



AGENDA ITEM NO.

## STAFF REPORT

MAPC: August 8, 2024

CAB 1: August 19, 2024

Bel Aire Planning Commission: August 8, 2024

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

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

**REQUEST:** GC General Commercial District

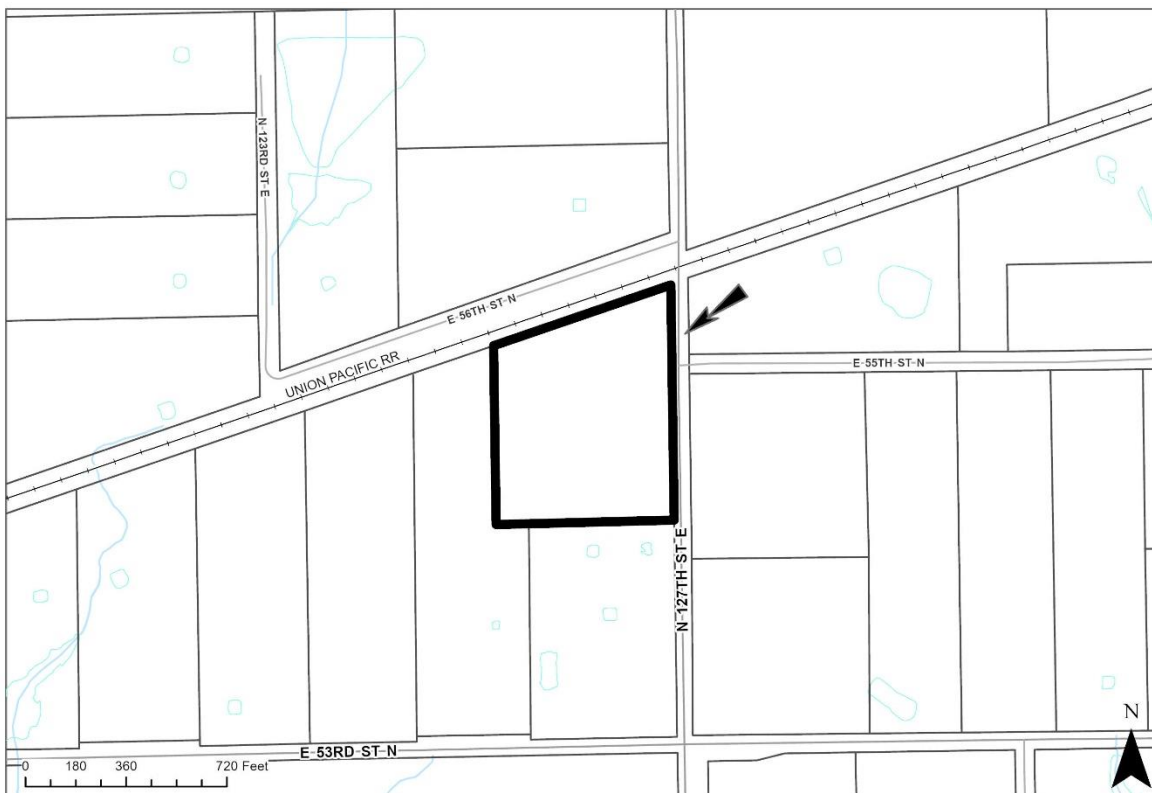
**CURRENT ZONING:** RR Rural Residential District

**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). (Bel-Aire Area of Influence)

**PROPOSED USE:** Construction Sales and Service, Event Center in the County, Community Assembly, Single-Family Residential.

**RECOMMENDATION:** Deny.



**BACKGROUND:** The applicant is requesting a zone change from RR Rural Residential District (RR) to GC General Commercial District (GC) with Protective Overlay (PO) #439, to permit Construction Sales and Service (Tree Service/Lumber Yard), Event Center in the County, Community Assembly, and Single-Family residence 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.

On July 11, 2024, the MAPC convened at its regular scheduled meeting to hear the case. However, at the time the request was to change the zoning classification from RR to GI General Industrial District (GI). At the meeting, the applicant decided to change the zoning classification request to LC Limited Commercial District, and added several uses that were unknown to staff at the time. The MAPC voted to defer the request until August 8, 2024, to give staff enough time to consider the new request from the applicant. After the MAPC meeting on July 11, 2024, staff received written details from the applicant (see attached) regarding what uses the applicant desired to incorporate on the subject property. The applicant indicated that he would like to use the subject site as a Construction Sales and Service; Event Center in the County; Community Assembly; and Single-Family Residence. The applicant would like to use his property as a base of operations for his tree service company, an event space for events such as weddings and tree climbing competitions, an arboretum, a place of residence, and a location for his commercial trucks to stay overnight and over weekends. The applicant also stated that there would not be any open burning on the subject property but would like to use an incinerator to burn the organic waste his company produces. The burning of tree material/waste that is generated off-site, either openly or by use of an incinerator, is prohibited in the GC District. This would require a use classification of Construction Burn Site, which requires a higher zoning district and possibly a Conditional Use as well. Staff convened to determine the best course of action for the applicant and decided that all that the applicant desired to use his property for could be done with GC zoning, except for Construction Burn Site.

If the Metropolitan Area Planning Commission (MAPC) recommends approval, staff recommends a Protective Overlay to avoid possible negative impacts associated with uses and development standards that are permitted in the GC General Commercial District that would be inappropriate in this area. Staff is recommending the following items to be considered in the Protective Overlay. Staff does not recommend that the Event Center in the County be permitted. If in the future the applicant wants to use the property as an Event Center, they have the opportunity to submit a request to amend the Protective Overlay in order for the use to be permitted. An amendment to the Protective Overlay would be reviewed by the MAPC with final action by the Board of County Commissioners.

