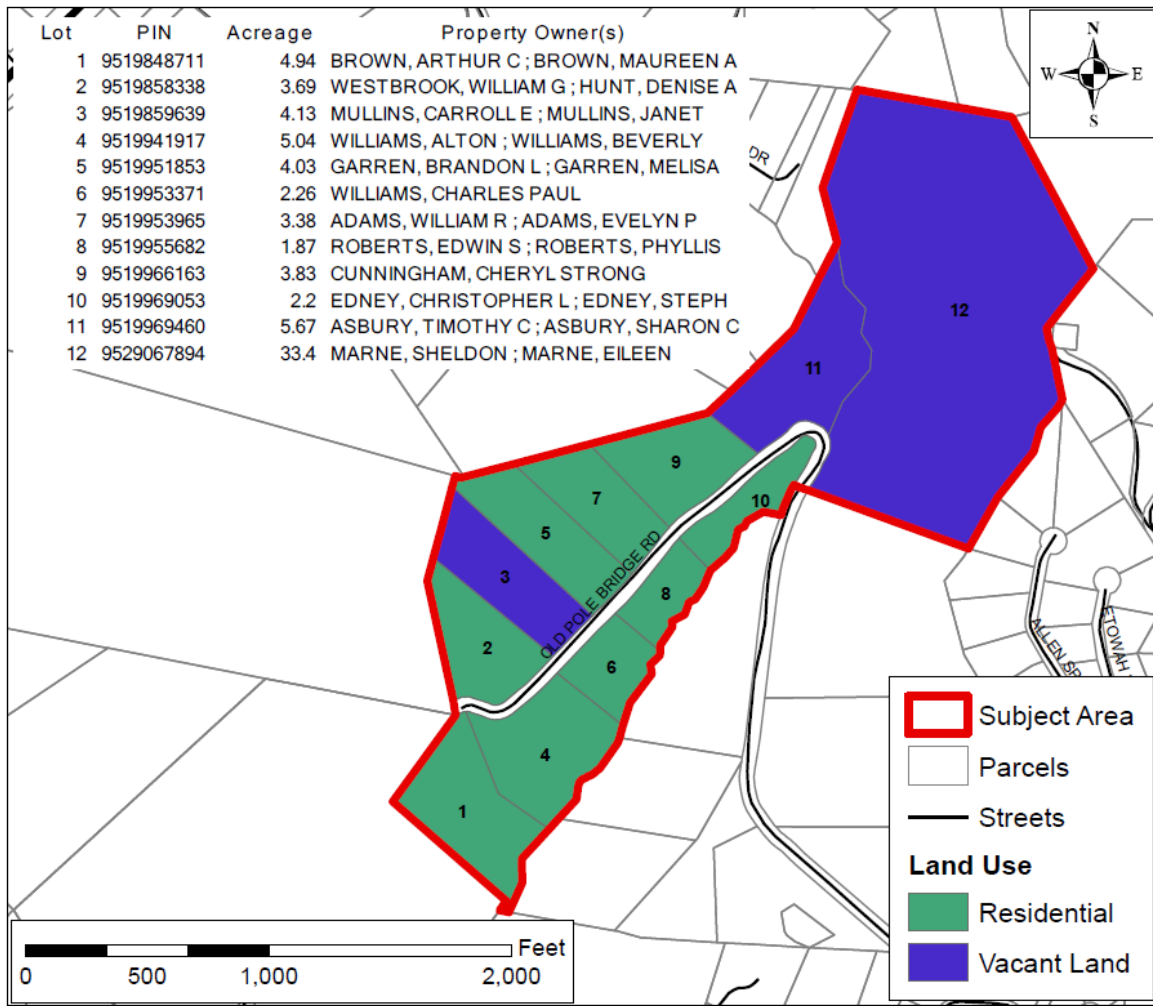
2.3.2. **Residential Two Rural(R2R):** *“The Purpose of Residential District Two Rural (R2R) is to foster orderly growth where the principal use of land is residential. The intent of this district is to allow for low to medium density residential development, with the inclusion of*

*manufactured housing, consistent with the recommendations of the Comprehensive Plan. This general use district is typically meant to be utilized in areas designated as transitional in the Comprehensive Plan” (Chapter 200A, Land Development Code §200A-29). R2R requires 10 foot side and rear setbacks, a maximum building height of 40 feet, and a standard density of one (1) unit per acre (maximum density of 2 units per acre).*

**3. Current Uses of Subject Area and Adjacent Properties**

- 3.1. **Subject Area Uses:**TheSubject Area currently has nineresidential parcels and three vacant parcels. (See Map C).
- 3.2. **Adjacent Area Uses:**The surrounding properties are primarily residential uses and vacant property.

