

# REQUEST FOR BOARD ACTION / CONTRACT CONTROL FORM

Tracking Number: 23

Date of Request: January 7, 2008

Date Request Received:

Board Meeting Date Requested: January 22, 2008

Board Meeting Date Assigned: January 22, 2008

**Short Title:** Bernard Morris, Montague Woods, LLC Applicant, Is Requesting One Tract Totaling 50.21 Acres And A Portion Of Another Tract Totaling 5.96 Acres. 56.15 Total Acres To Be Rezoned From RA Rural Agricultural District, To R-20 Residential District.

- Request Status:**
- Request is proceeding to Board of Commissioners
  - More information is needed – see attached
  - Request on hold – no further information needed
  - Other:

**Background:** The property is located at 7167 US Highway 421, north of Richard Switch Road, southeast of Currie, North Carolina. This proposal was first introduced in April 2007, for a similar rezoning from RA to R-20. The Planning Board voted to deny the rezoning 5 to 2 (which the 2 declined to vote). The Board of Commissioners also denied the request unanimously in April as well. The Planning Board unanimously denied the request at the December 4, 2007 meeting.

(Administrative Use Only)

## CONTRACT TYPE

- Renewal
- For Service(s)
- Intergovernmental – County as Grantee
  - Federal Grantor
  - State Grantor
  - Grantor
- County as Grantor
  - County Funds
  - Other Funds:
- Revision
- For Equipment

**Specific Action Requested:** The Board of Commissioners is requested to hold a public hearing for a rezoning

Requested by: Planning Staff  
Department: Planning Department  
Title: Planning  
Contact Phone: 910.259.1202  
Contact Fax: 910.259.3735

**PURCHASING** Budgeted Item:  Yes  No  
Date Rec'd:  Reviewed and Approved  
 Comments on Reverse

Date Sent: Signed:

**ATTORNEY**  Reviewed and Approved  
Date Rec'd:  Legal Problem(s)  
 Comments on Reverse

Date Sent: Signed:

**FINANCE** Sufficient Funds  Available  
Date Rec'd:  Not Available  
 Budget Amendment Necessary  
 Budgeted Amendment is Attached  
 Comments on Reverse

Date Sent: Signed:

**CLERK** Signature(s) Required:  
 Board Chairman/County Manager  
 Other:

Date Rec'd Approved by Board:  Yes  No  
At meeting on

**INTRODUCED BY:** Planning Staff    **DATE:** January 22, 2008    **ITEM NO:** \_\_\_\_\_

**TITLE:** Zoning Map Amendment, Bernard Morris, Montague Woods, LLC.

**SUBJECT:    PROPERTY PARCEL ID Number:** 2284-59-5390-0000, 2284-58-5165-0000

**APPLICANT:** Bernard Morris, Montague Woods, LLC.

**OWNER:** Same

**ACTION REQUESTED:** Bernard Morris, applicant is requesting one tract totaling 50.21 acres and a portion of another tract totaling 5.96 acres. 56.15 total acres to be rezoned from RA Rural Agricultural District, to R-20 Residential District.

**HISTORY/BACKGROUND:**

**Location of Property:** The property is located at 7167 US Highway 421, north of Richard Switch Road, southeast of Currie, North Carolina (See vicinity map). This proposal was first introduced in April 2007, for a similar rezoning from RA to R-20. The Planning Board voted to deny the rezoning 5 to 2 (which the 2 declined to vote). The Board of Commissioners also denied the request unanimously in April as well. At the December 4, 2007 Planning Board meeting the board voted unanimously to deny the request of the applicant. A petition from the residents of the Montague Road area was present to the Planning Board at the December 4, 2007 meeting. The applicant, Bernie Morris also presented photographs at that meeting. This information has been included in this packet.

**Description of Proposal:** The proposal consists of rezoning a portion of 2 tracts totaling 56.15 acres from RA Rural Agricultural District, to R-20 Residential District.

**EVALUATION:**

- A) Public Notifications:** Public Notice of the proposal for map change has been advertised in the Pender Post and Topsail Voice and adjacent property owners have been given written notice of the request.
- B) Existing Zoning in Area:** Subject's property is surrounded by RA, Rural Agricultural District. It is also approximately 3,200 feet from R-20 property to the Northeast and 6,500 feet from R-20 to west.
- C) Existing Land Use in Area:** Existing single-family dwellings lie adjacent to the southern and eastern boundaries of the property that is proposed to be rezoned. The property is surrounded immediately by vacant land on all other sides. Vineyard Trace a 10 lot Subdivision with 1 acre home sites has been recorded along southern adjacent boundary.
- D) 2005 Land Use Plan Compliance:** The 2005 Land Use Plan classifies this property as Rural Areas (See attached CAMA Land Use map). By definition Rural Areas provides for very low net density residential development. Very low net residential is defined in the 2005 CAMA Land Use Plan as one (1) residential unit per usable acre of project land. This is to prevent encroachment by higher density residential and other activities that may not be compatible with intensive farm activities.
- *Section 2 of Pender County's Future Land Use Plan states factors for maintaining Pender County's rural lifestyle. As a part of the recommended planning objectives the following is given for consideration; a) Cluster Development patterns that incorporate significant open space and protect viable farm and timber operations.*

- *Pender County's Zoning Ordinance defines cluster development as subdivision development design which places attached, semi-detached, and detached dwellings in close proximity to each other. Generally, nearby open spaces are set out for common use, including (but not limited to) recreation areas and parking for the use of dwelling owners. This form of development may include individual ownerships (fee simple) or a condominium form of ownership. and detached dwellings in close proximity to each other.*
- *Section 8.10 of the Pender County Zoning Ordinance, Schedule of District requirements- note #8 defines multi-family and Cluster Developments as 'Maximum land coverage by buildings is 30% and minimum land area for common space is 50% including recreation excluding estuarine waters, wetlands and environmentally sensitive areas.*

**E) Zoning Ordinance Compliance:** Section 5.3 of the Zoning Ordinance provides for standards that shall be followed by the Planning Board before a favorable recommendation of approval for rezoning can be made.

**F) Summary & Staff Recommendation:** Staff provides the following comments on this request:

1. Currently Vineyard Trace has a ten lot subdivision on parcel # 2284-58-5165-0000. In order to prevent a split zone situation staff would recommend after the Final Plat is recorded for Vineyard Trace, the remainder of 5.96 acres be recombined into parcel # 2284-59-5390-0000.
2. Within the last 6 months there have been 1 rezoning cases and no amendments to the Future Land Use Map in this area. (1 case went before Planning Board January 8, 2008, Planning Board voted 3-2 to deny the zoning amendment )
3. South of the proposed rezoning is Vineyard Trace a subdivision with 10 home sites each with one acre lots.
4. The effects of traffic on US HWY 421 and limited access to US HWY 421 would need to be further studied.
5. Staff would also recommend the proactive approach to protecting the US Highway 421 Corridor.