1. All uses shall be limited to those found in the RR Rural Residential District, except for Construction Sales and Services; and Community Assembly.
2. Signage shall be per the RR Rural Residential District.
3. The burning of off-site generated materials/waste is prohibited.

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

Property Development Standards	RR Rural Residential	GC General Commercial
Minimum lot area	2 acres	No minimum
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 GC 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 be determined based off the combination of uses proposed.

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 40' x 96' building on site is currently permitted for Agriculture use only with no commercial uses. If that building is to be used as a commercial space, the site will need to be platted and a commercial building permit would be required.

**ADJACENT ZONING AND LAND USE:**

NORTH:	RR	Single-family dwelling
SOUTH:	RR	Single-family dwelling
EAST:	RR	Single-family dwelling
WEST:	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. The uses of Construction Sales and Service, Event Center in the County, and Community Assembly, 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 and to add new uses.
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 and visitor 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 August 8, 2024.

Should the MAPC decide to recommend approval it is recommended that the MAPC adopt alternate findings supporting their recommendation. Staff recommends the request be subject to Protective Overlay #439.

Protective Overlay #439:

1. All uses shall be limited to those found in the RR Rural Residential District, except for Construction Sales and Services; and Community Assembly; as permitted in the GC General Commercial District.
2. Signage shall be per the RR Rural Residential District.
3. The burning of off-site generated materials/waste is prohibited.

Attachments:

- 1) Applicant's Narrative
- 2) City of Bel Aire Preferred Balanced Growth Scenario Map
- 3) Public Comment
- 4) Aerial Map

- 5) Zoning Map
- 6) Land Use Map
- 7) Site Photos

## Applicant's Narrative

Dear Brad,

Thank you for your continued engagement with our plans for 5601 N 127th St East. As we develop this property, our core vision is to blend a vibrant arboretum with our commercial operations, creating a unique space that will benefit the community and enhance our environmental stewardship.

**Vision for the Property:** Our goal is to transform the existing space into a forested arboretum that will serve multiple purposes:

- **Community Engagement and Education:** Inspired by local institutions such as Botanica and the Kansas Forest Service in Haysville, we plan to offer educational programs and workshops on arboriculture. This initiative is aimed at fostering a deeper community connection with nature and educating residents about the benefits of sustainable tree care.
- **Event Hosting:** Following the model of Bartlett Arboretum in Belle Plaine, we envision this space as an ideal venue for community events, including tree climbing competitions akin to those held in Oak Park and possibly weddings and other significant gatherings.
- **Practical Training Site:** The arboretum will also be crucial for our internal operations, providing a site where we can conduct rigorous training for our employees in tree climbing, pruning, plant health care, and aerial rescue.

### Current Operational Activities:

- **Office and Administrative Space:** We continue to utilize a 700 sq ft office space for administrative purposes.
- **Truck Parking and Maintenance:** The site also accommodates the parking and maintenance of our trucks and equipment, ensuring that they are always ready for deployment.
- **Daily Crew Activities:** Crews start their day at the site, gearing up and attending briefings before heading out to job sites. They return to debrief and unwind, reflecting on the day's activities.

### Activities Not Occurring on the Site:

- **Open Burning:** In response to community concerns and our commitment to environmental health, we will not engage in open burning. Instead, we plan to manage organic waste using an incinerator or by transporting it to approved off-site facilities.

**Future Development and Expansion:** While we aim to expand our operations moderately in the Wichita area and potentially establish branches in Tulsa and Oklahoma City, any expansion will be carefully managed to ensure it does not compromise the arboreal integrity of the 5601 N 127th St East site. If necessary, additional operational facilities might be developed elsewhere to preserve this site as a dedicated arboretum and community resource.

This project is not just about growing our business but creating a lasting legacy that marries practical

business needs with a profound respect for nature and community welfare. Your insights and support are crucial as we endeavor to bring this vision to fruition, and we are keen to align our plans with both community expectations and zoning requirements.