**Map C: Current Uses and Property Owners**



**4. The Henderson County 2020 Comprehensive Plan (CCP)**

The CCP Future Land Use Map identifies the subject area as being located in the Rural Transition Area(RTA) and in the Conservation Area (CA)(2020 CCP, Pgs. 134, 138& Appendix 1, Map 24) (See Map D).

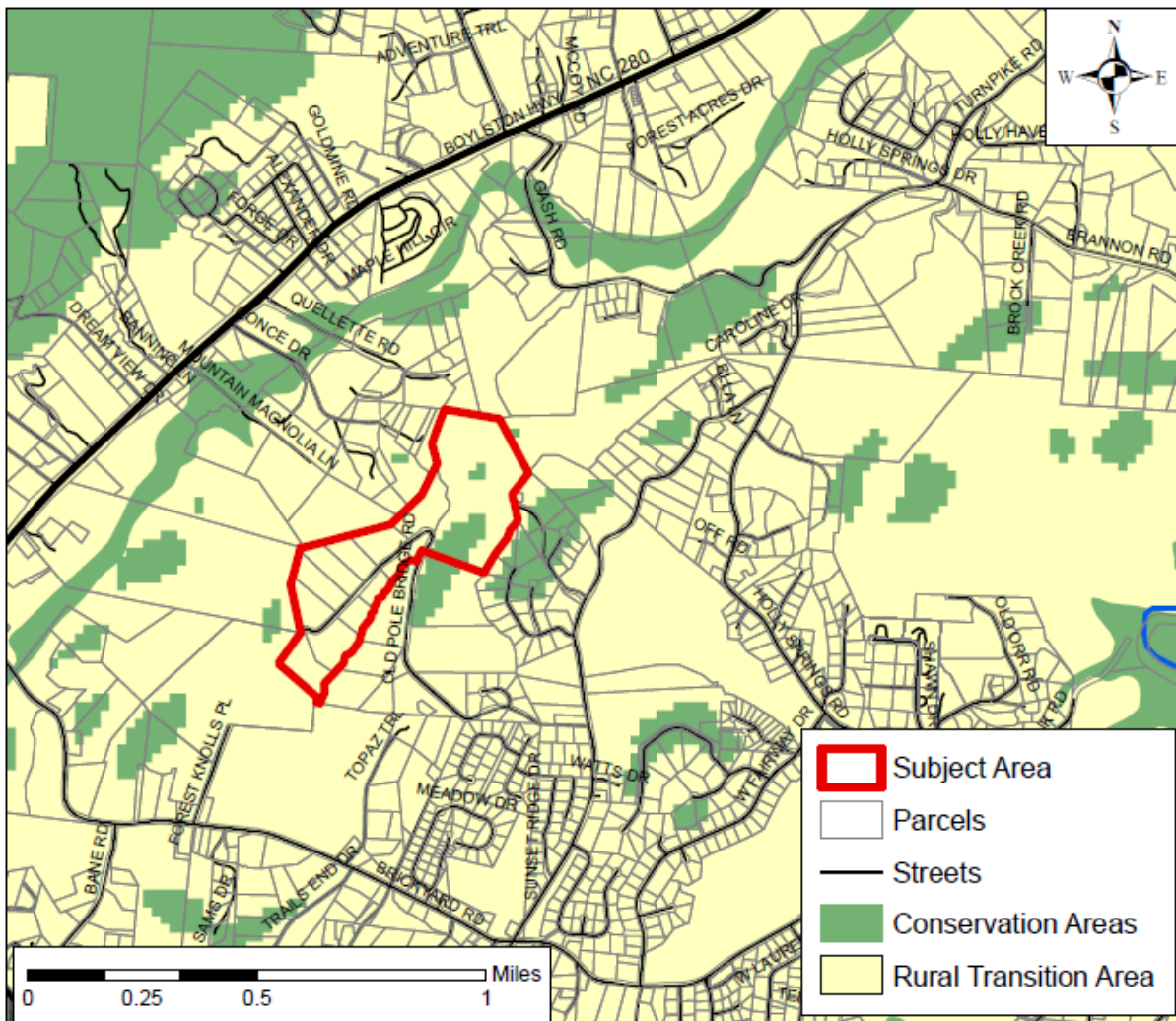


4.1 **Rural Transition Area:** The CCP states that, “The RTA is currently rural in character, with existing pockets of limited higher density residential and commercial development. The text of the 2020 CCP suggests that the subject area would be suitable for clustering development and conservation design encouraged with the intent of maintaining a rural environment, protecting sensitive natural areas, and reserving land for future development. (2020 CCP, Pg. 134).

