Concrete or Asphalt Batch Plant – Ph II Public Input Meeting

> Planning and Urban Design (PUD) November 29, 2022

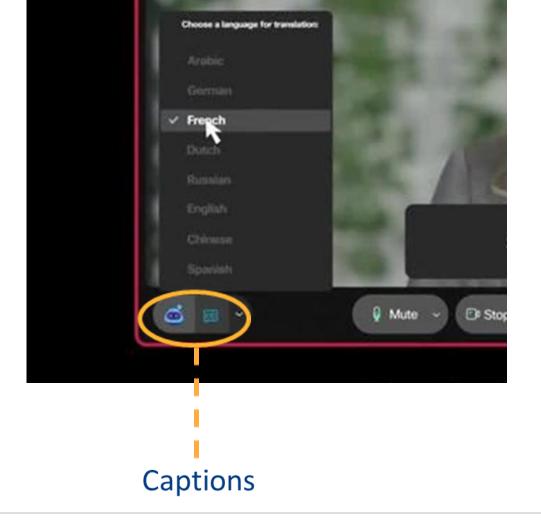
> > Lori Levy, AICP, Senior Planner Planning and Urban Design City of Dallas

# City of Dallas

# Accessibility

 Captions in English, Spanish and other languages are available

Click the captions icon in the left corner of the screen to select the language and display captions





### 3

(III)

**Public Input Meetings** 



AGENDA Nov. 28<sup>th</sup>, Nov. 29<sup>th</sup>, Dec. 3<sup>rd</sup>

- Welcome and Introduction
- Staff Brief Presentation
  - Phase 1: Update
  - Phase 2: Draft Regulation Discussion
- Public Input and Discussion (Q&A)
- Staff Closing Comments

#### Contact us:

Lori Levy, AICP <u>lori.levy@dallas.gov</u>

Sarah May, AICP <u>sarah.may@dallas.gov</u>

Project webpage: https://dallascityhall.com/departments/pn v/Pages/CABatchPlants.aspx

# Introductions



### City Staff

Planning and Urban Design (PUD):

- ✤ Lori Levy, AICP
- ✤ Andrea Gilles, AICP
- Sarah May, AICP
- Mike King (Host)



# **Background/History**



Timeline	
November 12, 2021	Staff prepared memo at the request of Councilmember Blackmon, Chair of the Environment & Sustainability Committee on strategies to effectively address batch plants.
January 28, 2022	Staff prepared memo on phasing approach to address batching plant zoning regulations.
March 3, 2022/March 24, 2022	Staff presented recommendations and received recommendation of approval for Phase I of a two-phased approach at the Zoning Ordinance Advisory Committee(ZOAC) and City Plan Commission(CPC) meetings, respectively.
May 11, 2022	Staff recommendations and ordinance to require a public process with public hearings by adding the requirement of a Specific Use Permit (SUP) for all temporary and permanent batch plants (Phase 1) was approved by City Council (CC).
September 13, 2022	Staff presented an update on Ph II and the Draft Batch Plant Interactive Map at the Zoning Ordinance Advisory Committee (ZOAC).



# Purpose



Planning & Urban Design staff initiated a zoning code amendment for concrete batch plants in support of the adopted Comprehensive Environmental & Climate Action Plan (CECAP) goal of ensuring new industries are an appropriate distance away from neighborhoods.

Protect sensitive uses such as residences, parks, and schools.

Improve public health and air quality.

Provide appropriate locations for batching plant operations.



# **Concrete Batching Plant**





Google Maps

https://earth.google.com/web/search/10940+Spangler+Road,+Dallas,+TX/@32.87 972688,-96.91377742,135.75991821a,0d,62.90186412y,41.72963913h,90.7883299t,0r/dat a=CooBGmASWgoIMHg4NjRIOWQ1MWE4NjAxYzE5OjB