**Thank you for your guidance and support as we undertake this transformative project.**

**Best regards,**

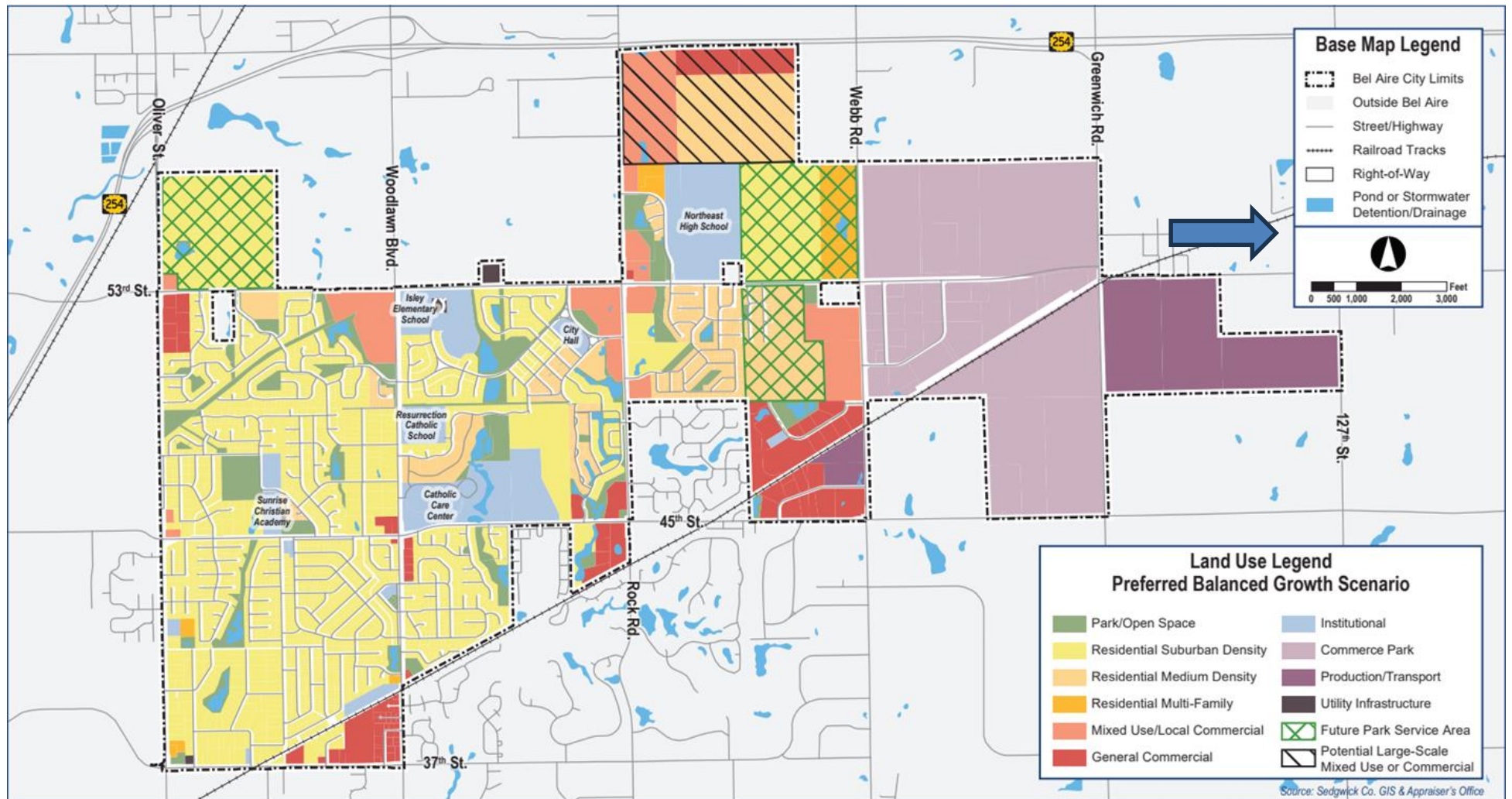
Robert Phillips Wichita Tree Service Owner,

ISA Certified Master Arborist, TRAQ Qualified, CTSP, and Kansas Certified Arborist. 316-616-8321 (Office)

316-841-8734 (Cell)

robert@wichita-treeservice.com <https://wichita-treeservice.com/>

## 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 started  
& 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 Stryx  
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

I am Chuck Phillips I live at 12400 E. 53 RD N. (no relation to the property owner in question) I bought my property 50 years ago to get out of the city. I object to a business moving in the area and trying to change a residential neighborhood into an industrial zone. These people have already ruined the area by hauling brush in and stacking it. They let the area grow up behind huge stacks of brush that burned for a week at a time. we don't know if our places around here will catch fire. They speed down the gravel road like its a freeway. I've seen them run the stop sign on the corner many times never slow down. my house is just across the field about 500 feet away. I don't like to have a deaf next door. To sum it up the neighborhood don't want all this or any other business in our area devaluing our properties. we like our country life. Thank you very much

Chuck Phillips

JULY 8, 2024

**CASE NO: ZON2024-00031**

**ATTN: BRAD EATHERLY**

**271 W 3<sup>RD</sup> STREET – SUITE 201**

**WICHITA KS 67202**

I AM WRITING TO PROTEST THE PETITION AGAINST THE ZONE CHANGE FROM RR - RURAL RESIDENTIAL TO GI – GENERAL INDUSTRIAL AT 5601 N 127<sup>TH</sup> ST EAST, LANDOWNER ROBERT PHILLIPS.

THIS IS A RURAL NEIGHBORHOOD WITH FAMILIES AND CHILDREN THAT MOVED HERE TO ENJOY THE COUNTRY LIFE WHERE IT IS QUIET AND NOT MUCH EXCESS TRAFFIC ON THE DIRT ROADS.

SINCE HE'S MOVED HIS TREE SERVICE BUSINESS TO 5601 N 127<sup>TH</sup> ST EAST, HIS EMPLOYEES DRIVE AT EXCESSIVE SPEED AND ABOUT RUN YOU OFF THE ROAD. I'VE MEET 4-6 CARS AS I LEAVE FOR WORK EACH DAY. THESE ARE HIS EMPLOYEES BECAUSE I'VE SEEN THEM TURN INTO HIS DRIVEWAY JUST SOUTH OF THE RAILROAD TRACKS. THAT'S SOMETHING ELSE THAT IS DANGEROUS IS FLYING AT HIGH SPEEDS OVER THE TRACKS JUST BEFORE HIS DRIVEWAY. THE RAILROAD TRACKS HAVE A DROP ON THE NORTH SIDE OF THE TRACKS THAT IS ABOUT A 6FT DROP, IF NOT MORE. YOU CAN'T SEE WHO IS ON THE OTHER SIDE OF THE RR TRACKS AS YOU GET CLOSER TO THE TRACKS. NOT A GOOD SENSE OF JUDGEMENT AND I DON'T APPRECIATE BEING DAMN NEAR RAN OFF THE ROAD EVERY DAY.