4.2 **Conservation Area:** The CCP states that, “Conservation areas include land areas that are intended to remain largely in their natural state, with on limited development. Such areas should be targeted for protection through regulations and incentives. Conservation areas are lands that generally exhibit any of the following characteristics:

- 4.2.1 Sensitive natural areas
- 4.2.2 Areas of historic or archeological significance
- 4.2.3 Local, state or federally-managed natural areas
- 4.2.4 Areas managed for agricultural or forestry land uses
- 4.2.5 Other areas yet to be determined (CCCP, Pg. 138).

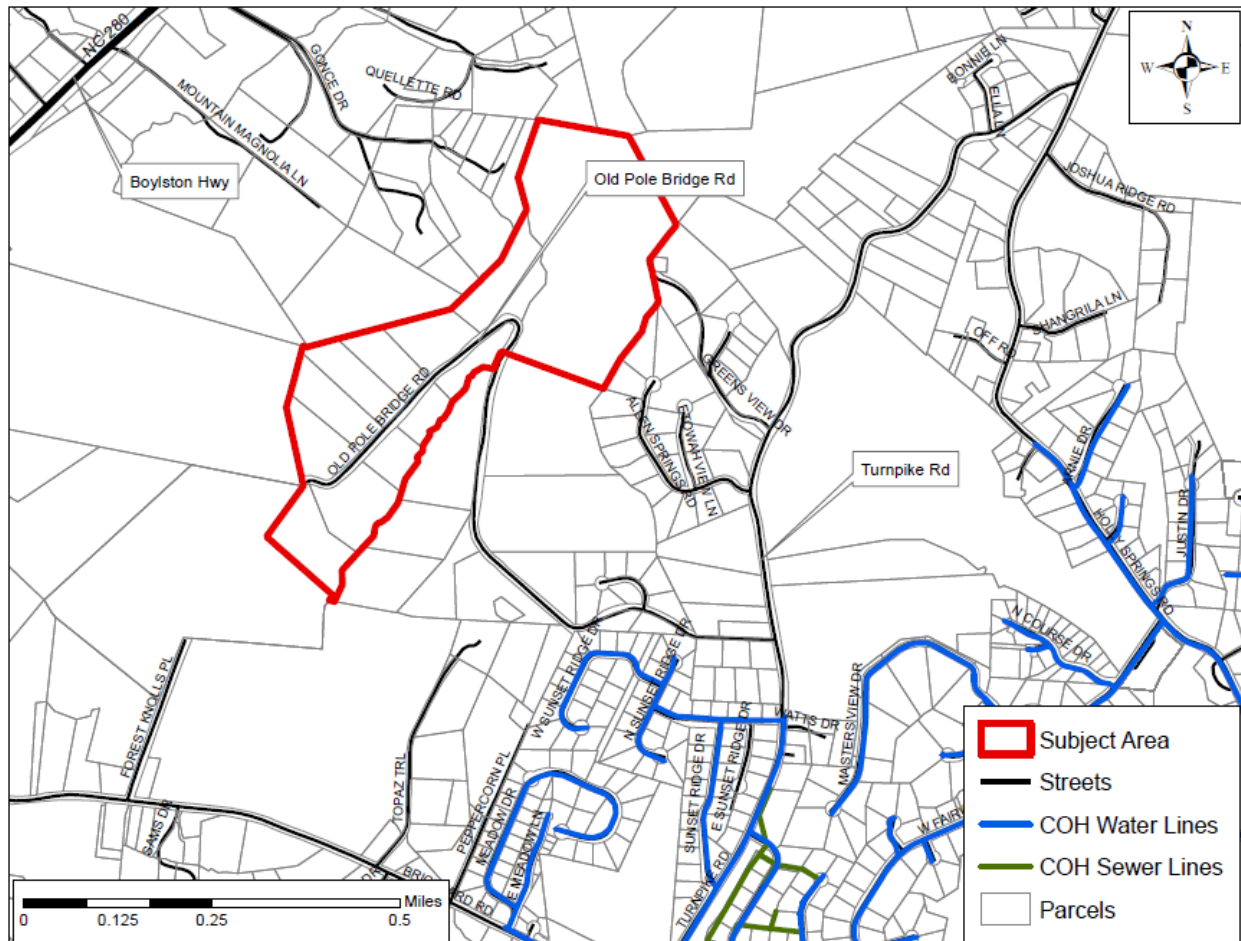
**Map D: 2020 County Comprehensive Plan Future Land Use Map**



5. **Water and Sewer**

- 5.1. **Public Water:** A City of Hendersonville water line runs to the south of the Subject Area in the Sunset Ridge subdivision. The water line runs along Turnpike Road until the intersection of Turnpike Road and Sunset Valley Drive. (See Map E).
- 5.2. **Public Sewer:** Public sewer provided by the City of Hendersonville is currently located to the south of the Subject Area along Turnpike Road in the Sunset Ridge subdivision (See Map E).

