



AGENDA ITEM NO.

## STAFF REPORT

MAPC: July 11, 2024

CAB 1: July 15, 2024

Bel Aire Planning Commission: July 11, 2024

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**CASE NUMBER:** ZON2024-00031 (County)

**APPLICANT/AGENT:** Robert Phillips (applicant)

**REQUEST:** GI General Industrial District

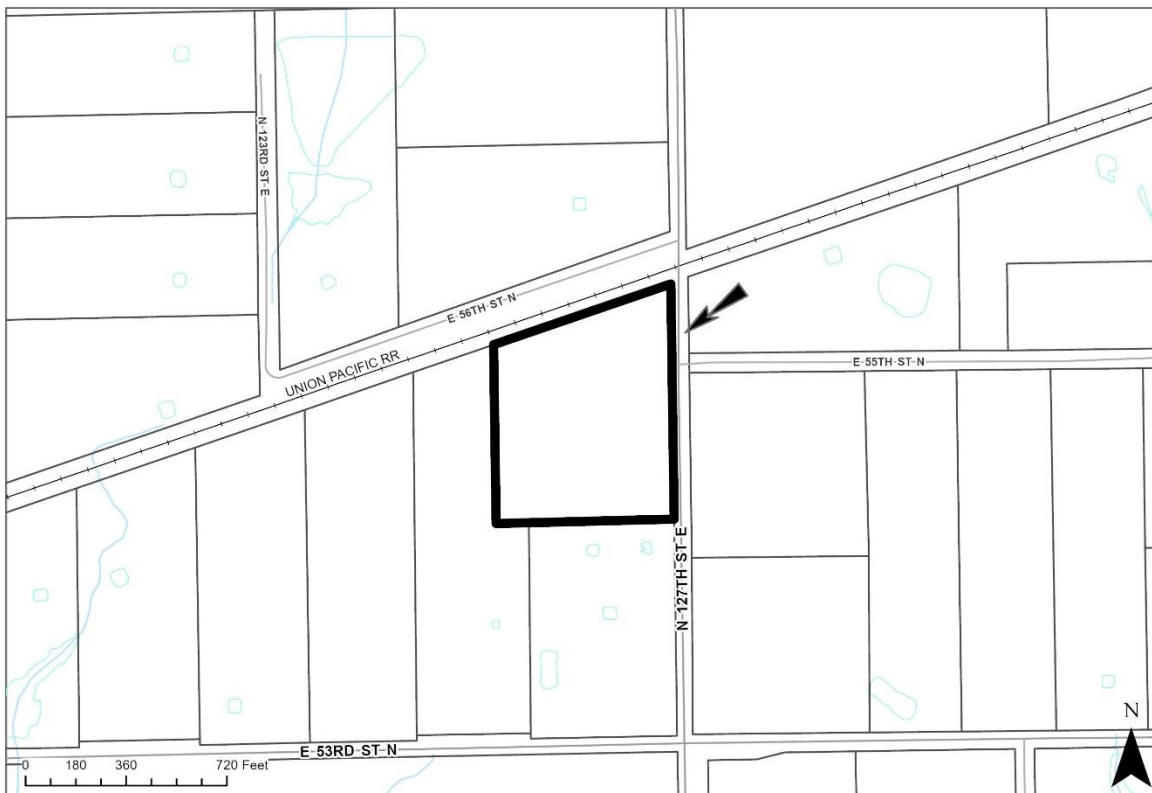
**CURRENT ZONING:** RR Rural Residential District

**SITE SIZE:** 10.79 acres

**LOCATION:** Located on the southwest corner of North 127<sup>th</sup> Street East and East 56<sup>th</sup> Street North (5601 North 127<sup>th</sup> Street East).

