



City of Broken Arrow

Request for Action

File #: 17-1999, **Version:** 1

Broken Arrow City Council
Meeting of: 04-04-2017

To: Mayor and City Council Members
From: Development Services Department
Title:

**Consideration, discussion, and possible approval of PUD-259
(Planned Unit Development) and BAZ 1975 (rezoning request),
Muhich Tract, 71.94 acres, 7 Lots, A-1, one-half mile west of Evans
Road, one-quarter mile south of Kenosha Street**

Background:

Planned Unit Development (PUD) 259 (71.94 acres) and BAZ 1975 (44.10 acres) involve undeveloped and unplatted land located one-half mile west of Evans Road, one-quarter mile south of Kenosha Street. Applicant is proposing to change the zoning on 44.10 acres of this property from A-1 (Agricultural) to IL (Industrial Light) and include the entire 71.94 acres in PUD 1975.

BACP 159 a request to change the Comprehensive Plan designation on a 50.13-acre tract from Level 3 to Level 6 was approved by the City Council February 7th, 2017. 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. The remaining 21.81 acres was previously designated as Level 6 by BACP 109 in March 2010. The request to change the zoning from A-1 to IL is considered to be in conformance with the comprehensive plan when done in conjunction with a PUD. A draft PUD was submitted with BACP 159 for informational purposes. Comments and input from the City Council and Staff have been incorporated and formally submitted as PUD 259.

According to the applicant, about halfway between Kenosha Street and the southern boundary of the property associated with PUD 259 and BAZ 1975, 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. These requirements are addressed in PUD 259.

PUD 259 is for 71.94 acres and 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. Fencing and signage requirements have been added to PUD 259 as per City Council comments on the draft PUD submitted with BACP 159.

With PUD 259, the applicant has 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.”

In addition to the Blackshare report, the applicant has submitted a radiation survey which was performed in May 2014 to determine the location of radiation source materials and levels of radiation associated with these locations. Elevated readings were observed in the northeastern corner of the site, which corresponds to Tract 2A of the Blackshare report and Tract B of PUD 259.

As requested by city residents, a meeting with the applicant, city staff, and representatives from Blackshare and DEQ (Department of Environmental Quality) was held on March 7th 2017. Questions and concerns from residents and the City Council raised during the comprehensive plan change (BACP 159) process were discussed and incorporated into the design of the site and PUD 259. The applicant spoke to these concerns during the March 23rd Planning Commission meeting and plans to speak during the City Council meeting on April 4th.

Derek Blackshare from Blackshare Environmental Services spoke at the March 23rd Planning Commission meeting to explain the Radiation Survey Results provided as an exhibit to the staff report and to answer questions of Commissioners and residents. Rita Kottke from the Department of Environmental Quality (DEQ) also spoke to address questions as to where the radioactive material may have originated and the process for removing it from the site. Mr. Blackshare and Ms. Kottke will be present at the April 4th City Council meeting to address concerns of the Council or residents.

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

The Planning Commission, in their meeting of March 23, 2017, reviewed and recommended approval (4-0 vote) of PUD-259 and BAZ-1975, subject to the conditions recommended by Staff, that the property be platted, and with the additional condition that any requirements set forth by any local, state, or federal regulatory agency must be met. There were no protestants to PUD-259 or BAZ-1975.

Cost: \$0

Prepared By: Amanda Yamaguchi, Staff Planner

Reviewed By: Development Services Department
Assistant City Manager, Operations
Legal Department

Approved By: Michael L. Spurgeon, City Manager

Attachments: Planning Commission Fact Sheet
Case map
Aerial photo
Comprehensive Plan
Draft PUD
Conceptual Site Plan

**Existing Fence Exhibit
Brownfield Program Tract Map
Existing Conditions Plan
Surrounding Zoning and Land Use Plan
Radiation Survey Findings
Brownfield Proposal from October 2014
Tracts 1 and 3 No Action Certificate
Radiation Survey Submitted at Planning Commission
Radiation Chart Submitted at Planning Commission**

Recommendation:

Approve PUD 259 and BAZ 1975 subject to staff recommendation, the property being platted, and compliance with all requirements of any local, state, or federal regulatory agency.