**Map E: Water and Sewer Map**



6. **Staff Comments**

- 6.1. The 2020 CCP: The CCP Future Land Use Map (See Map C) places the Subject Area in the “Rural Transition Area” classification. The text and map of the 2020 CCP suggest that the Subject Area would be suitable for pockets of limited higher density residential and commercial development. The CCP indicates that the RTA may be suitable for commercial development provided the development is in keeping with the surrounding community, but is limited to the absence of sewer and water services. The CCP also indicates that the RTA will continue to experience extensive development throughout the current decade and that

the RTA will remain in a state of transition and will absorb much of the development pressure in the USA.

- 6.2. Adjacent Zoning: The Subject Area is adjacent to a Residential Two Rural (R2R) zoning district to the south, southeast, and south west.
- 6.3. Comparison of Districts: The existing MR-MU allows for residential uses and commercial uses. Residential Two Rural zoning will continue to allow for residential and limited commercial uses. .
- 6.4. As of June 30, 2013 the Subject Area will remain under the Town of Mills River jurisdiction for 90 days. Henderson County has this time frame to process the rezoning request or the Subject Area would be unzoned. The Technical Review Committee, Planning Board, and the Board of Commissioners cannot consider any specific proposed use for the property and must only consider the range of possible uses when reviewing and making recommendations on the rezoning request.

**7. Staff Recommendations**

- 7.1. Staff's position at this time, under the guidelines of current plans, policies and studies, is it supports the rezoning of the Subject Area to Residential Two Rural (R2R) consistent with the recommendations of the Henderson County 2020 Comprehensive Plan.

**8. Technical Review Committee Recommendations**

- 8.1. On Tuesday, August 6, 2013 the Technical Review Committee voted unanimously to send a favorable recommendation of Rezoning application R-2013-02 to the Planning Board.

**9. Planning Board Recommendations**

- 9.1. On August 15, 2013 the Planning Board voted unanimously to send a favorable recommendation of Rezoning application R-2013-02 to the Board of Commissioners.



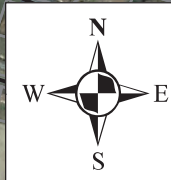
Rezoning Application  
R-2013-02  
Mills River De-Annexation

Boylston Hwy

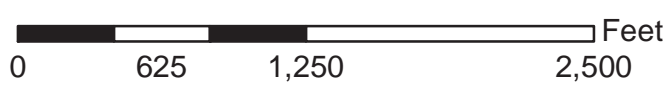
Turnpike Rd

Old Pole Bridge Rd

Brickyard Rd



-  Subject Area
-  Streets
-  Parcels





<b>Lot</b>	<b>PIN</b>	<b>Acreage</b>	<b>Property Owner(s)</b>	<b>Street</b>	<b>City</b>	<b>State</b>	<b>Zip Code</b>
1	9519848711	4.94	BROWN, ARTHUR C ; BROWN, MAUREEN A	PO BOX 612	ETOWAH	NC	28729
2	9519858338	3.69	WESTBROOK, WILLIAM G ; HUNT, DENISE A	1128 OLD POLE BRIDGE RD	MILLS RIVER	NC	28759
3	9519859639	4.13	MULLINS, CARROLL E ; MULLINS, JANET	202 SUMMERSWEET LN	FLAT ROCK	NC	28731
4	9519941917	5.04	WILLIAMS, ALTON ; WILLIAMS, BEVERLY	1097 OLD POLE BRIDGE RD	MILLS RIVER	NC	28759
5	9519951853	4.03	GARREN, BRANDON L ; GARREN, MELISA	986 OLD POLE BRIDGE RD	MILLS RIVER	NC	28759
6	9519953371	2.26	WILLIAMS, CHARLES PAUL	1017 OLD POLE BRIDGE RD	MILLS RIVER	NC	28759
7	9519953965	3.38	ADAMS, WILLIAM R ; ADAMS, EVELYN P	PO BOX 284	ETOWAH	NC	28729
8	9519955682	1.87	ROBERTS, EDWIN S ; ROBERTS, PHYLLIS	975 OLD POLE BRIDGE RD	MILLS RIVER	NC	28759
9	9519966163	3.83	CUNNINGHAM, CHERYL STRONG	832 OLD POLE BRIDGE RD	MILLS RIVER	NC	28759
10	9519969053	2.2	EDNEY, CHRISTOPHER L ; EDNEY, STEPHANIE M	825 OLD POLE BRIDGE RD	MILLS RIVER	NC	28759
11	9519969460	5.67	ASBURY, TIMOTHY C ; ASBURY, SHARON C	223 STONEBROOK DR	HENDERSONVILLE	NC	28791
12	9529067894	33.4	MARNE, SHELDON ; MARNE, EILEEN	729 GASH RD	MILLS RIVER	NC	28759