**PROPOSED USE:** Construction Sales and Service (Tree Service/Lumber Yard).

**RECOMMENDATION:** Deny.



**BACKGROUND:** The applicant is requesting a zone change from RR Rural Residential District (RR) to GI General Industrial District (GI), to permit Construction Sales and Service (Tree Service/Lumber Yard) on the property. The property is 10.79 acres in size and is located on the southwest corner of North 127<sup>th</sup> Street East and East 56<sup>th</sup> Street North (5601 North 127<sup>th</sup> Street East). The applicant is currently using the site as a tree service/lumber yard and is attempting to bring the use into conformance. This application is in response to being served with a Notice of Violation due to valid complaints filed by neighboring properties.

Should the zone change be approved, several property development standards will change, as seen in the table below:

Property Development Standards	RR Rural Residential	GI General Industrial
Minimum lot area	2 acres	None for commercial uses
Front setback	30 feet	20 feet
Rear setback	25 feet	0 feet, subject to compatibility standards
Interior Side Setback	20 feet	0 or 5 feet, subject to compatibility standards
Street Side Setback	20 feet	0 feet, subject to compatibility standards
Maximum height	35 feet	80 feet, subject to compatibility standards
Minimum lot width	200 feet	No minimum

Section IV-B.2 of the Unified Zoning Code (UZC) requires solid screening of commercial properties when abutting or across a street or alley from residential zoning districts. Because the property abuts residential zoning districts on all sides, the applicant will be required to provide solid screening of at least a six-foot screening fence around the entirety of the property. Solid screening may be accomplished through landscaped earth berms that accomplish the same as a six-foot screening fence. The property would also need to adhere to the rules and regulations of the Sedgwick County Sign Code.

The UZC Sec. IV-C.5.a, Compatibility Height standards states that no structure shall exceed 35 feet in height within 50 feet of the lot line of property zoned TF-3 Two-Family Residential District (TF-3) or more restrictive. The proposed GI zoned site abuts and is adjacent to RR zoning districts on all sides. Any future buildings shall comply with the maximum height of 35 feet, which is the same as the abutting and adjacent RR Districts on the north, east and south sides of the property. Structures located more than 50 feet from the lot line of property zoned TF-3 or more restrictive may increase height at a ratio of one foot in height for each three feet of setback beyond 50 feet. The minimum building compatibility setback shall be 15 feet plus one foot for each five feet of lot width over 50 feet.

Should the zone change be approved, the applicant shall be required to adhere to the parking standards set forth by the UZC, which would equate to one parking stall per 500 square feet for sales area plus one per 2,000 square feet of the first 20,000 square feet of building floor area, plus one per 5,000 square feet of building floor area over 20,000 square feet.

The character of the neighborhood is residential in nature. Property to the north, south, east, and west are all zoned RR and are developed with single-family dwellings.

**CASE HISTORY:** The subject site is currently unplatted. The property will have to be platted if any new commercial development takes place. There have been no other zoning cases associated with the property.

**ADJACENT ZONING AND LAND USE:**

NORTH:	RR	Single-family dwelling
SOUTH:	RR	Single-family dwelling
EAST:	RR	Single-family dwelling

**PUBLIC SERVICES:** North 127<sup>th</sup> Street East is a two-lane, gravel arterial street with ditches on both sides. There are no sidewalks on either side. The site is served by Rural Water District #1 and utilizes an on-site sewage system.

**CONFORMANCE TO PLANS/POLICIES:** The requested Conditional Use is not in conformance with *The Community Investments Plan*. The *Community Investments Plan* (the Wichita-Sedgwick County Comprehensive Plan) includes the 2035 Wichita Future Growth Concept Map. The Map identifies the area in which the site is located to be appropriate for “Small City Urban Growth Area”, which the *Plan* defines as: “*Generally located adjacent to existing municipal boundaries, these areas indicate the likely direction and magnitude of growth these communities can expect to experience out to the year 2035. Growth direction and amount is based upon municipal political considerations, anticipated population growth, efficient patterns of growth, current infrastructure limitations, cost effective delivery of future municipal services, and environmental factors.*” With the subject site being in the Bel Aire Urban Growth Area, staff reviewed the Bel Aire Comprehensive Plan to identify the proposed future land use of the subject site. The attached Preferred Balanced Growth Scenario Map from the City of Bel Aire’s comprehensive plan does not specifically identify an appropriate future land use for the subject site. Construction Sales and Service in the form of a Tree Service or Lumber Yard would not be compatible with the surrounding RR zoning district and existing residential development.