**G) Pender County Planning Board Recommendation:** The Pender County Planning Board is requested to hold a public hearing for a rezoning.

**AMENDMENTS:**

**Planning Board**

Motion: Burt Millette Seconded Rick Garrett

Approved: \_\_\_\_\_ Denied: \_\_\_\_\_ Unanimous X

Walton A Reynolds x Garrett x Gonzales x Marshburn x Millette x Smith x

**RESOLUTION: NOW, THEREFORE, BE IT RESOLVED**, that on January 22, 2008 the Pender County Board of Commissioners (approved, modified, denied) a rezoning request for a portion of 2 tracts totaling 56.15 acres from RA Rural Agricultural District, to R-20 Residential District, as described herein and James David Williams Jr., Chairman to the Board, is authorized to execute the order implementing this resolution and provide notice to the applicant of the action taken herein.

**Board of Commissioners**

MOVED \_\_\_\_\_ SECONDED \_\_\_\_\_

APPROVED \_\_\_\_\_ DENIED \_\_\_\_\_ UNANIMOUS \_\_\_\_\_

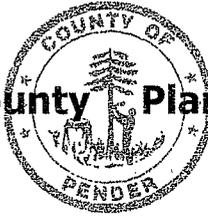
YEA VOTES: Williams \_\_\_\_\_ Tate \_\_\_\_\_ Blanchard \_\_\_\_\_ Brown \_\_\_\_\_ Rivenbark \_\_\_\_\_

\_\_\_\_\_  
John David Williams Jr.,  
Chairman

01/22/2008  
Date

\_\_\_\_\_  
ATTEST

01/22/2008  
DATE



# Pender County Planning Department

805 South Walker Street  
Burgaw, North Carolina 28425

Phone (910) 259-1202  
Fax (910) 259-1295  
Email: planning1@pender-county.com

## PLANNING BOARD APPLICATION FOR ZONING MAP AMENDMENT

Date <u>9/26/07</u>	Application Fee \$ <u>608.98</u>	Receipt No. <u>077047</u>
Application No. _____	Postage Fee <u>included</u>	Receipt No. <u>included</u>

**I. PROPERTY INFORMATION:**

Record #: 2284-58-5165-0000  
2284-59-5390-0000

Tax Map #: \_\_\_\_\_

Lot #: \_\_\_\_\_

Total Acreage of Tract: 2

Property Location: 7167 HWY 421, Currie, N.C. 28435

Reason for Rezoning: Create R-20 zoned Residential neighborhood

Current Zoning District: RA

Requested Zoning District: R-20

Acreage to Be Rezoned: ± 56.15

**II. REQUIRED NAMES:**

Applicant Montague Woods LLC Owner SAME

Bernard J. Morris, Mgr. Partner

Address 6264 Hawthornbell Dr Address \_\_\_\_\_

Wilmington, N.C. 28409

Phone (910) 262-4449 Fax (910) 796-6529 Phone \_\_\_\_\_ Fax \_\_\_\_\_

Email BMORRIS10@EC.NC.COM Email \_\_\_\_\_

Legal Relationship of Applicant to Property Owner: Same

**III. SIGNATURE OF OWNER & APPLICANT:**

Bernard J. Morris

(If owner is different from applicant, both signatures are required)

1 3

September 26, 2007

Pender County Planning Department  
805 South Walker St.  
Burgaw, N. C. 28425

Reference: Request for Rezoning  
Approx. 56.15 ac. Tract  
7167 Hwy. 421  
Currie, N. C. 28435

Dear Sir:

The subject property is presently zoned RA. The applicant/owner is requesting the property be rezoned to R-20. The subject property would be planned for a residential neighborhood with access from Highway 421 and through a single family neighborhood, Vineyard Woods, being developed by the owner located on the south side of the subject tract. This second access will be off of Richard Switch Rd. approximately 1000 feet from its intersection with Highway 421.

This rezoning request will place all property similarly situated in the area in appropriate complementary categories. The previous owner of the subject tract has created five small parcels at the southeast corner of the subject tract. The previous owner and his relatives plan to build single family homes on each of these parcels. These homesites will be accessed through the Vineyard Woods neighborhood. Heavily wooded lots in the Vineyard Woods neighborhood back-up to the subject property along the southern property line. The east and north side of the subject has substantial wooded buffer which would be maintained through the development phase. The east side of the property fronts on a partially wooded boundary with Highway 421 that will also be maintained through the development phase.

The rezoning of the property should not adversely affect the health and safety of residents or workers in the area and will not be detrimental to the environment or to the use or development of adjacent property. All lots in new R-20 neighborhood will be a minimum of 20,000 square feet. Each lot will contain a well and septic system.

There are other similarly R-20 zoned tracts within a close proximity to the subject tract. As water and sewer are extended to the subject area (anticipated by 2011) other residential zonings are likely to bring other development to the area.

The existing residential parcels adjoining the subject and others in the immediate area should not be materially or adversely affected by this rezoning. Most of the traffic

created by the developed will flow directly to Highway 421 and then proceed to the north or south. The extension of water and sewer in the area over the next few years will open this area to additional land uses. Well-planned residential communities can co-exist with rural areas when they are properly buffered and do not create traffic congestion for exiting owners. The subject rezoning can provide affordable housing in an area that is conveniently located to downtown Wilmington, the new I-40 bypass, and via Hwy 210 to Hwy. 74 and/or I-40.