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013**

**SESSION LAW 2013-62  
HOUSE BILL 671**

**AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF  
THE TOWN OF MILLS RIVER.**

The General Assembly of North Carolina enacts:

**SECTION 1.** The following described property is removed from the corporate limits of the Town of Mills River:

Beginning at a point located in the centerline of the 30-foot wide right-of-way of Old Pole Bridge Road, said point of beginning being the southernmost corner of that .84 acre parcel or tract identified as the "Zumstein Overlap" on that plat of survey recorded in Plat Slide 4340, Henderson County Registry, and running thence from said beginning point, North 11 degrees 34 minutes 35 seconds West 24.28 feet to a 12-inch iron pin; running thence, North 11 degrees 23 minutes 30 seconds West 554.47 feet to an iron pin; running thence, North 16 degrees 24 minutes 26 seconds East 100.51 feet to a capped rebar; running thence, North 16 degrees 32 minutes 22 seconds East 300.72 feet to a 1/2-inch rebar; continuing thence, North 16 degrees 32 minutes 22 seconds East 37.06 feet to an iron pin; running thence, South 77 degrees 20 minutes 16 seconds East 33.13 feet to a 3/4-inch iron pin; running thence, North 74 degrees 37 minutes 44 seconds East 227.12 feet to a 1/2-inch rebar; running thence, North 74 degrees 38 minutes 05 seconds East 312.05 feet to a 1/2-inch rebar; running thence, North 74 degrees 33 minutes 05 seconds East 512.33 feet to a 3/4-inch iron pin; running thence, North 51 degrees 40 minutes 38 seconds East 114.38 feet to an oval 3/4-inch iron pin; running thence, North 45 degrees 29 minutes 16 seconds East 156.87 feet to a capped rebar; running thence, North 45 degrees 18 minutes 44 seconds East 201.35 feet to an iron pin set at a stump hole; running thence, North 26 degrees 35 minutes 53 seconds East 238.42 feet to a 3/4-inch iron pin in branch; running thence, North 25 degrees 52 minutes 46 seconds East 205.13 feet to a 3/4-inch iron pin in the road bed of the Old Pole Bridge Road; running thence with the road bed, North 17 degrees 27 minutes 38 seconds West 233.80 feet to an iron pin, North 23 degrees 39 minutes 22 seconds East 254.60 feet to an iron pin and North 20 degrees 44 minutes 02 seconds East 171.22 feet, running thence, South 80 degrees 05 minutes 40 seconds East 439.55 feet to a 13-inch black oak snag; running thence, South 89 degrees 40 minutes 07 seconds East (passing a capped rebar at 15.01 feet) a total distance of 190.90 feet to a point in a branch (said point in a branch being located North 89 degrees 40 minutes 07 seconds West 68.31 feet from a capped rebar); running thence, South 20 degrees 34 minutes 32 seconds East 769.53 feet to a fence corner at a 10-inch red oak on top of the ridge.

**SECTION 2.** Section 1 of this act shall have no effect upon the validity of any liens of the Town of Mills River for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property were still within the corporate limits of the Town of Mills River.

**SECTION 3.** The property area described in Section 1 of this act is located within the Etowah-Horse Shoe Fire District. The taxpayers in the property area described in Section 1 of this act shall no longer be required to pay taxes upon their property to the Town of Mills River after the effective date of this act. However, they shall continue to be required to pay taxes upon their property levied by Henderson County, including taxes levied by the County to finance, provide, or maintain the Etowah-Horse Shoe Fire District.

**SECTION 4.** Notwithstanding any other provisions of law, including the provisions of Article 19 of Chapter 160A of the General Statutes, the area described in Section 1 of this act shall continue to be subject to the zoning ordinances of the Town of Mills River for a maximum of 90 days after the effective date of this act to allow Henderson County an opportunity to determine and apply a County zoning designation for the property. Upon the expiration of the 90-day period, the Town of Mills River shall have no zoning or any other authority over the property area described in Section 1 of this act.

**SECTION 5.** This act becomes effective June 30, 2013.

In the General Assembly read three times and ratified this the 4<sup>th</sup> day of June, 2013.

s/ Daniel J. Forest  
President of the Senate

s/ Thom Tillis  
Speaker of the House of Representatives



**NOTICE OF PUBLIC HEARING  
ON PROPOSED ZONING MAP AMENDMENT  
(Rezoning Requests #R-2013-02)**

The Henderson County Board of Commissioners will hold a public hearing for a proposed map amendment to the Official Zoning Map of Henderson County, North Carolina.

Rezoning Application #R-2013-02, which was initiated on June 20, 2013, requests the County rezone approximately 74.68 acres of land (hereafter the "Subject Area"). On June 30, 2013 the Town of Mills River de-annexed twelve (12) individual parcels of land through North Carolina House Bill 671. Henderson County has 90 days, or until September 28, 2013 to determine and apply a County zoning designation to the Subject Area. The Planning Department recommends rezoning the Subject Area from a Mills River Mixed Use (MR-MU) zoning district to a Residential Two Rural (R2R) zoning district.

