



City of Broken Arrow

Request for Action

File #: 16-1522, **Version:** 1

Broken Arrow Planning Commission
01-12-2017

To: Chairman and Commission Members
From: Development Services Department
Title: Public hearing, consideration, and possible action regarding BACP 159, Muhich Tract, 50.13 acres, Level 3 to Level 6, one-half mile east of Evans Road, one-quarter mile south of Kenosha Street

Background:

Applicant: Tim Terral, Tulsa Engineering and Planning Associates, Inc.
Owner: JM Assets, LP
Developer: JM Assets, LP
Engineer: Tulsa Engineering and Planning Associates, Inc.
Location: One-half mile east of Evans Road, one-quarter mile south of Kenosha Street
Size of Tract 50.13 acres
Number of Lots: 1
Present Zoning: A-1 (Agricultural)
Comp Plan: Level 3 (Transition Area) to Level 6 (Regional Employment/Commercial)

BACP 159 is a request to change the Comprehensive Plan designation on a 50.13-acre tract from Level 3 to Level 6. The property, which is located one-half mile east of Evans Road, one-quarter mile south of Kenosha Street, is presently zoned A-1 (Agricultural). Part of the north part of the property associated with BACP 159 was rezoned CH with BAZ 1727 that was approved by the City Council on September 5, 2006, subject to platting. The property has not been platted, as a result, the zoning remains A-1.

When the Comprehensive Plan was adopted in 1997, the property associated with BACP 159, as well as the adjacent 30.00 acres to the north, was designated as Level 3 (Transition Area). On April 17, 2006, the City Council approved BACP 66 to change the 30.00 acres north of BACP 159 from Level 3 to Level 6. In 2008 when the East Side Study was adopted, all of the property associated with BACP 159, as well as the 30 acres to the north, were designated as "Public Recreation" in anticipation of a regional park. The park never materialized. In March 2010, the City Council approved BACP 109 to change the north 30.00 acres from Public Recreation to Level 6. In addition, BACP 109 changed the south 50 acres from Public Recreation to Level 3. BACP 109 was approved subject to platting. When the Comprehensive Plan was updated in 2012, the north 30 acres was designated as Level 6 and the south 50 acres was classified as Level 3 as was proposed with BACP 159. With BACP 159, applicant is requesting that the south 50.13 acres be designated as Level 6.

According to the applicant, about halfway between Kenosha Street and the southern boundary of the property associated with BACP 159, is the location of a former landfill, leased by the City of Broken Arrow. In addition,

this area was used for strip coal mining operations in the 1920s, 1930s, and later in the 1960s. Environmental impacts to the site and adjacent properties, as a result of the past strip mining operations, include elevated metals concentration in both on and adjacent off-site soils. After mining operations were terminated, the property was utilized as a landfill by the City of Broken Arrow. The landfill was first permitted as a hazardous waste disposal site in February 1973. By June 1973, the landfill permit was converted to a sanitary landfill solid waste disposal site. The landfill was closed on September 15, 1976. According to the applicant, the landfilled area was capped with four to five feet of clay and silty loam with grass and gravel. The waste material that was deposited is generally five to six feet in thickness and ranges to 11.5 feet in the northwest area of the landfill. This area, as well as the entire site, is regulated by the Department of Environmental Quality (DEQ) and will require approval from DEQ before any development activities occur on the site.

As part of their submittal for BACP 159, applicant has submitted a draft PUD for informational purposes only. In this draft PUD, they have provided an exhibit titled “Brownfield Program Tract Map”. The DEQ Brownfield Program assisted the existing property owner in reviewing the environmental concerns of the subject property. The overall property was divided into four tracts (Tracts 1, 2A, 2, and 3). In 2014, DEQ issued Tracts 1 and 3 a “Certificate of No Action Necessary”. Tract 1 is located next to Kenosha Street and Tract 3 is next to the south boundary of BACP 159. The “Certificate of No Action Necessary” for Tracts 1 and 3 also stipulated in the Land Use Restrictions section that: 1) No use of groundwater and no drilling of wells and 2) No residential use of the property. The middle tract (Tract 2) was the subject of an Addendum prepared by Blackshare Environmental Solution on June 15, 2016, declaring that Tract 2 would only be suitable for nonresidential uses based on an environmental review of the site. Tract 2A was designated in the Blackshare report as having “areas of excessive radiation.”