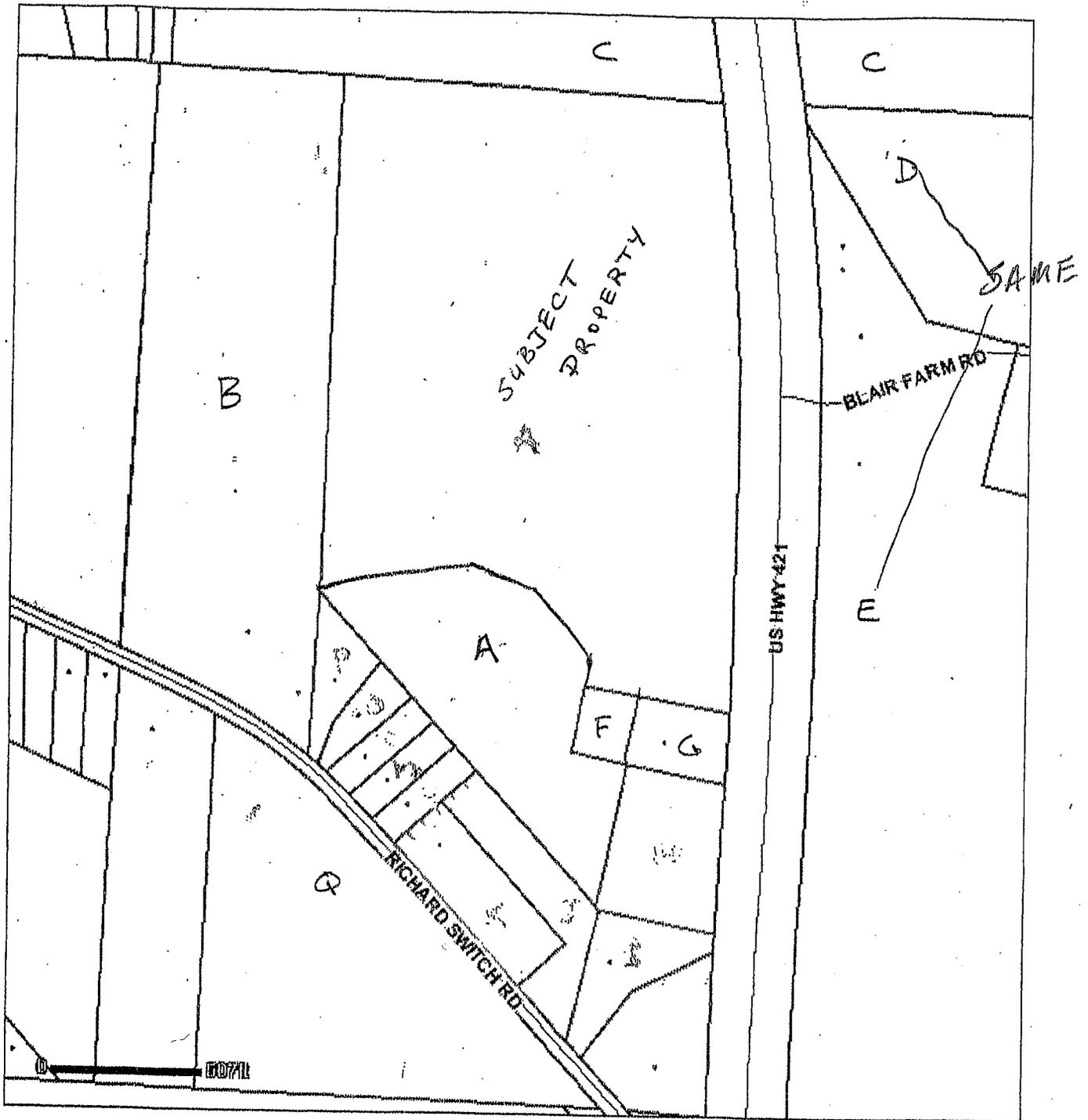
Thank you for your consideration.

Sincerely,

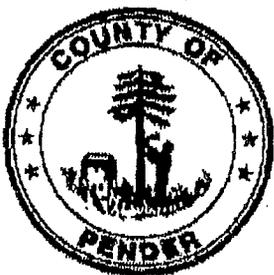


Bernard J. Morris, Owner/applicant

Montague Woods, LLC



# Pender County GIS



This map is prepared for the inventory of real property found within this jurisdiction, and is compiled from recorded deeds, plats, and other public records and data. Users of this map are hereby notified that the aforementioned public primary information sources should be consulted for the verification of the information contained on this map. Pender County assumes no legal responsibility for the information contained on this map.

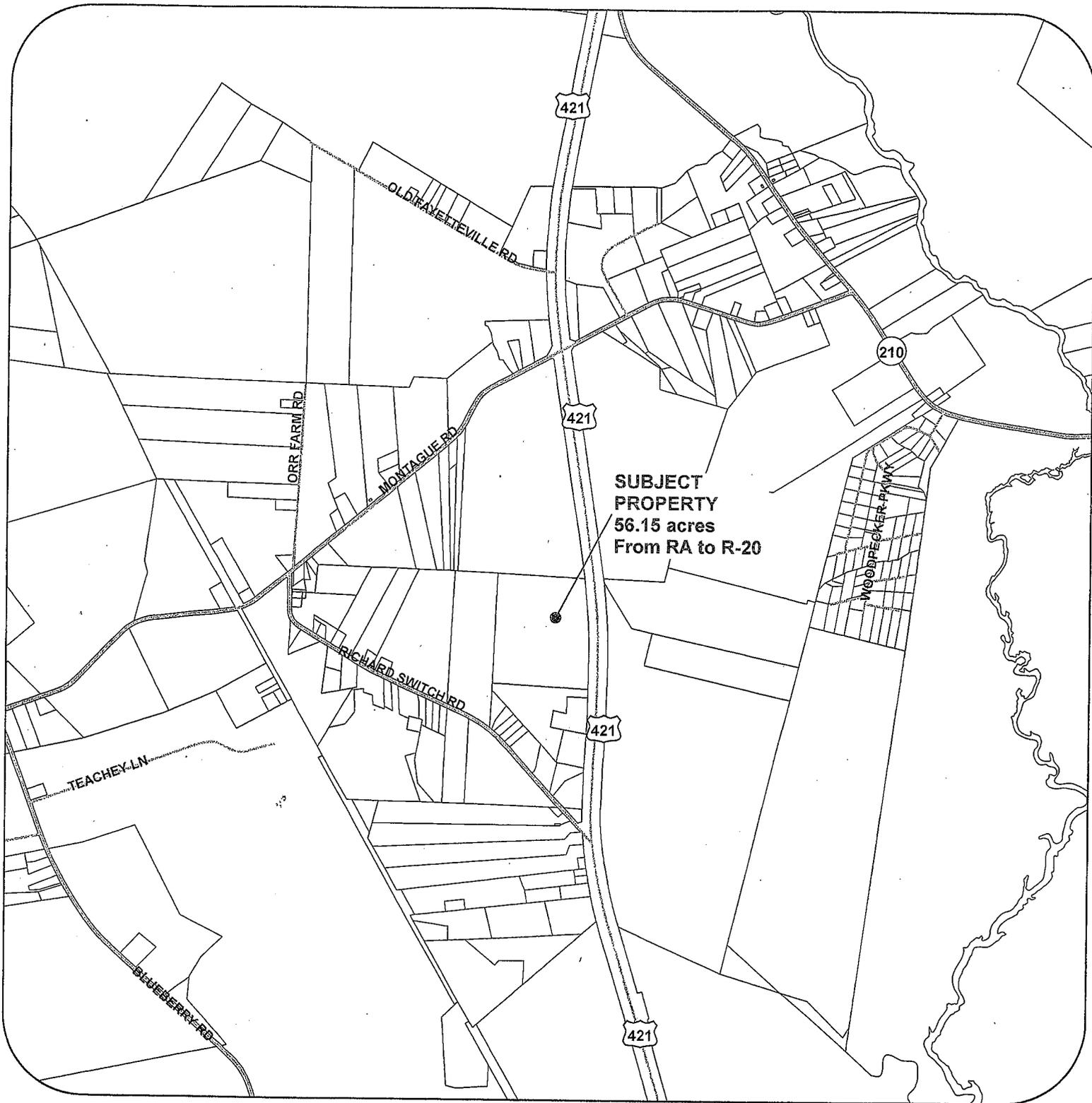
**Description for  
Montague Woods, LLC  
for rezoning  
56.15 Acres  
Grady Township, Pender County, NC**

Beginning at an iron pipe in the Western right of way of U. S. Highway 421; said pipe being located between Tract "A" and Tract "B" as referenced in Map Book 45 Page 6 in the Pender County Public Registry.