Concrete Batching Plant Zoned: IM



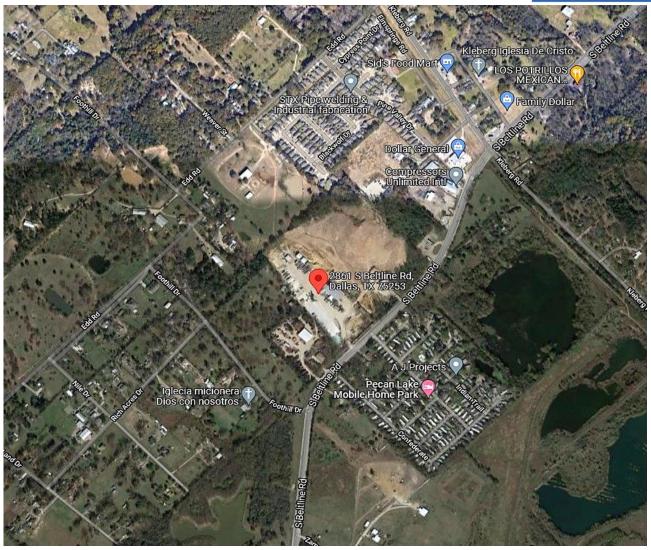
### **Concrete Batch Plant**





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Google Maps



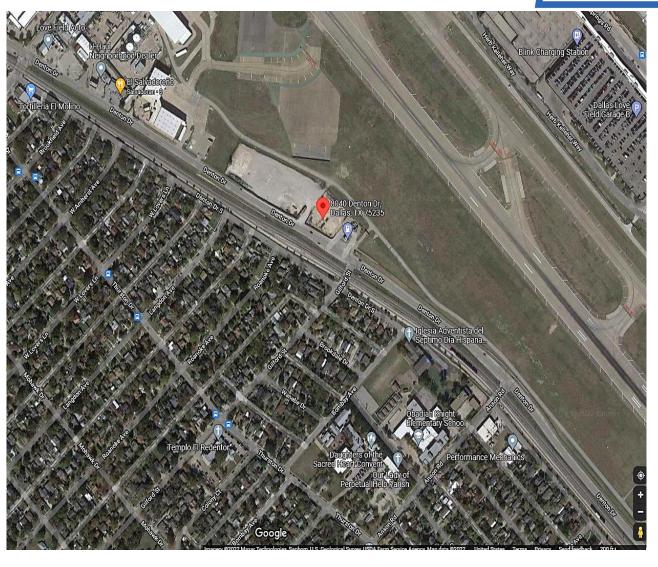
# **Concrete Batch Plant**







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### **Concrete Batch Plant**





Google Maps

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### **Proposed Actions**



- Two-phased approach to address urgency of sensitive land use issues.
  - Phase I, short-term approach:
  - > To immediately address the lack of public process staff proposed removing the administrative, by-right approval process.
  - Added a Specific Use Permit (SUP) process that will require public hearings at City Plan Commission (CPC) and City Council.
- We are here
- Phase II, draft new regulations through a comprehensive review and **public input**.
- Includes review of departmental coordination, legal considerations of implications on existing land uses, research of local and national cities regulations and best practices, input from the public, industry and professional organizations, and coordination with state and federal jurisdictions.

# Update (Phase II)



#### **Comprehensive Review And Public Input**

✓ Input from the public, industry and professional organizations, and coordination with state and federal jurisdictions.

Public Input Meetings (English and Spanish):

• May 17, 2022 • May 21, 2022 • May 23, 2022 • November 28, 29 and December 3, 2022

Industry/Professional Organizations Input Meetings: TACA - May 26, 2022 • June 29, 2022 • December 5, 2022 TxDOT – June 2, 2022 • November 1, 2022 Environment & Sustainability Committee – June 17, 2022 • October 12, 2022 TCEQ – March 17, 2022 • November 15, 2022 (Rulemaking Public Meeting)

#### Interdepartmental Coordination

 ✓ Input from various internal departments (Current Planning, BI, OEQS, Code Compliance, Stormwater Management, Public Works, Transportation) – May 2022 to present (on-going)
 ✓ Internal Checklist (Zoning Application Intake)