If BACP 159 is approved, applicant intends to seek to change the zoning on the property to IL (Industrial Light). IL is in accordance with the Comprehensive Plan in Level 6 when done in conjunction with a PUD (Planned Unit Development). A draft PUD has been submitted for informational purposes only. The draft PUD, which is for 71.94 acres, divides the property into seven tracts (Tracts A through G). A cul-de-sac type street is proposed to be constructed in a north/south direction through the center of the property. Tract A, which is located on the southeast corner of Kenosha Street and the proposed street, will be developed in accordance with the development regulations of the CH district except that a 20-foot wide landscape area will be provided along Kenosha Street and freestanding signs will be the same as those on the Tractor Supply property to the west.

Tracts C and F, which are near the center of the property, will be developed in accordance with the development regulations of the IL district except as follows:

- Approval from DEQ is required prior to any development occurring on the property.
- Permitted uses are limited to: Mini-Storage, RV Storage, Storage Yard, Office/Warehouse, Warehouse, Utility Facility (Minor), General Industrial Service, and Light Assembly.

Tracts D and E, which are at the south end of the property, along with Tract G, which is located immediately south of Tractor Supply, will be developed in accordance with the development regulations of the IL district except as follows:

- Permitted uses are limited to: Mini-Storage, RV Storage, Storage Yard, Office/Warehouse, Warehouse, Utility Facility (Minor), General Industrial Service, and Light Assembly.
- A 30-foot wide landscape buffer will be provided along the south and east boundaries of Tracts D and E. Within this landscape buffer at least one tree per 25 lineal feet will be provided and at least half of the

trees will be evergreen.

Tract B, which is the environmentally sensitive parcel next to Kenosha Street, is regulated by DEQ and will require DEQ approval for any development activity on the property. This area will be left in its native state.

SURROUNDING LAND USES/ZONING/COMPREHENSIVE PLAN

The surrounding properties contain the following uses, along with the following development guide and zoning designations:

Location	Development Guide	Zoning	Land Use
North	Level 6	A-1	Undeveloped
East	Levels 2 and 3	A-1	Undeveloped
South	Levels 2 and 3	A-1 (RS-3 approved with BAZ 1658 and BAZ 1640, subject to platting.)	Undeveloped and pond
West	Level 4	A-1 (CH approved on part subject to platting, BAZ 1729)	Undeveloped

Attachments: Case map
Aerial photo
Comprehensive Plan
Draft PUD
Case history maps

Recommendation:

The Level 3 designation that is presently on the property allows a wide variety of residential uses as well as office neighborhood. However, with the environmental issues associated with this property, most of the property is not suitable for residential development. Therefore, the Comprehensive Plan needs to be amended.

The IL zoning being contemplated by the applicant is in accordance with the Comprehensive Plan in Level 6, provided it is done as part of a PUD. A draft PUD has been submitted with BACP 159. Based on the Comprehensive Plan, location of the property, the environment issues associated with the property, and the surrounding land uses, Staff recommends that BACP 159 be approved to change the Comprehensive Plan designation on the property from Level 3 to Level 6, subject to the property being platted, and a PUD being submitted that is similar in context to the draft PUD submitted. Staff does have comments on the draft PUD that they will continue to work with the applicant to address. Comments by Staff, however, do not change the overall concept portrayed in the draft PUD.

Reviewed and Approved By: Michael W. Skates

MWS: BDM