**RECOMMENDATION:** Based upon the information available at the time the staff report was completed, staff recommends that the request be **DENIED**.

The recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The character of the neighborhood is residential in nature. Property to the north, south, east, and west are all zoned RR and are developed with single-family dwellings.
2. **The suitability of the subject property for the uses to which it has been restricted:** The property is presently zoned RR Rural Residential District and is suitable for a limited number of residential, civic, commercial, and industrial uses.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The size of the major commercial/industrial use could detrimentally affect nearby property with noise pollution, light pollution, traffic, and unsightly aesthetics.
4. **Length of time the property has been vacant as currently zoned:** The subject property is currently being used as a Tree Service/Lumber Yard. The applicant is requesting a zone change to come into compliance.
5. **Relative gain to the public health, safety, and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Approval would bring major commercial/industrial development to the property, which may cause significant detrimental impacts on nearby residential uses. Denial may result in the loss of use and enjoyment for the applicant.
6. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The requested zone change is not in conformance with *The Community Investments Plan* as discussed in the staff report.
7. **Impact of the proposed development on community facilities:** The subject use requires significant commercial truck traffic on a gravel road. It is likely to have significant detrimental impacts on the surfacing of the road over time.

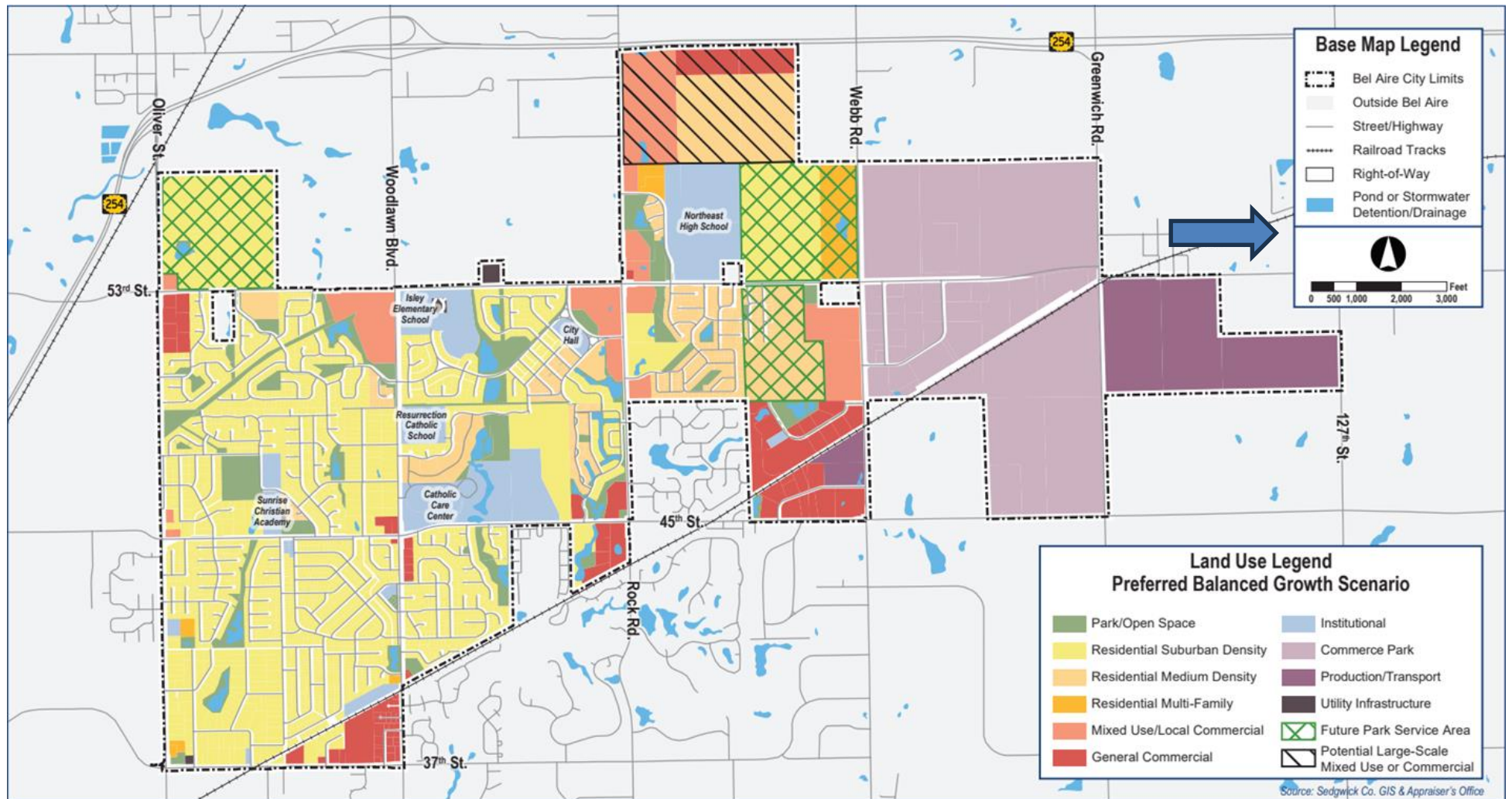
8. **Opposition or support of neighborhood residents:** At the time of the publication of the staff report, staff received comments from two neighbors opposed to the zone change. The Bel Aire Planning Commission will hear the case on July 11, 2024.