- 1.) Thence from the Point of Beginning and running N 88° 06' 03" W 291.44' to an existing iron pipe.
- 2.) Thence running S 01° 55' 19" W 249.29' to an existing iron pipe.
- 3.) Thence running N 76° 46' 34" W 193.91' to an existing iron pipe.
- 4.) Thence running N 76° 46' 34" W 41.41' to a point.
- 5.) Thence running N 10° 38' 11" E 95.50' to a point
- 6.) Thence running N 51° 57' 12" W 285.67' to a point.
- 7.) Thence running N 88° 06' 16" W 125.00' to a point.
- 8.) Thence running S 66° 07' 25" W 411.68' to a point.
- 9.) Thence running N 42° 08' 32" W 240.00' to an existing iron rod in the Western property line of Tract "B" as referenced above.
- 10.) Thence running N 02° 56' 22" E 1719.04' to an existing iron pipe at the Northwest corner of Tract "C".
- 11.) Thence running S 87° 14' 59" E 1256.68' to an existing iron rod in the Western right of way of U. S. Highway 421.
- 12.) Thence running with said Western right of way around a curve to the right with a radius of 11,573.59' a length of 963.47' and a chord of S 03° 44' 19" E 963.19' to an existing concrete monument.
- 13.) Thence running around a curve to the right with a radius of 11,573.59' a length of 59.67' and a chord of S 01° 12' 22" E 59.67' to an existing concrete monument.

- 14.) Thence running around a curve to the right with a radius of 11,573.59' a length of 581.43' and a chord of S 00° 22' 51" W 581.37' to an existing concrete monument.
- 15.) Thence running S 01° 53' 57" W 154.13' to the Place and Point of Beginning and containing 56.15 acres and being a portion of Tract "B" and all of Tract "C" as referenced above.