#### APPROPRIATE DISTANCES FROM CONCRETE OR ASPHALT BATCH PLANTS TO RESIDENTIAL, SCHOOLS, PUBLIC PARKS

<u>Sensitive Land Use</u> Issues:	Suggestions:	Draft Recommendations:
Batch plants located next to residential, including multi-family	<ul> <li>Batch Plants should not be allowed in residential neighborhoods</li> </ul>	<ul> <li>Permanent Batch Plants only allowed in IM (Industrial Manufacturing) District with an approved Specific Use Permit (SUP)</li> <li>Temporary Batch Plants only allowed in residential districts if the plant is serving construction or partial reconstruction of a residential site or with an approved SUP, if Temp, Off-site</li> <li>Temp BP only allowed in Special Districts (WMU, WR, RTN, Historic Overlay or new PD's) with approved SUP</li> </ul>





#### APPROPRIATE DISTANCES FROM CONCRETE OR ASPHALT BATCH PLANTS TO RESIDENTIAL, SCHOOLS, PUBLIC PARKS

<u>Sensitive Land Use</u> Issues:	Suggestions:	Draft Recommendations:
<ul> <li>Kids are playing at the Soccer Complex within 300'of an existing batch plant</li> <li>1,500' distance:</li> </ul>	<ul> <li>440 yards as required by TCEQ (unless municipality has zoning regulations for batch plants) is a good place to start. Can we build on that?</li> </ul>	✓ Distances <sup>1</sup> (min.) from residential structure and/or district, public school or park* and from another batch plant <sup>+</sup> (Perm and Temp, off-site only):
<ul> <li>Is arbitrary and should not be predetermined</li> </ul>	<ul> <li>At least ¼ mile is an appropriate distance</li> <li>TCEQ dictates 1,320' from residential</li> </ul>	PERMANENTTEMPORARYConcrete or Asphalt Batch Plants
<ul> <li>would prohibit most batch plants</li> <li>would put most concrete trucks on the road</li> </ul>	uses • No batch plants allowed to locate side by side • 1,500' minimum distance is the distance	<ul> <li>✓ 1,640'**</li> <li>✓ 1,640'** (Off-site)</li> <li>✓ 330'* (On-site)</li> <li>(R.O.W)</li> </ul>
contributing to more emissions and traffic	for other industrial uses, such as Oil and Gas Drilling • 1300'-1500' min. for permanent batch plants	Alternative (Green Concrete) BP✓ 1,640'** (Off-site)✓ 1,320'**✓ 330'* (On-site)(R.O.W.)
	<ul> <li>Distance requirements (to prop. line) should be part of the zoning process as determined with SUP</li> <li>Cap on number of batch plants per</li> </ul>	Concrete or Asphalt Recycling (Perm) N/A √3,281'**
	residential area or min. distance between existing and new facilities	ctors (in accordance with Environmental Protection Act 1986) as amended



#### APPROPRIATE DISTANCES FROM CONCRETE OR ASPHALT BATCH PLANTS TO RESIDENTIAL, SCHOOLS, PUBLIC PARKS

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<u>Equity</u> Issues:	Suggestions:	Draft Recommendations:
<ul> <li>Large concentrations of batch plants in black and brown communities</li> <li>Black and brown communities have been taking the brunt of it and we need to consider being greener, cleaner</li> <li>W. Dallas is the most polluted - 75212 is the most polluted zip code in Dallas and contains the most batch plants</li> <li>W. Dallas is experiencing density and gentrification and the batch plants are allowed to build next to multifamily and build up to the property line</li> </ul>	<ul> <li>Batch Plants should not be allowed in residential neighborhoods</li> <li>No batch plants allowed to locate side by side</li> <li>Separate batch plants from residential uses, not just areas zoned for residential</li> </ul>	<ul> <li>✓ Perm. batch plants no longer allowed in IR (Industrial Research) District</li> <li>✓ Perm. batch plants only allowed in IM District with approved SUP</li> <li>✓ Temp plants only allowed in Resid. Districts when serving resid. construction or partial reconstruction and with SUP if Temp off-site</li> <li>✓ Distances<sup>1</sup> (min.) from residential structure and/or district, public school or park* and from another batch plant* (Perm and Temp, Off-site only):</li> <li><u>PERMANENT</u> <u>IEMPORARY</u> Concrete or Asphalt Batch Plants</li> <li>✓ 1,640'** (Off-site) ✓ 330'* (On-site) (R.O.W)</li> <li>Alternative (Green Batch Plant)</li> <li>✓ 1,640'** (Off-site) ✓ 330'* (On-site) (R.O.W.)</li> <li>Concrete or Asphalt Recycling (Perm) N/A</li> </ul>
<ul> <li>City allowed these batch plant uses through zoning and land use to be located mainly in black and brown communities</li> </ul>	<ul> <li>Appropriate areas for these uses need to be addressed through ForwardDallas and then update zoning</li> <li>Do not hesitate to rezone</li> </ul>	✓ Not under the purview of Code Amendment