Should the MAPC find that the zone change be approved, it is recommended that the MAPC adopt alternate findings supporting their recommendation.

Attachments:

- 1) City of Bel Aire Preferred Balanced Growth Scenario Map
- 2) Public Comment
- 3) Aerial Map
- 4) Zoning Map
- 5) Land Use Map
- 6) Site Photos

## Bel Aire Preferred Balanced Growth Scenario Map





REZONING of 5601 N. 127<sup>th</sup> E.  
ROBERT PHILLIPS  
RESIDENT OWNER

A. CONCERNS & COMPLAINTS

- A 1. Several times have stressed our concerns about the way Tree co. drivers - transport of 3 axle trucks & trailers on the rural roads in our area
- A 2. Several times have stressed to city employees about their dangerous driving habits
- A 3. Neighbors have reported burning issues with monstrous piles of height width & diameter several times.

B. OUR HEALTH & WELL BEING

1. Having to witness the mess & piles of limbs hauler in has been degrading. Knowing all the animals taking up homes in the trash piles & knowing they will be burning the piles
  2. Breathing smoke & witness the size & height of the fires is scary & ridiculous
  3. Having to be ignored for our concerns because of the size of fires - Why??
- OVER →

B.4. Watching fires of numerous sizes - question fire dept. of their actions & have been ignored.

B.5. Under what law has he been allowed to do such a dangerous thing for neighbors. To us is not right

✓ B.6. Fireman have told us he's perfectly legal. They did not care what he should in & would do anything in "His" power according to a "CAPTAIN." - his name will be given if asked for --- AND have licent told he will watch fire & put out accordingly - Did not happen.

- C. <sup>CONCERNS FROM Neighbors</sup> Many neighbors have
1. expressed their opinions on their driveway & burning & appearance of 5601 N. 127th E.
  2. Has been words between neighbors & Robert Phillips on his rights & accusations.