THEY DRIVE MULTIPLE HEAVY DUTY TREE TRIMMING TRUCKS DOWN 127<sup>TH</sup> ST WITH THE SAME MENTALITY AS THEY DRIVE THEIR PERSONAL VEHICLES. SOME HAVE TRAILERS ON THE BACK OF THEM WITH EQUIPMENT OF SOME SORT. THESE ARE ALL DIRT ROADS IN THIS SQUARE MILE FROM 254 HWY TO 127<sup>TH</sup> ST EAST TO 53<sup>RD</sup> ST EAST TO GREENWICH ROAD TO 254 HWY.

THERE ARE SCHOOL BUSES THAT STOP AND PICKUP CHILDREN IN THIS AREA AS WELL. THEY WOULD BE IN DANGER WITH THE MENTALITY THAT THEY DRIVE THESE VEHICLES EVERY DAY. WE DON'T HAVE SCHOOL ZONES OUT HERE.

THIS AREA IS NOT BIG ENOUGH FOR A BUSINESS OR LARGE ENOUGH FOR A ZONE CHANGE TO GI – INDUSTRIAL.

THERE IS OPEN LAND ON 53<sup>RD</sup> ST EAST BETWEEN GREENWICH RD AND WEBB ROAD THAT THEY ARE DEVELOPING QUICKLY. THAT WOULD BE 1 MILE FROM HIS HOUSE/LAND. HE COULD MOVE HIS BUSINESS THERE.

I APPRECIATE YOU TAKING MY STATEMENT INTO CONSIDERATION. I PROTEST ANY KIND OF ZONE CHANGE IN THIS AREA FOR **CASE NO: ZON2024-00031**.

THANK YOU,

DENISE REMY

5612 N 123<sup>RD</sup> ST EAST

WICHITA KS 67226

**From:** Rusty Riggin <[rusty@rigginhomes.com](mailto:rusty@rigginhomes.com)>

**Sent:** Monday, July 8, 2024 5:58 PM **To:** Planning <[Planning@wichita.gov](mailto:Planning@wichita.gov)> **Cc:** AJ Riggin

<[arriggin@gmail.com](mailto:arriggin@gmail.com)> **Subject:** Attn: Brad Eatherly

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Brad and all Concerned Parties,

My family and I live just a few hundred yards from the Robert Phillips property at 5601 N 127th St E, Wichita, KS. We live at 13029 E 53rd St N. We've owned our property since 2013. A single family home with 12 acres, barn and rec building. We've spent years working/planning and invested a lot of money into making this our home.

We've watched our neighbors do the same and are all glad to be out in the country with some privacy and quiet.

The addition of a commercial enterprise into our community was not only surprising but devastating. We didn't think it would last or work out because it wasn't zoned for what they are doing, but here we are.

The first thing we noticed was a dramatic increase in traffic, especially at the 53rd St N and 127th St intersection. Large trucks just blowing through the stop sign and lots of unfamiliar personal vehicles traveling back and forth at high speed,

presumably employees. I had one very close call with a personal vehicle that didn't stop as I was westbound on 53rd. They didn't even look. Not normal for our area because we are few and everyone knows everyone. Huge brush piles are stacked and burned. I don't like to burn even the smallest fire for fear of catching my neighbors on fire and I always call in with a permit. How can you get a burn permit for a landfill sized burnpile on a residential property? I don't think you can, legally and for good reason.

We can see and hear the traffic from our front porch and have seen how fast these huge trucks were traveling, creating dust and noise we had not seen before. My wife and I had to warn our kids, especially since one is 16 and the other is 14 and just learning to drive. We try to avoid going that direction whenever possible. Those properties along 127th, just south of 53rd have had the worst of the noise and dust, but it affects us all.

My wife has learned that some of the future plans for hwy 254 may result in no access at 127th/254. This would require all traffic to the Phillips property to go south. Devastating for us and all our neighbors! Potentially more traffic than we are experiencing now.

I'm really surprised the sale even took place or that it has come this far. We don't want a commercial business like this in our neighborhood. It defeats the purpose of us risking so much and making sacrifices to be here. If we want to live by the dump and watch them burn trees at all hours, we would have lived elsewhere. This not only affects our property values, but our quality of life.

I feel bad for the buyer IF he was misled into thinking this would be ok, but that does not change the zoning laws and requirements. He should have done his due diligence or had his agent advise him (maybe he did?). I'm a Real Estate Broker and it pains me to see these things happen. Everyone loses except maybe the seller who cashed out.

We strongly oppose anything but a residence at that address and will continue to fight this as long as

we live here. We have no choice but to protect our investment and our quality of life. Rural Residential is still Residential and that is what our neighbor purchased - a residence. I regret that we cannot be present for the meeting and hope this letter will suffice in our absence.

Thank you,

**Rusty A. Riggin**  
**Broker/Owner**

**Residential, Land, Auctions**

This letter pertains to Case no. ZON2024-00031. Requesting a Zone Change for the property located at 5601 N. 127 St E. Wichita, Kansas 67226 that was sold to Robert Phillips. The signature sheet does not pertain to this cover sheet. This cover sheet is to explain the issue.