#### APPROPRIATE DISTANCES FROM CONCRETE OR ASPHALT BATCH PLANTS TO RESIDENTIAL, SCHOOLS, PUBLIC PARKS

TCEQ and City Regulations Issues:	Suggestions:	Draft Recommendations:
➤TCEQ cannot consider concentration of batch plants and particulate matter	<ul> <li>No batch plants allowed to locate side by side</li> </ul>	✓ No more than 1 batch plant allowed on a site area or lot area
TCEQ standards are by no means strict	Cap on number of batch plants per residential area or min. distance between existing and new facilities	and temporary (off-site) batch plants
	• 440 yards as required by TCEQ (unless municipality has zoning regulations for batch plants) is a good place to start. Can we build on that?	✓ Distance requirements are a minimum of 1,320' for permanent batch plants (Green Concrete) only; otherwise, 1,640' for permanent batch plants and 3,281' for concrete or asphalt recycling
	<ul> <li>Min. ¼ mile is an appropriate distance – TCEQ dictates 1,320' from residential uses</li> </ul>	





#### APPROPRIATE DISTANCES FROM CONCRETE OR ASPHALT BATCH PLANTS TO RESIDENTIAL, SCHOOLS, PUBLIC PARKS

TCEQ and City Regulations Issues:	Suggestions:	Draft Recommendations:
Concrete/materials need to be close to projects they serve	<ul> <li>TCEQ should be the main regulator</li> </ul>	✓ Temp. Batch Plants allowed on-site, off-site and in R.O.W (with provisions)
Batch plants have already been studied by TCEQ		✓ Distance requirements based on EPA Protection Act of 1986, as amended guidance for industrial uses and separation distances
Regulations by municipality duplicative and confusing with TCEQ regulations		✓ TCEQ distance requirements for on-site
≻TCEQ has oversight based on modeling		equipment are the same; distance to property lines are per City regulations based on EPA
440 yards was established by TCEQ and not based on scientific data		guidance
PH I requirements are onerous for temporary batch plants		✓ TCEQ is currently assessing modeling of air contaminants under rulemaking
≻Timing is of essence for Ph II		✓ Temp. batch plants allowed by-right in all districts except residential and special districts if all provisions are met
➢Potential for construction delays		





#### **RENEWAL PROCESS FOR SPECIFIC USE PERMITS (SUP'S)/Extensions for Temporary Batch Plants**

<u>Renewals</u> Issues:	als Suggestions: Draft Recommendations:	
Temporary batch plants		
Temporary batch plants are already allowed up to 180 days	<ul> <li>Renewal process does need to provide accountability</li> <li>2 renewals per the updated concontract or as determined by the contract or as determine</li></ul>	
≻No definition for Temporary Batch Plant	<ul> <li>Should run with construction project it serves and project timeframe should be easily verified</li> </ul>	✓ Definitions for each of the Temporary batch plant subcategories, including the 180-day time frame
	No unlimited extensions	
	Should allow 1 extension	
	• Temporary plants should have to go back every 6 months	
	Define Temporary Batch Plant	