## D. CONCERNS OF SERENITY

1. No peace & quiet in morning  
& evening watching wildlife  
& enjoying our homes we  
worked so hard to have

2. Lots of noise in morning?  
& day & evenings when BIG  
trucks come & go - so fast  
so reckless.

3. Fears of fires Phillips  
has set have startling  
& can only ponder why  
he's allowed to do.

4. We have wondered & asked  
one another, why is he  
allowed to do as he damn  
well pleases

5. The VALUE of our  
properties will definitely  
be compromised. - A lot  
of hard earned money &  
effort & heart & soul gone  
into our homes.

Please consider the thoughts  
of all who are building homes  
in area - NOT A ILLEGAL  
DUMP SITE.

OVER →



## SUMMARY.

E. According to KDHE  
("OPEN BURN") → EPA.  
LAWS Sdg. Co. FIRE

It will be in the city's  
best interest and ours  
as family of homes  
with morals & respect  
to please consider  
our welfare our  
health & our hard  
work we have done  
in improving the  
sites we bought  
to call home. a  
resident home  
that lives by the laws  
& understanding - what's  
right is right

Please think about what  
will become of a property  
that is given a Re Zoning  
for all the wrong  
reasons. - for only  
one thing is with  
less restriction & Self Gain !!

CAN YOU IMAGINE \$\$\$  
WHAT IT WILL LOOK LIKE Norma Wolfe

● Mr. Brad Eatherly  
271 W. 3<sup>rd</sup> Street, Suite 201  
Wichita, KS 67202

Case# ZON2024-00031

When I met Paul Kelley, he had a horse boarded at a friend's house. We were married in 1972.

● We started looking for some land to move a trailer on to build a barn and pen for his horse. We found George Clark Land Co. that was selling 10 acre lots, which was perfect.

So we bought 10 acres, build a barn, fenced in part of the land for our horse and move our

trailer on.

As time went on, we were able to buy the 10 acres next to the acres we already had.

We worked hard. We kept up the land, we had grass & alfalfa which we had mowed & baled to

feed the horses, we were able to acquire more horses. Hay filled the barn year after year. We had great neighbors, they bought hay from us and we helped them bale and pick up there hay.

The Merritts, The Whites, Norma, The Schiffers, The Wilkites, all builted their houses out there.

We all looked out for each other, which I am sure that is what is happening today. A great community.

Payne township kept up the roads, the ditches, etc.

Most of the original people have died or moved on and new families have moved in. Even Paul has since passed away and I have moved into town not far from the land.

I had an auction to sell both of the 10 acres and all the furniture. When we were going through things, we were looking



two things, any important papers,  
and the safety deposit box key.  
For some reason Paul hid the  
key in the credenza, which  
Mr Phillips bought at the  
auction.

I want you to know who you  
are dealing with. Mr. Phillips  
took the key to our bank  
(which you can check with Stryv  
Bank in Park City and they will  
confirm this) that Mr. Phillips  
tried to get into with the key.  
The bank denied him to get  
into the box, because his name  
was not on the box, just Paul's.

name and my name. The Bank called me and asked if I knew Mr. Phillips, which I did not and they refused him. I tried several times to get the key, but Mr. Phillips refused. I had to go to the bank and they had to drill to get into the box which I had to pay for.

Now there are a lot of families that live in the area, including the families in Greenwich and the surrounding area. This is dirt roads, a lot of dust and the maintenance on the roads will need

to be kept up. Big trucks,  
will have wear and tear on  
the roads.

The noise and families having  
to deal with the trucks.