**Preliminary**  
Not for Recordation,  
Sales or Conveyances



1 inch equals 2,000 feet

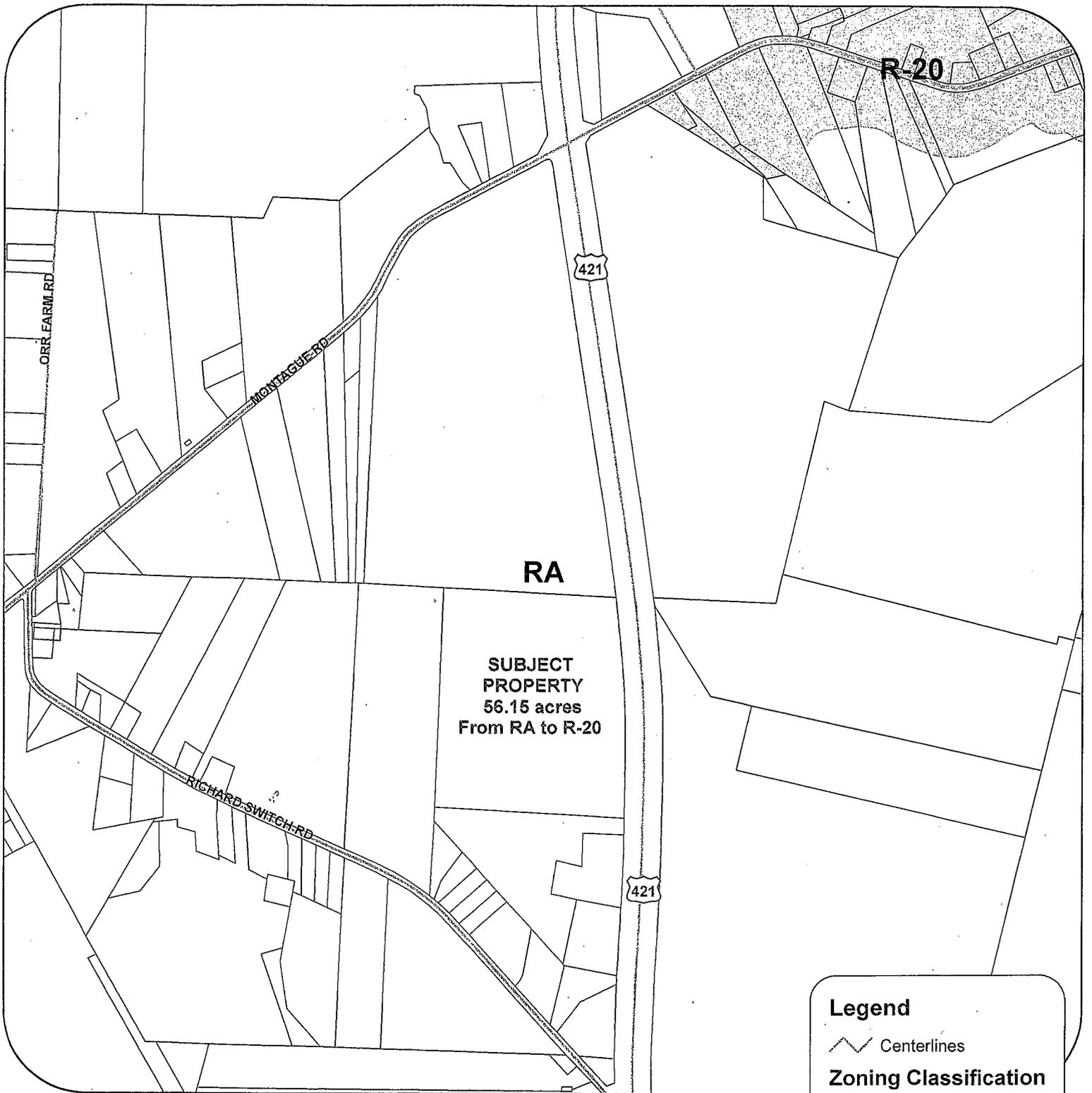


**Legend**

- Centerlines
- Subject Property



**Rezoning**  
 Bernard Morris  
 Montague Woods, LLC.  
 7167 US Highway 421  
*Location Map*

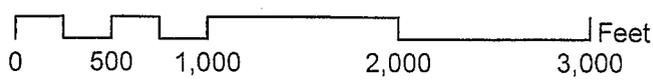


**SUBJECT PROPERTY**  
56.15 acres  
From RA to R-20

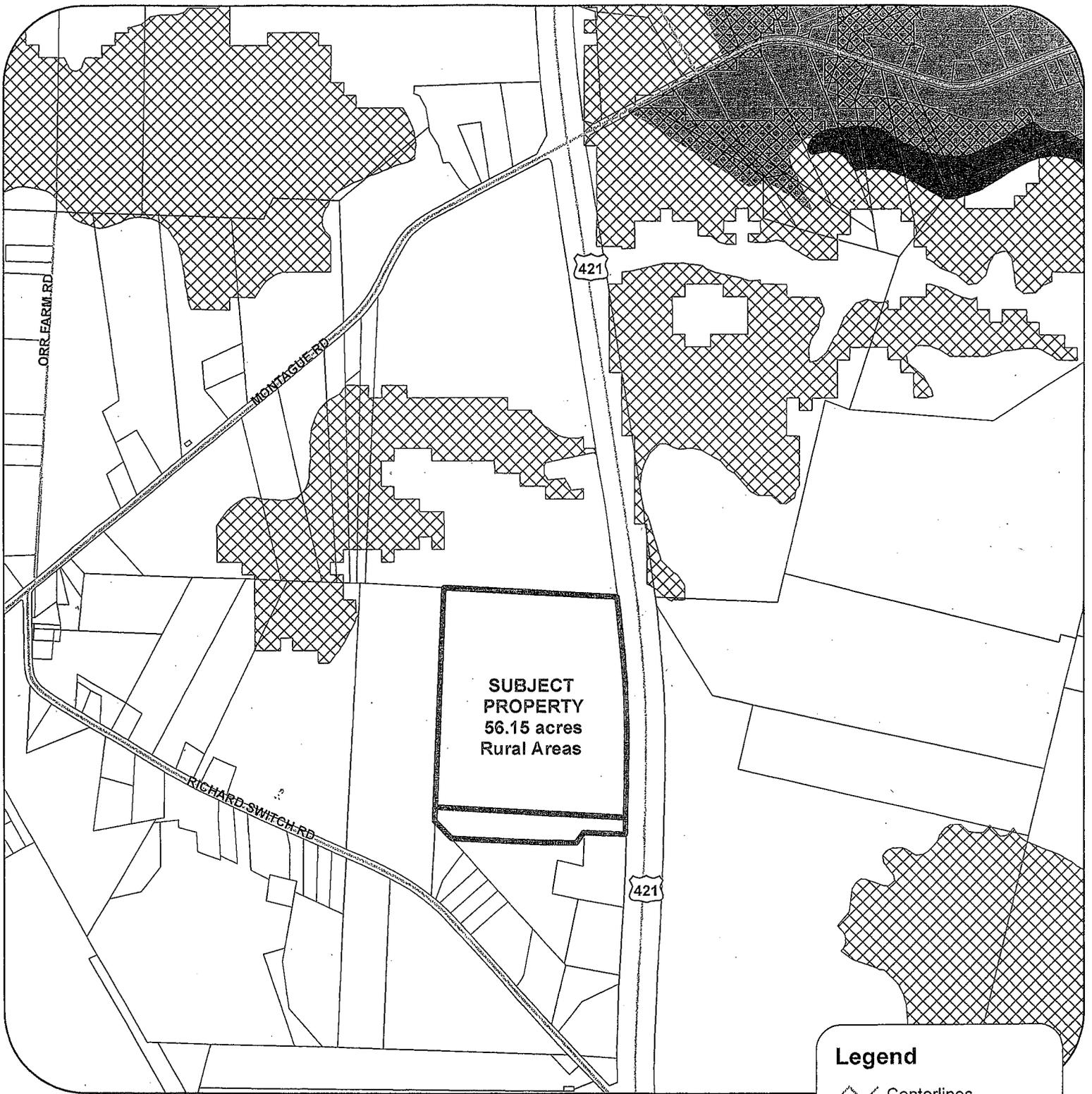
**Legend**

-  Centerlines
- Zoning Classification**
-  B-1; B-2; B-3
-  FA
-  FA\_DASH
-  I-1; I-2
-  PD
-  R-10; R-15; R-20
-  R-20C
-  RA
-  RT
-  WSCA; WSPA