#### **RENEWAL PROCESS FOR SPECIFIC USE PERMITS (SUP'S)/Extensions for Temporary Batch Plants**

#### **Renewals** Suggestions: Draft Recommendations: Issues: Permanent batch plants >A batch plant has been in Joppa that • The 20% required for opposition to an $\checkmark$ No renewals (unless imposed as part of received a 20-year permit with a 10 auto renewal is a burden on residents – approved SUP) year auto renewal put the burden on operators >We are trying to become a much No auto renewals better community with respect to environmental justice If we consider auto renewals, we should keep the time frame as short as possible – helps community >What message are you sending to residents (auto-renewals) Put burden on operator to prove a good ➢Permanent facilities are quite an neighbor investment and should be able to • 10-year approval cycle but no less than 5 prove compliance year Should have a longer leash plants with demonstrated • Batch compliance should have at least a 5 yr. renewal



<u>Air Quality</u> Issues:	Suggestions:	Draft Recommendations:
Temporary/Perm batch plants		
<ul> <li>Lack of focus on air quality</li> <li>Dust is problematic</li> <li>Environmental issue with these being in the floodplain and watersheds</li> </ul>	<ul> <li>More focus needed on air quality; not just water quality</li> <li>Include air quality data for health to City Council</li> <li>More consideration for environmental impacts, not just residential adjacency</li> <li>No Screening for Temporary batch plants – not feasible</li> <li>Address cumulative impacts</li> <li>Site needs to be large enough</li> </ul>	<ul> <li>Land use regulations and additional provisions aimed at improving air quality (distances from sensitive land uses, dust suppression, ingress/egress (not on residential streets, except temp. plants if serving residential and no other access), screening and landscaping (Perm only), site restoration and remediation)</li> <li>&gt;/= 100' from a floodplain or floodway</li> <li>Health data to be provided to ZOAC, CPC and Council</li> <li>Cumulative impacts addressed with distance requirements between batch plants and only 1 batch plant allowed per site area or lot area</li> <li>Temporary screening requirements for temporary batch plants only</li> <li>Min. 1 acre site requirements</li> </ul>





<u>ir Quality</u> sues: Suggestions:	Draft Recommendations:
ermanent batch plants	
<ul> <li>TCEQ requires a 12' tall fence to help capture 50% of the fugitive emissions if the stockpile is 50' from the property line</li> <li>City needs to think about the infrastructure needed to improve these areas</li> </ul>	





Issues: Sug	uggestions:	Draft Recommendations:
<ul> <li>Need to look at 200 ft public notification area</li> <li>Public notification area does not include schools or homeowner associations (HOA)</li> <li>In r</li> <li>In r</li> <li>In r</li> <li>In r</li> <li>In r</li> </ul>	200' public notification areas should be 400' Include schools within 3.5 miles for public notification Include nearest HOA for public notification Include businesses for public notification Public notifications at min 500 ft like other situations	<ul> <li>Public notification shall be 500' (SUP's only)</li> <li>Notification to HOA's and public schools on record to be same as distance requirements for respective batch plant subcategories</li> <li>Suggesting to applicants to meet with nearby property owners, homeowner associations, and surrounding businesses to address concerns and incorporate into site plan (SUP's only)</li> </ul>





Property Notification Issues:	Suggestions:	Draft Recommendations:
	Suggestions: • N/A	Draft Recommendations:Signs shall be posted on the property at entrance or screening wall of main use and parking, with:Name and address of facilityUse, SUP# and expiration date per the COName, phone number and email of contact person responsible for answering phone/email inquiries, complaints and/or violations for site and operationsSigns shall:illustrate or describe the location of the remote parking in relation to the main use;
		<ul> <li>be constructed of weather resistant material;</li> </ul>
		<ul> <li>be no less than 30 inches wide and 24 inches long; and</li> <li>contain clearly legible letters in a color that contrasts with the background material of the sign</li> </ul>



#### ADDITIONAL PROVISIONS - LOCATION/ACCESS/SCREENING/OTHER

#### Suggestions:

- Codify some of TCEQ's requirements; operators are not complying with TCEQ requirements
  - Get operators in compliance
  - Change policies
  - Renegade, non-compliant plants need to be shut down
  - Need more focus from the city for enforcement
  - Need self-reporting check list
- City needs check list beyond the TCEQ check list to determine compliance