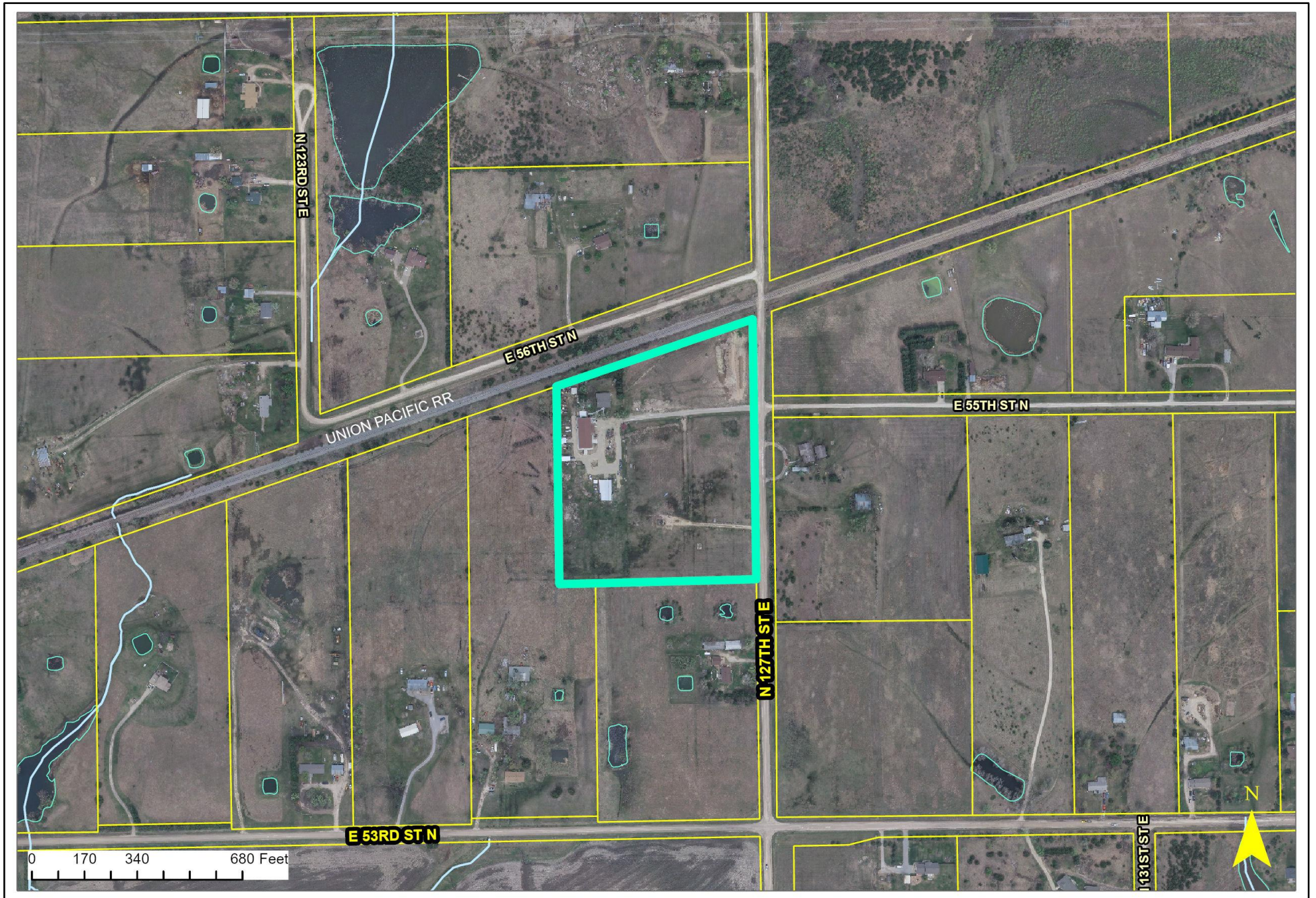
Any kids, buses picking up  
and dropping off kids.

I don't know if you know  
this but animals, horses,  
dogs, cats etc are sensitive  
to this. People ride their horses,  
walk their dogs.