1 inch equals 1,000 feet



**Rezoning**  
Bernard Morris  
Montague Woods, LLC.  
7167 US Highway 421  
*Zoning Map*



1 inch equals 1,000 feet

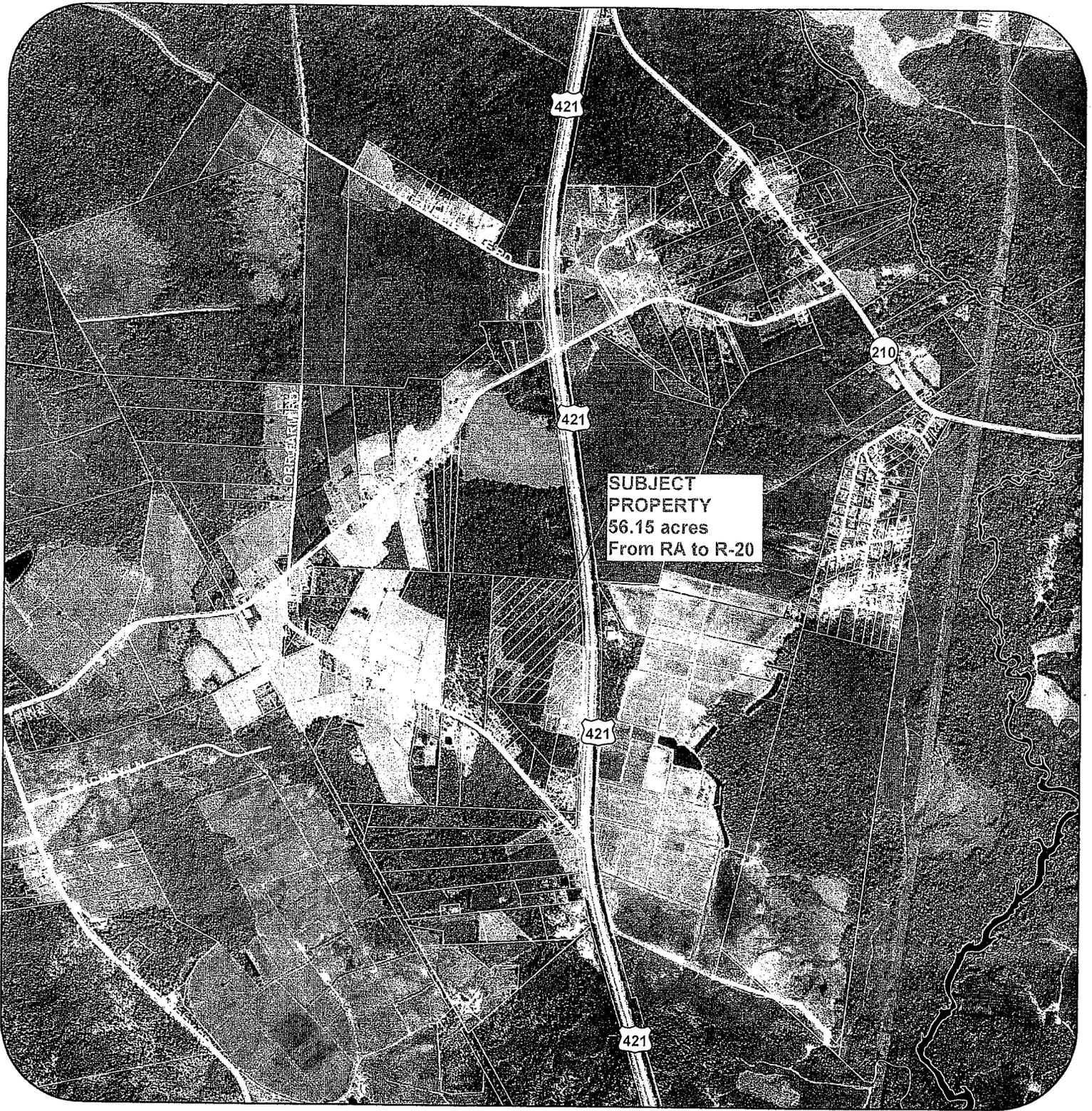


**Rezoning**  
**Bernard Morris**  
**Montague Woods, LLC.**  
**7167 US Highway 421**  
*2005 CAMA Land Use*  
*Future Land Use Man*



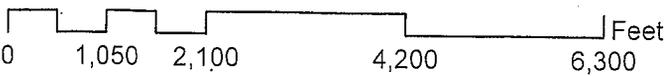
**Legend**

- Centerlines
- Subject Property
- Future Land Use**
- Conservation Area I
- Conservation Area II
- Rural Clusters
- Transition Areas
- Urban Growth Areas
- Rural Areas