Notice of Public Hearing metropolitan area Planning Commission. Robert Phillips is the owner of Wichita Tree Service LLC. He bought 5601 N. 127 St East Wichita, Kansas 67226 knowing it is a RR (Rural Residential property). The point is Robert Phillips owns and operates a tree service company with large equipment and large trucks. He also has many employees working all this equipment that comes and go. His website states all the capabilities of Roberts LLC, he states he works hard to do the right thing first. He should have bought land somewhere zoned for this large operation and conducted his LLC. Robert's headquarters for his LLC are in Belair Kansas. The problem is Robert runs his company out of 5601 N. 127 St E. Wichita Kansas 67226. Which is zoned as a RR, not a GI (General Industrial). With this operation in full swing, which is every day from 6:00am up to 9:00pm because of day light savings time, trucks are still rolling in from the jobs that are located anywhere and everywhere in Kansas. Problem being is that all this activity is at the starting of my driveway. We own 55<sup>th</sup> N. Starts at 127 st East. This is not a county road. We maintain and pay taxes on both the easements and the road we call it 55<sup>th</sup> st just for an address for mailing purposes, this is a private drive. Robert Phillips LLC traffic activity goes on all day long, just like a large corporation land fill. Robert boasts about having cranes mounted in the trucks and being able to haul 60-95 yards of trees in just one of his large trucks. Road deterioration, noise, insects and live trees are being piled into 5601 and burned. To bring limbs and full-size trees full of insects and deceased trees into a RR from outside the burn permit location is stated on the burn permit guidelines is against the laws. Mr. Phillips was turned in for these violations and still continues operate today as business as usual. To burn (green trees) with an accelerant is against the law. Per the Burn Permit by laws. To activity operate a business from a RR in any city Greenwich City is against the laws. Burns are from Sun up to Sun down, not days of burning. No insurance company would do an underwriting for this activity. This needs to stop. GI zoning is out of the question. We did not move here to have a LLC land fill at the end of our driveway which was confirmed by the Zoning committee that 55<sup>th</sup> East and 127 st is our driveway heading East.

**From:** Jodi R <jrose61974@gmail.com> **Sent:**

Tuesday, July 9, 2024 10:57 PM **To:** Planning

<Planning@wichita.gov>

**Subject:** ZON2024-00031 Zone Change Request for 5601 N 127th St E, Wichita, KS 67226

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the

I am contesting the zoning change for 5601 N 127<sup>th</sup> St E, Wichita, KS 67226 from RR Rural Residential to GI General Industrial.

I purchased my home at the end of 2009 because it was close to the city but still far enough out to have peace and quiet a majority of the time. It has been a nice residential area where people have chosen to live for many decades, some for more than 50 years. Since Robert Phillips has purchased 5601 N 127<sup>th</sup> St E last year and decided to utilize the property for his tree business, there is no longer peace and quiet due to the following reasons:

The trucks the company uses are large, loud and very aggressive in how they are driven down our township dirt roads. The trucks drive near the center of the road, refusing to move over and are usually travelling at a very high rate of speed. A number of neighbors have reported close calls with the trucks. The additional heavy truck traffic has caused an excessive amount of wear and tear on the roads. They have never been as bad as they are now.

The tree company often begins their days early in the morning. They bang around their equipment, which can be heard from inside my home, at times waking me up. My neighbor a half mile from me can also hear them every day.

The tree debris piles are enormous, reaching heights above the roofline of a barn on the property and extending an estimated 80+ feet long and 40+ feet wide (estimated on what I can see from 127<sup>th</sup> St and 53<sup>rd</sup> St).

In accordance with Sedgwick County Burn Permit Application:

Burning of brush and tree trimmings on residential or commercial property, brush and tree trimmings must be cut from the permit location. **(Material to be burned may not be hauled or brought in from outside the permit property.)**

*All of the tree debris is being brought in from outside of the permit property.*

Burning **shall not create a smoke nuisance or hazard to neighboring properties or persons. Precautions shall be taken to assure confinement, intensity, and size of said burn.**

*Smelling smoke for 2 weeks straight is a nuisance (especially for someone like myself with Asthma)*

*Setting fire to such a large pile of tree debris is in no way safe for anyone in the area and it is way beyond assuring the size of the burn. The fire smolders for 2 weeks straight after it is initially set, even if it is rained on.*

*If the fire were to get out of hand, it will take a large fire department presence in order to get it back under control due to the size of the fire from the very beginning.*

Burning shall be conducted one hour after sunrise to one hour before sunset.

Two weeks of a fire smoldering is outside of this requirement.

A competent person of legal age will attend burning continuously from the time of ignition

to the time of extinguishment.

*It is doubtful someone is attending to this fire for 2 weeks straight, 24 hours a day.*

I have not made any complaints as of yet against The Wichita Tree Company as far as calling the fire department or anything else. Even though I have not made any complaints, on the evening of June 2<sup>nd</sup> at approximately 10:30 pm, I was outside of my house tending to my 26 year old sick horse (in a lit area in front of my home) due to her showing serious signs of colic. Several cars pulled into the driveway at 5601 N 127<sup>th</sup> St E. About 5-10 minutes later, a gunshot was heard from that property and above my head was the sound of a bullet passing over. A friend of mine was standing next to me and can corroborate the gunshot and hearing the bullet pass by overhead. At the time, we were in a very stressful situation with the horse, having contact with an emergency vet several times during the night. We didn't have the capacity at the time to call authorities to take a statement due to having our hands full treating the horse (who had to be put down the following morning). It is really disappointing that anyone who really wants the neighbors in the area to accept them into the neighborhood, would shoot a firearm at any of us, even if it is over our heads. It is not only against the law and not very neighborly. I am not sure if it was meant to be a threat, trying to intimidate or both. Either way, it is not acceptable from anyone to behave this way.