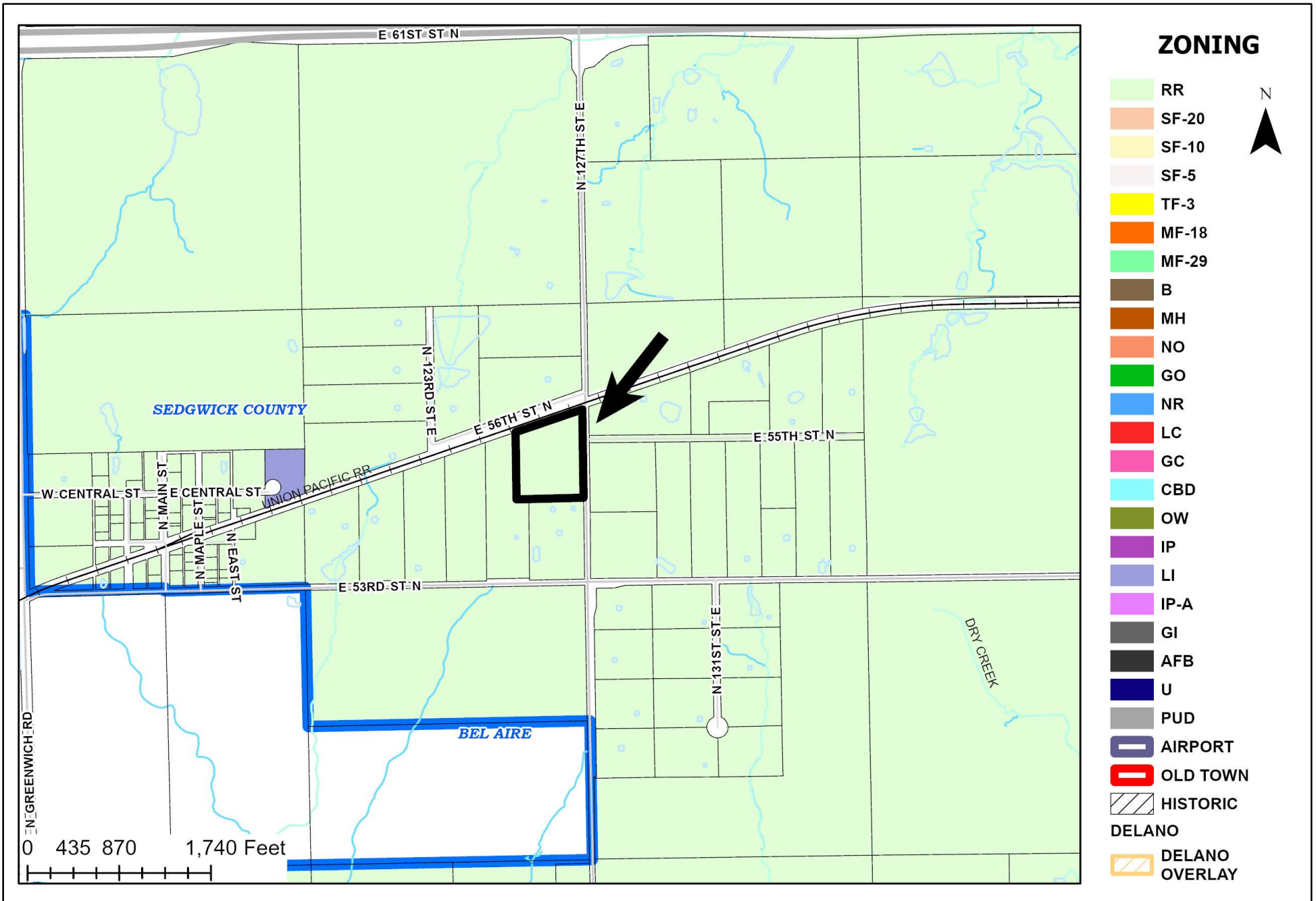
I know I don't live out there  
any more but this is still a  
place I will always call home.

Pat Kelley  
316-655-6918





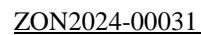




### Legend

- ## LAND USE

- N





**Looking west into site**



**Looking south away from site**



**Looking east away from site**



**Looking north away from site**