The public hearing will be held on Wednesday, September 18, 2013, at 9:00 A.M., in the Board of Commissioners Meeting Room located in the Henderson County Historic Courthouse, at 1 Historic Courthouse Square, in Hendersonville, NC. The public is invited to attend and comment on the proposed amendment.

Written comments addressed to the Henderson County Board of Commissioners, 1 Historic Courthouse Square, Suite 1, Hendersonville, NC 28792, will be accepted prior to the hearing. Information about the proposed amendment is available for review in the Henderson County Planning Department, 100 N. King Street, Hendersonville, NC, between the hours of 8:00 A.M. and 4:30 P.M., Monday through Friday, or on the Henderson County Website at [www.hcplanning.org](http://www.hcplanning.org). For more information, call the Planning Department at (828) 697-4819.

Please note that after considering public hearing comments, the Board of Commissioners may discuss other options or make changes to the proposed amendments before taking final action. The Henderson County 2020 Comprehensive Plan will be updated and amended, as necessary, to reflect the action of the Board of Commissioners.

Terry Wilson  
Clerk to the Board  
Henderson County Board of Commissioners

**For publication in the Hendersonville Tribune on Thursday, September 5, 2013 and Thursday, September 12, 2013.**

**Certification of Notice of Public Hearing**

In accordance with NCGS 153A-343 the Planning Department certifies notice of the September 18, 2013 hearing regarding Rezoning Application #R-2013-02 was:

1. Submitted to the Hendersonville Tribune on September 4, 2013 to be published on September 5, 2013 and September 12, 2013 by Matthew Champion;
2. Sent, via first class mail, to the owners of properties adjacent to the Subject Area(s) on September 4, 2013 by Matthew Champion;
3. Sent, via first class mail, to the property owners on September 4, 2013 by Matthew Champion; and
4. Signs were posted on the Subject Area(s) on September 4, 2013 by Matthew Champion.

The signatures herein below indicate that such notices were made as indicated herein above:

1. Matt Champion
2. \_\_\_\_\_

STATE OF North Carolina

COUNTY OF Henderson

I, Catherine Justice, a Notary Public, in and for the above County

and State, do hereby certify that

Matt Champion, and \_\_\_\_\_

personally appeared before me this day.

WITNESS my hand and notarial seal, this the 4 day of September, 2013.

My commission expires:

10/23/15

(SEAL)

Catherine Justice

NOTARY PUBLIC





## **RESOLUTION OF CONSISTENCY WITH THE COUNTY COMPREHENSIVE PLAN**

**WHEREAS**, pursuant to N.C. General Statute §153, Article 18, the Henderson County Board of Commissioners exercises regulations relating to development within the County's jurisdiction; and

**WHEREAS**, the Henderson County Board of Commissioners (Board) adopted the Land Development Code (LDC) on September 19, 2007 and has amended the LDC to address new and changing issues;

**WHEREAS**, the Board desires to update and revise the regulations of the LDC; and

**WHEREAS**, the Planning Director and Planning Board provided recommendations regarding the proposed zoning map amendment with case #R -2013-02; and

**WHEREAS**, pursuant to N.C. General Statute §153-323, the Planning Director provided the prescribed public notice and the Board held the required public hearing on September 18, 2013; and

**WHEREAS**, N.C. General Statute §153-341 requires the Board to adopt a statement of consistency with the County Comprehensive Plan (CCP); and

**NOW THEREFORE, BE IT RESOLVED** by the Henderson County Board of Commissioners as follows:

1. That the Board reviewed the proposed map amendment (#R -2013-02 Mills River Rezoning) and finds that it reasonable, in the public interest and it is consistent with the CCP and the Growth Management Strategy located therein; and
2. That the Board determines that the proposed map amendment provides for the sound administration of the LDC while balancing property rights and promoting reasonable growth within the County; and
3. That this Resolution shall be retained in the Office of the Clerk to the Board of Commissioners.