Ever since The Wichita Tree Company has started running their business from 5601 N 127<sup>th</sup> St E, it has changed the area in so many ways. I notice when they are out of town, because it feels like it did before they moved the business into the area. It is peaceful again during those times and reminds me of "the good ole days" before all the changes. I dearly miss how things were before they took over the property. Allowing the zoning change will not only continue to affect the peaceful nature of the neighborhood, it will affect everyone's property values in a negative way. This is a concern of many, including myself. If I had known this would be a possibility, I would have never moved into the area. If The Wichita Tree Company was already established at that location when I was looking at buying the property, I would have chosen to not consider it at all. This will be an issue for anyone selling property in the immediate area. We live in a rural area for the peace and quiet. Not many people will want to move in next door to a GI General Industrial zoned property or a property that is running this type of business.

I hope the zoning commission takes my statement into consideration while deciding on a zoning change. Thank you for your time.

Best Regards,

Jodi Rosenberry (12920 E 55<sup>th</sup> St N, Wichita, KS 67228)

METROPOLITON AREA PLANNING COMMISSSION  
271 West Third Street, 2<sup>nd</sup> Floor, Ste. 203 Wichita, KS 67202

July 9, 2024

RE: Case No:ZON2024-00031

My family's property, 12700 East 56th Street North, is located directly north of the site requesting the zoning change. We have lived there since 1973. We are requesting that the application to change the zoning from Rural Residential to General Industrial be denied for several reasons.

Mr. Phillips is currently operating a tree trimming company from his property at 5601 North 12ih Street. The increased traffic and large trucks are causing significant wear and damage to the sand section line roads, especially when the roads are muddy. The road damage causes more work for the County to maintain North12i h Street and increases the potential for damage to passenger vehicles traveling those roads.

Allowing an industrial site in a residential neighborhood will reduce the property values of the adjacent and nearby properties. Although Mr. Phillips is currently using the property for his tree service company, the requested zoning change would allow possible heavy industrial use of the property in the future which would be even less appropriate for the neighborhood.

If Mr. Phillips wanted a site to operate a tree service from, he should have chosen a more suitable location that was zoned appropriately for that use than in the center of a rural residential neighborhood.

If you have any questions, you can contract me at 405-694-8907 or [jim.lewellyn55@outlook.com](mailto:jim.lewellyn55@outlook.com).



Jim Lewellyn  
12700 East 56<sup>th</sup> Street North  
Wichita, KS 67226

Hello,

I am writing you to request a swift and immediate denial for a change in the zoning case of ZON2024-00031. The areas surrounding this property are residential/agricultural and this change would drastically affect property values and quality of life for its immediate residents. I urge you to deny this request as the residents surrounding this property have dealt with the burning of massive wood debris piles and neglect of the upkeep of the property. This business poses a potentially large fire threat and is already wreaking havoc on the roads due to heavy truck traffic which will ultimately result in a larger tax increase for the citizens within the township and a larger workload for township employees. I respectfully ask that my email address be not disclosed for privacy and protection reasons. Thank you for your consideration.

Respectfully submitted, A neighbor.

Sent from my iPhone

I know I don't live out there anymore, but it will always be called home.

George Clark Land Co.  
Zoned this land as 10  
acre residential lots, not  
for businesses.

That is why people  
moved out there, to own  
their land and built there  
homes, raised families,  
owned houses and enjoyed  
the peace and quiet of  
living out in the country.

I think Mr. Phillips needs  
to think about this and

consider their feelings.

You need to make a trip out there and look around, talk to the people, nice homes, good people, nice and quite.

All that will be gone if he gets his way. I understand that he doesn't

live out there, also all the burning, smoke, I have seen pictures, if that gets out of control, is there enough water to control that.

Trucks going up and down the dirt roads, kicking up

a lot of dust. More  
maintenace on the roads,  
Payne township grades the  
roads, will any costs  
go up, property taxes, etc.

I have a lot of fond  
memories of living out there,  
and I am sure so do the  
people that live out there now.

I was recently out there  
and it was so nice and  
quite, except for the truck  
coming down the road, dust  
and the noise.