**SUBJECT  
PROPERTY**  
56.15 acres  
From RA to R-20

1 inch equals 2,000 feet



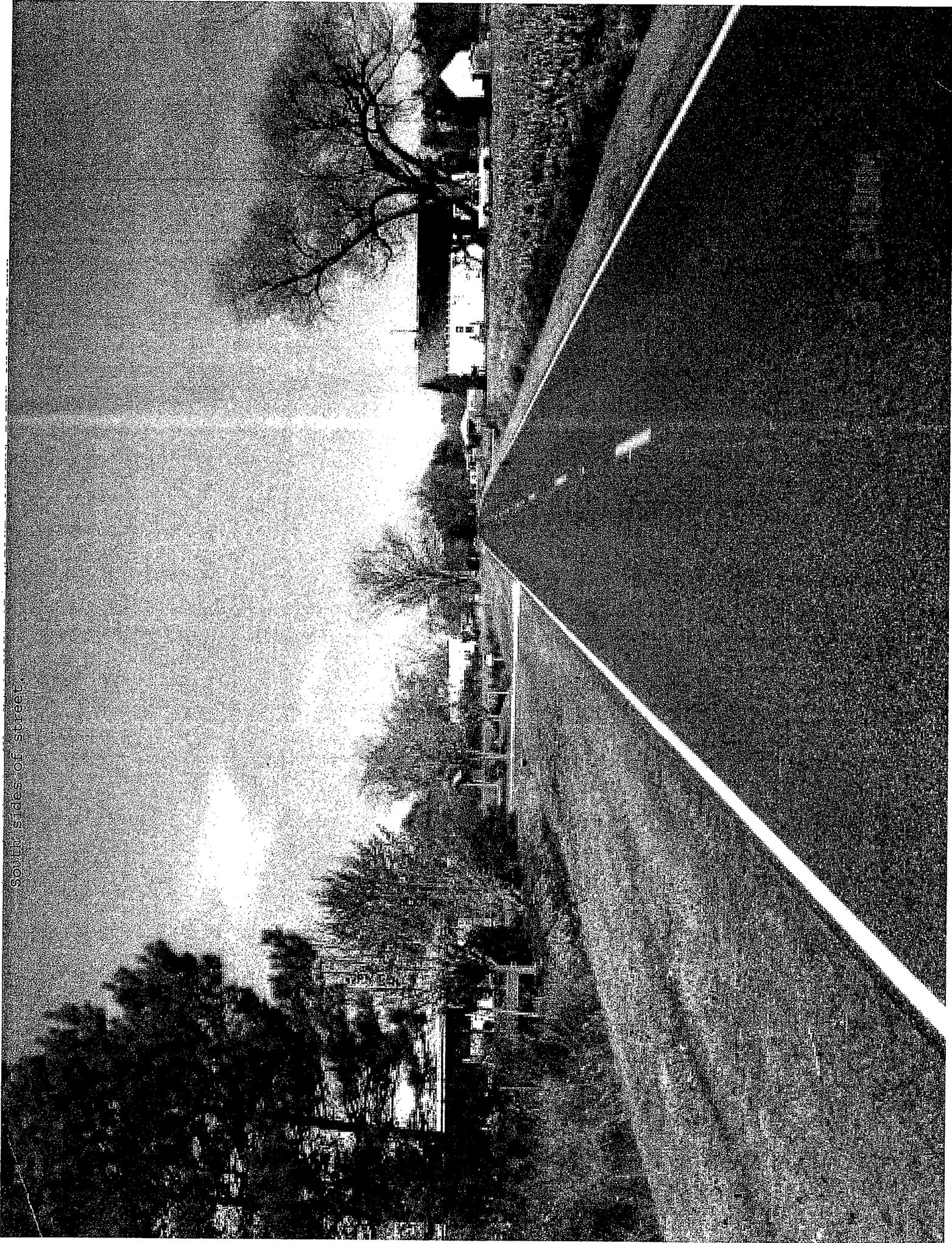
**Legend**

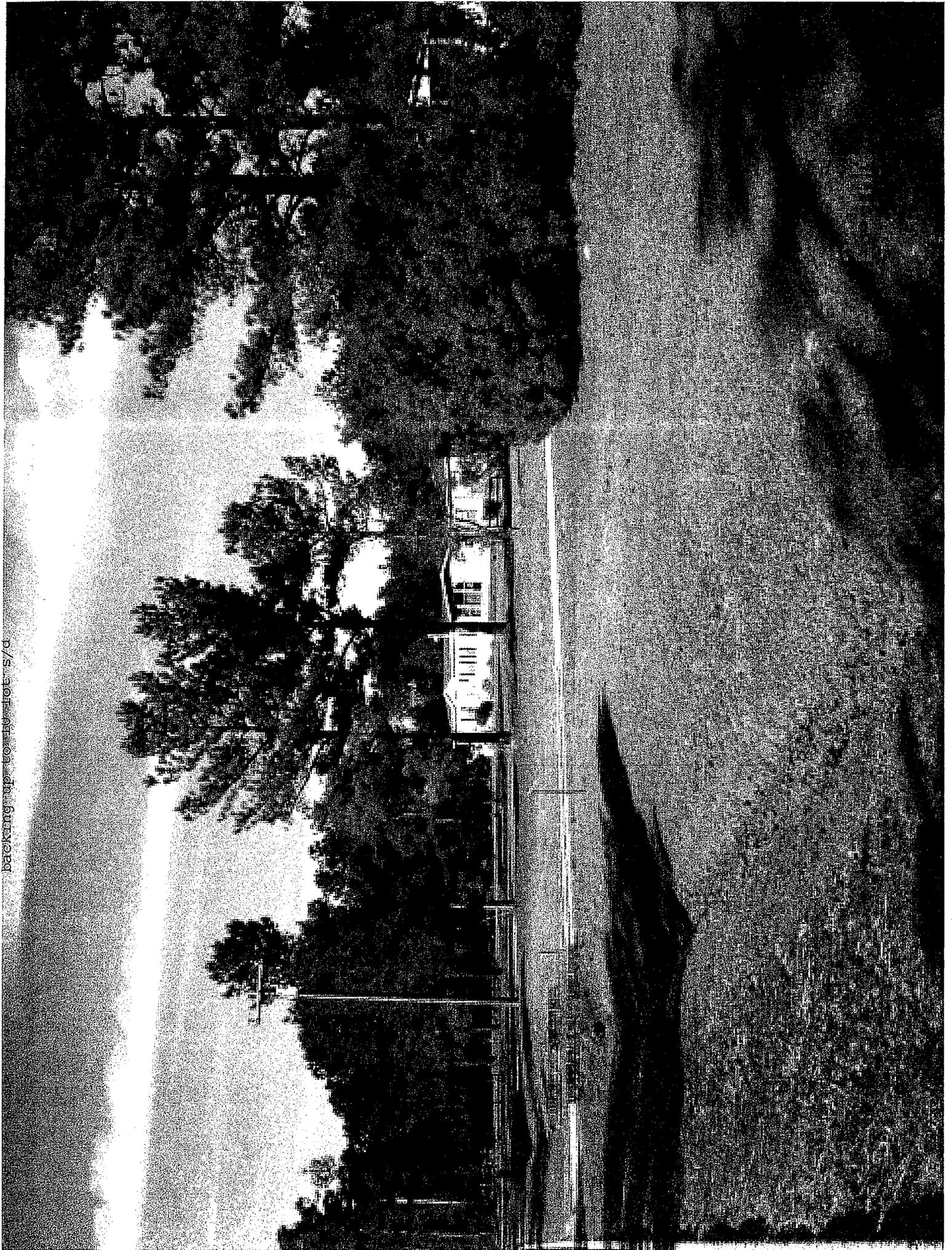
- Centerlines
- Subject Property



**Rezoning**  
Bernard Morris  
Montague Woods, LLC.  
7167 US Highway 421  
*Aerial Photography 2003*

South sides of street.





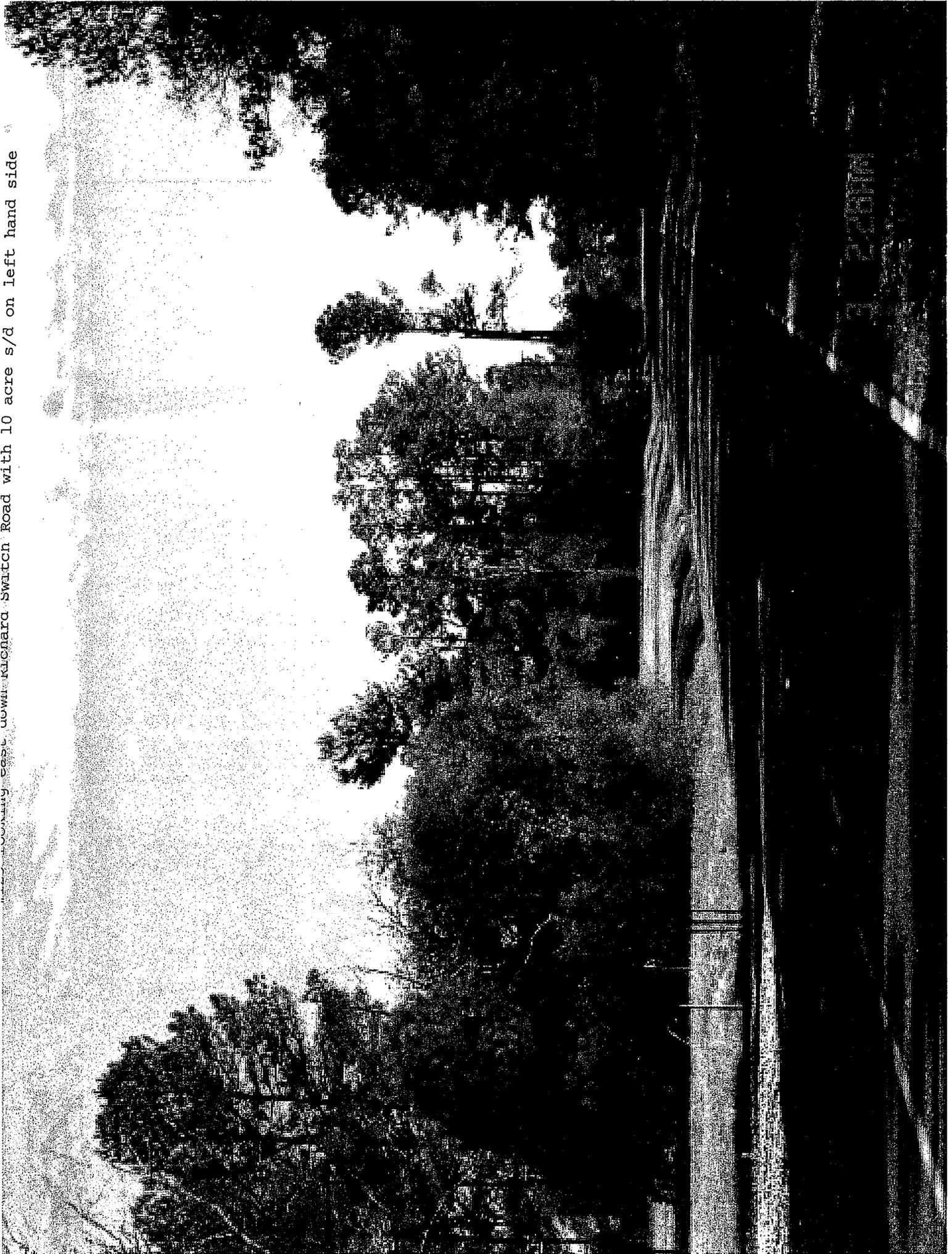
backing up home photo s/d



WAB 2-2014



WEST COUNTY, MISS. LOWER RICHARD SWITCH ROAD WITH 10 ACRE S/D ON LEFT HAND SIDE



# PENDER COUNTY PLANNING BOARD

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805 S. Walker Street  
Burgaw, NC 28425