**THIS** the 18<sup>th</sup> day of September, 2013.

**HENDERSON COUNTY BOARD OF COMMISSIONERS**

**BY:** \_\_\_\_\_  
**CHARLIE MESSER, Chairman**

**ATTEST:**

\_\_\_\_\_  
**Terry Wilson, Clerk to the Board**

**[COUNTY SEAL]**

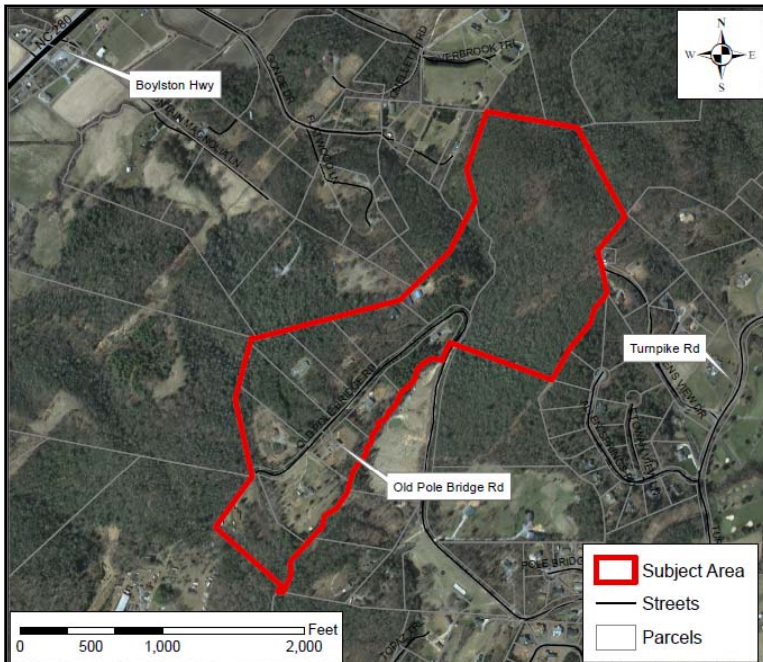
# Rezoning #R-2013-02 Mills River Rezoning (De-Annexation)