I pray you think about  
all people that live there

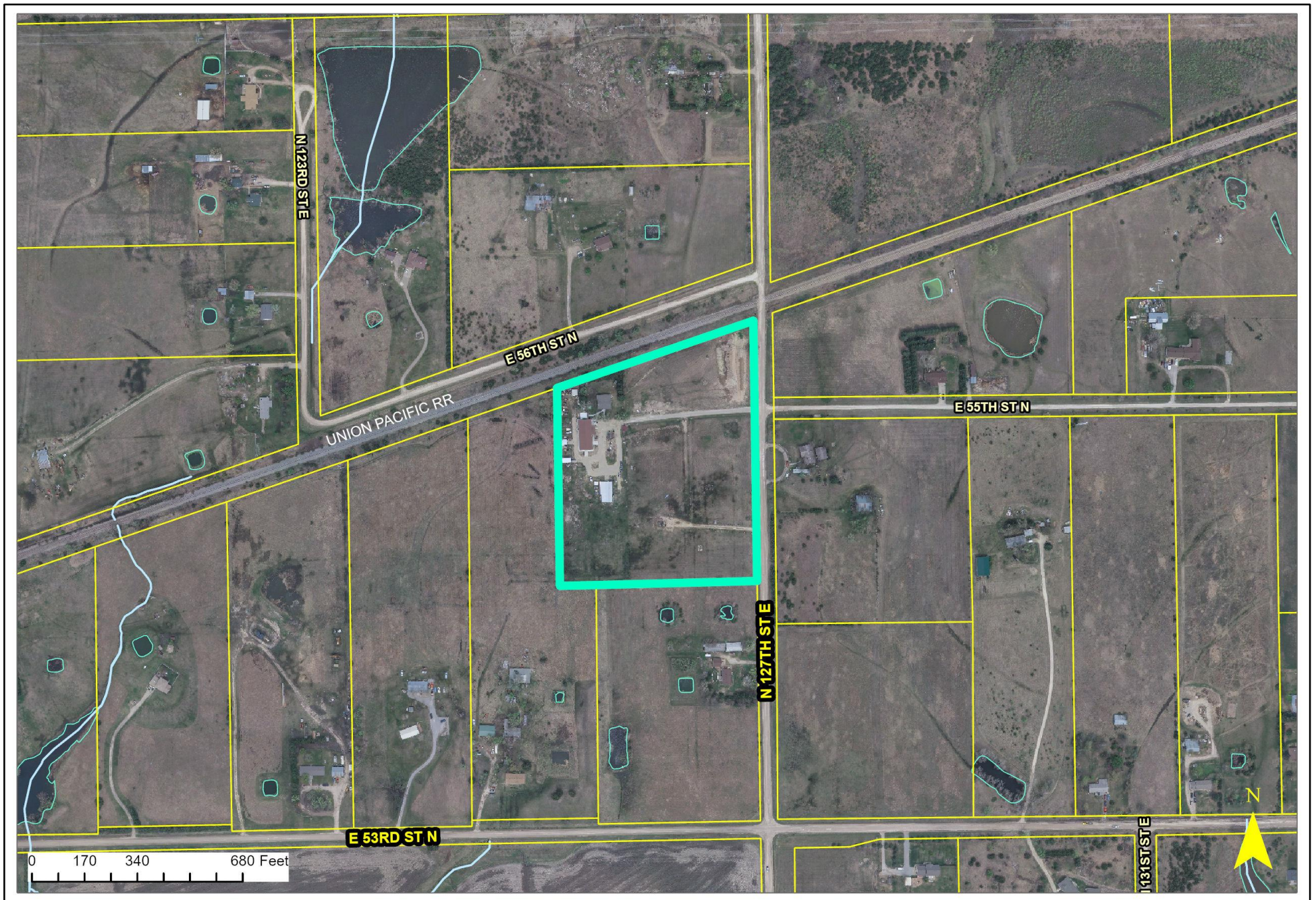
and their way of live, they deserve so much to keep what they have and their way of live of living out in the country.

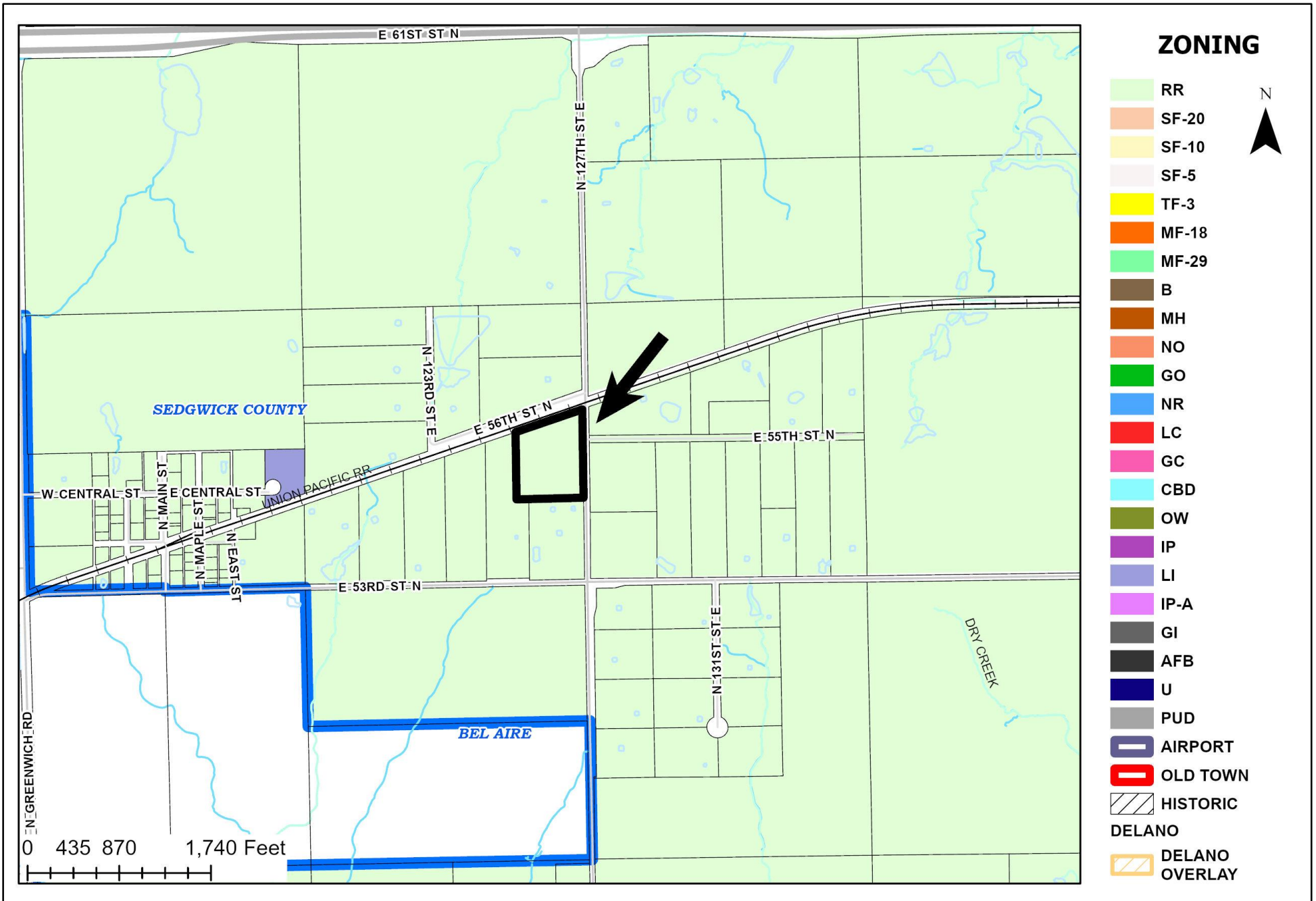
One last thought, if some of the home owners want to sell there land, if they can, who wants to buy any property out there, with big trucks going up and down the roads, and burning, smoke. I certainly wouldn't. Would you.