DEC 7 2007

December 3, 2007

Dear Planning Board Members,

We respectfully request that the Pender County Planning Board deny the application to rezone 56.15 acres at 7167 US Hwy 421 from Rural Agricultural District to R-20 Residential District. This rezoning was previously applied for six months ago and was denied by both the Planning Board and the Board of Commissioners for failing to meet the policy guidelines that would justify a zoning amendment. At this time there are no new contributing factors that we are aware of that would justify a favorable recommendation for this rezoning.

Attached you will find a copy of the letter presented to the Board of Commissioners at the April 16, 2007 meeting. It's contents continue to be relevant. Also attached is a petition that was started by a member of our community for the November 19, 2007 meeting which was tabled at the request of the Applicant. There are additional signatures that were collected for tonight's meeting.

We thank you for your consideration and hope that you will agree that this application for rezoning does not meet the policy guidelines necessary for zoning amendment.

Respectfully,

Concerned neighbors in Montague and other Western Pender County residents

\*Please see attached pages

April 13, 2007

PENDER COUNTY BOARD OF COMMISSIONERS  
805 S. Walker Street  
Burgaw, NC 28425

Dear Chairman and Board:

We respectfully request that the Pender County Board of Commissioners consider our concerns regarding the proposed rezoning of the 67.49 acres requested by Mr. Morris on behalf of Edsol Rowell, Bettie Rowell, and Debra Duncan (owners).

We, the undersigned, are residents of this rural community, and all of us own property that is appropriately zoned Rural Agricultural. We vehemently oppose the rezoning of any land in our immediate vicinity from Rural Agricultural District (RA) to Residential District (R20). Our area is traditionally different from Currie. It is commonly known as "Montague" and is a community unto itself.

It isn't that we are opposed to developing this side of the county. We have all worked hard to develop and improve our individual properties to support the rural lifestyle. However, we all moved here for a set of specific reasons and those reasons do not include a desire to convert this quiet area into heavily populated subdivisions.

Rural life offers our families an opportunity to hear the birdsongs in the mornings and evenings and admire the starry heavens at night. We all came here seeking a slower-paced life in a close-knit community, the kind of life one cannot find in the city. We chose Western Pender County because we wanted to live in a rural agricultural area. Many of us have horses, hunting dogs, chickens, sheep, goats, and other domestic animals. We plant crops. We hunt and fish. We can ride down Richard Switch Road and the surrounding two-lane roads on horseback or in carriages. No one minds a few horse droppings. We don't care if the deer nibble on our bushes.

There are no densely populated neighborhoods or R20 zoned areas anywhere near us. We all have multiple acres and a country lifestyle. R20 zoning is incompatible with our established way of life. We do not want the land in Montague zoned R20. It could expedite the rezoning of our currently-owned properties to Residential in the future, which we would adamantly oppose.

Aside from our personal preferences and concerns about the adverse effects on our way of life, we are also concerned about the potential impact of R20 zoning upon our infrastructure and environment. The existing fire and police departments have trouble covering this area now. Increased population density would exacerbate the problem. Rezoning from RA will probably result in additional loss of ground cover, with a resultant negative environmental impact. We already have drainage problems.

The exact infrastructure and environmental impact would be determined by the type and population density of any future developments in our area, and if you allow this ill-advised rezoning we will all return to address those issues at future County Commissioner meetings.

For tonight, we respectfully request that you keep our entire area Rural Agricultural and preserve our traditional western Pender County way of life. We explained the situation to the Planning Board, and they understood our concerns. They rejected the proposal and recommended that you do the same. Please vote "No" on this rezoning request.

Thank you for allowing us to present our concerns.

Respectfully,

*Concerned neighbors in Montague  
and other Western Pender County residents*

\*see attached pages of signatures to this letter\*





We the people of Montigue Community ,and surrounding neighborhoods are asking our County Commissioners to vote against turning our Rural Agricultural Community into a Residential District.

For many of us this Rural Agricultural Community is part of our heritage. We are against turning our community into a Residential District. Let us have a voice in what happens to our way of life.

PLEASE VOTE NO TO THE REZONING OF THE 56 ACRES (more or less) OF LAND IN OUR COMMUNITY!

~~John & Kelly Trela~~  
~~Ray [unclear]~~

Judith A. Preucite  
~~[unclear]~~

Glenda McDoussay

Jeff McAnis

Danica McDaniel

Helen Robinson

Steve Robinson

James Littleton

Teressa Robinson

Michael Robm

Eve Moore

Stephanie Harris

Jantice Robinson

Louise B. Orr

Janet [unclear]

Mary Sue Orr

Billy Orr

Melvin [unclear]

William [unclear]

T. [unclear]

[unclear]

Robert Orr

Robert A. Williams

Brenda F. Williams

Colleen Orr

Joseph Flynn

Alfred [unclear]

Shirley [unclear]

Elizabeth [unclear]

Leah [unclear]

Judy Smith

Henry Smith

Betty Orr

Brenda Leonard

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PLEASE VOTE NO TO THE REZONING OF THE 56 ACRES (more or less) OF LAND IN OUR COMMUNITY!

Sony W. Masten  
Ashly Antez  
Danian Smith  
Russell J. Adedda  
Amy T. Adedda  
J. Thomas  
Mary Bass Herdick  
Charles Herdick

Julia C.  
Wynne B. Pender  
Caron Messick  
Susan Pender  
Duffy Pender  
Andrea Maxwell  
Cindy Maxwell  
Jimmy Maxwell  
Chris Rich

Rinda Malpas  
Greg Cunningham

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PLEASE VOTE NO TO THE REZONING OF THE 56 ACRES (more or less) OF LAND IN OUR COMMUNITY!

Joe Harris

Ricardo 'Rico' Soto

Dorothy Childers

Kim Howell

Phalon Padfield

Rain Laron Lopez

Corey Adams Finn

James B. Matthews Jr

Barry Barnhill

Sharon E. Pottson

[Signature]

[Signature]

Daryl Small

Buddy Warren

Cynthia Page

Tracy Fanning

Brad Fanning