Henderson County Board of Commissioners  
September 18, 2013

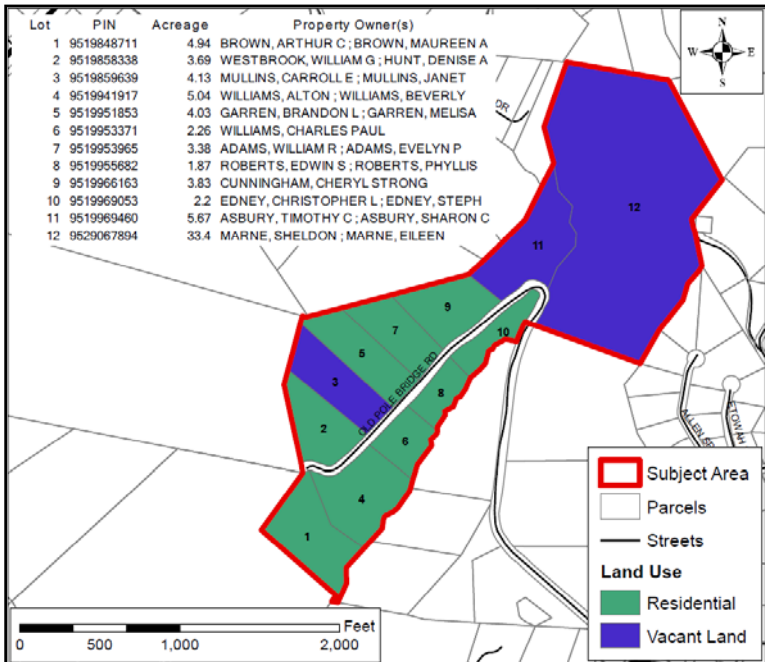
Presented by: Matt Champion, Planner

*Henderson County Planning Department*



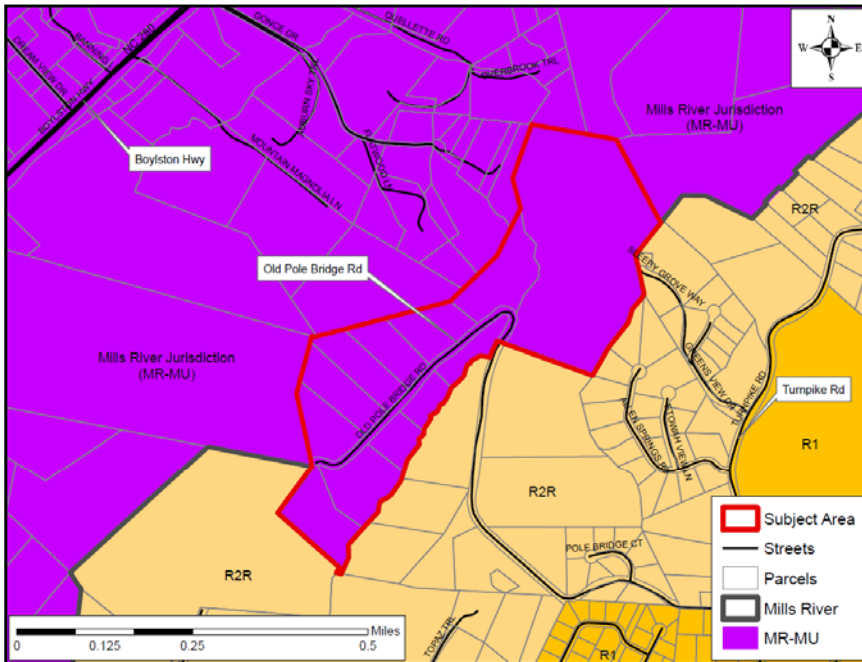
## Aerial Photo Map

*Henderson County Planning Department*



## Property Owners and Land Use Map

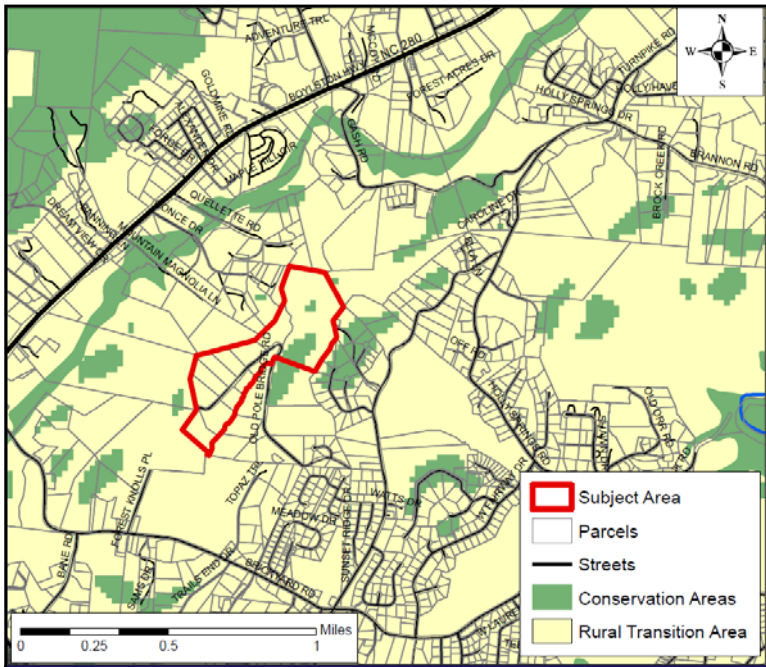
Henderson County Planning Department



## Current Zoning Map

Henderson County Planning Department





# 2020 CCP Future Land Use Map

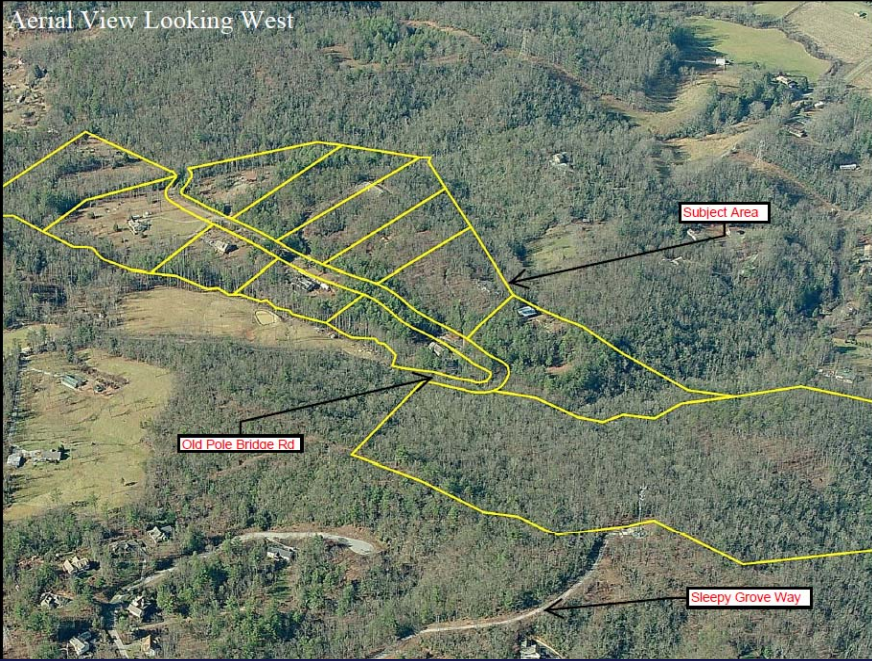
Henderson County Planning Department



Henderson County Planning Department



Aerial View Looking West



Henderson County Planning Department

Aerial View Looking South



Henderson County Planning Department

## Rezoning #R-2013-02

# Public Hearing Comments



## Rezoning #R-2013-02

State Law requires that the Board adopt a written statement of consistency with the County Comprehensive Plan (CCP). A draft resolution is provided

**Suggested Motion:**

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*I move that the Board adopt the proposed map amendment.*