Francisco Banuelos and Andres Banuelos bought the 10 acres across from Mr. Phillips. He is not happy that this is across the street where he and his family has planned to live. He paid a lot of money for this. He is a really nice man.

Mr. Aleppo bought the other 10 acres on the corner of 55<sup>th</sup> & 127<sup>th</sup>. He plans to build his home there.

Not sure how he feels about this. Both properties are very nice.





# 2035 Wichita Future Growth Concept Map

## Legend

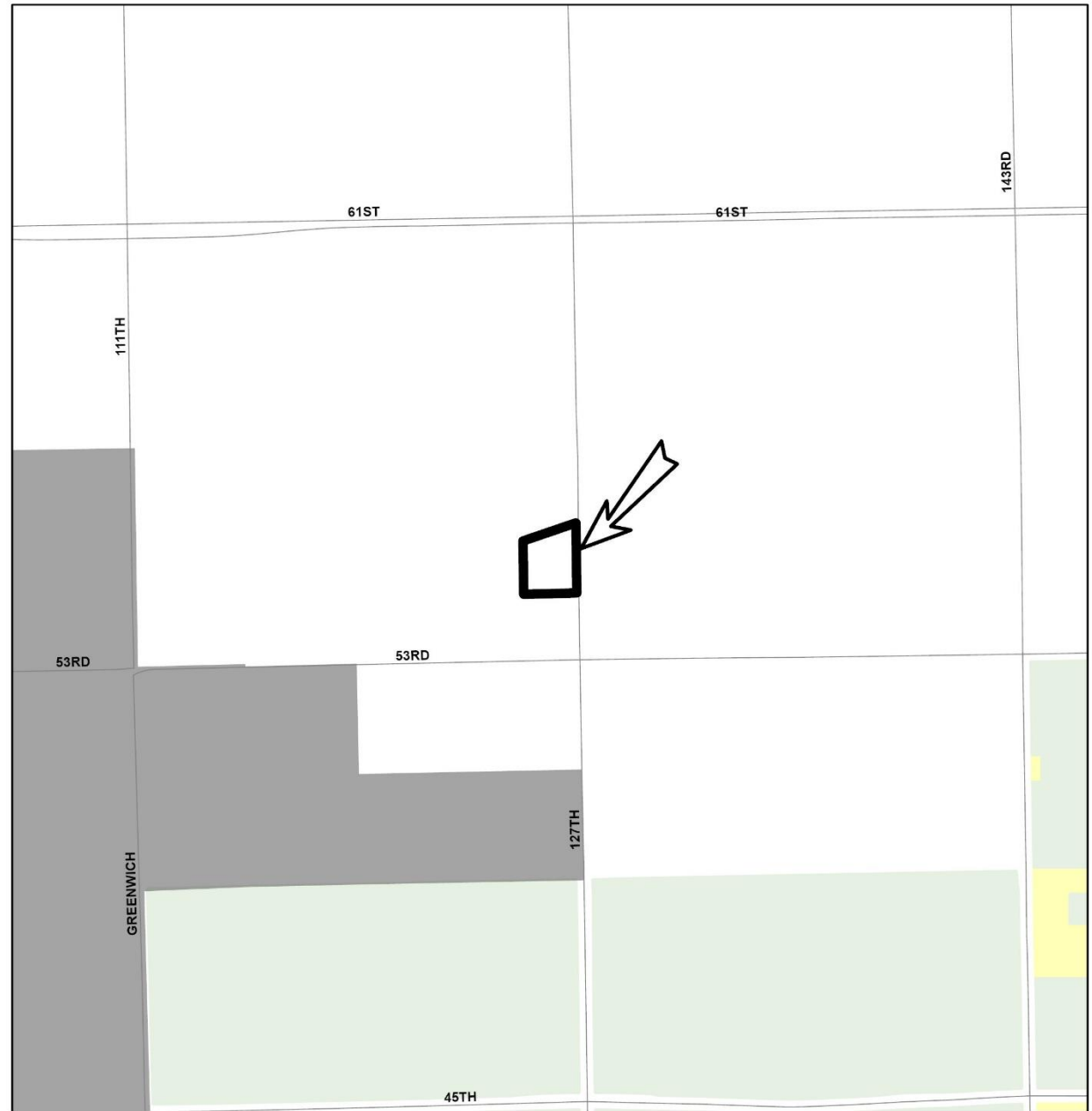
-  Established Central Area
-  Residential and Employment Mix
-  New Employment
-  New Residential
-  Wichita City Limits
-  Other Cities
-  Northwest Bypass Right-of-Way

## LAND USE

-  Residential
-  Commercial
-  Industrial
-  Major Air Transportation & Military
-  Parks and Open Space
-  Agricultural or Vacant
-  Major Institutional
-  Neighborhood & Area Plans



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**Looking west into site**



**Looking south away from site**



**Looking east away from site**



**Looking north away from site**