#### **Draft Recommendations:**

- ✓ Clear cutting of trees is not allowed by the Landscape and Tree Preservation Ordinance and is an enforcement issue – call 311 to report
- ✓ Internal coordination with applications, approvals and non-compliance on-going
- ✓ Concrete or asphalt batch plants must come into compliance within 2 yrs. from the date of ordinance or at time of renewal date, whichever is first
- Checklist developed for applications at intake (part of internal process)
- Checklist will require distances to confirm compliance, as well as self-reporting for violations and emissions incidents
- ✓ Checklist will require copy of TCEQ application and SWPPP application, if applicable
- ✓ Internal Interactive dashboard map for better record keeping and spatial analysis



Compliance

> Clear cutting of trees

enforcement

> No real changes in policy

> Renegade, non-compliant plants

Lack of focus from the city for

Issues:

# Next Steps



#### Phase 2

- Staff anticipates bringing the results of the public input and the comprehensive recommendations for Phase 2 of the concrete or asphalt batch plant code amendment to ZOAC on December 13, 2022 of this year.
- If recommended by ZOAC, the staff and ZOAC proposal will be forwarded to the City Plan Commission (CPC) at the earliest available meeting.
- If recommended by CPC, the proposal will be advanced to City Council.



# Procedure to Speak:



To speak during the discussion for public input:

- Type "Speak" followed by your name and address in the chat box <u>OR</u> use the Example: Speak – Sarah May, 1500 Marilla St.
- 2. A staff member will keep track and call on each speaker in order
- 3. Before your comments, state your name and address for the record



Call in attendees: staff will call out the first 6 digits of your phone number, the host will unmute you to speak, <u>or</u> you can say "pass"

#### To speak during discussion:

Type "Speak – <u>your name and</u> <u>address</u>" in the **chat box** OR raise your hand using the <sup>(h)</sup>

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# Procedure to Speak:

Event Info Hide Menu Bar

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Cisco Webex Events

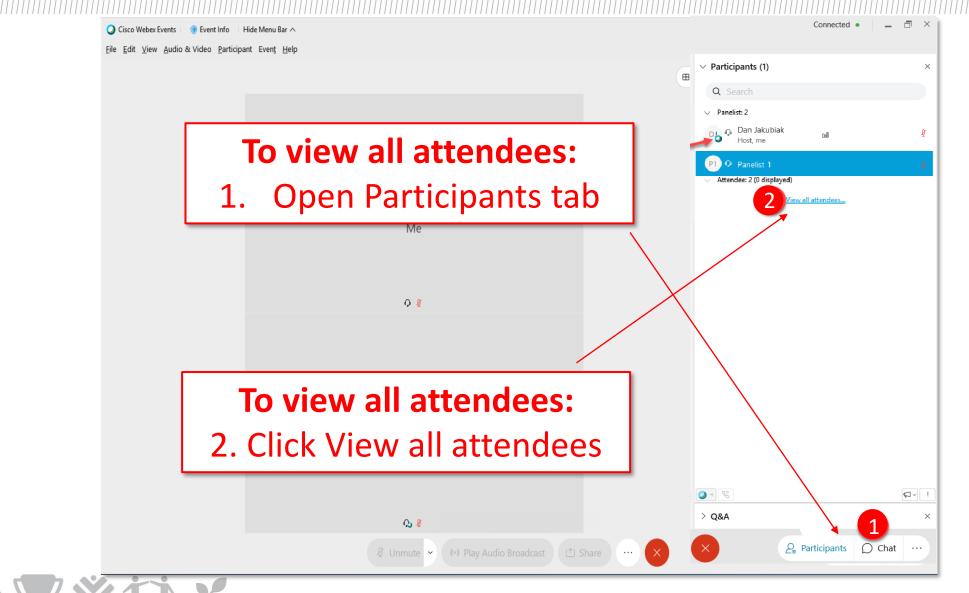


Connected

#### Participants (7) Q Search V Panelist: 4 LL 🧿 Lori Levy WN Q Warren, Nathan AU O andreea udrea MK 🥥 Mike King andreea udrea Lori Levy Attendee: 3 (2 displayed) Me DM 🗘 Donna Moorman - 40 EG O Erica Greene 1 View all attendees. **To speak during discussion:** To: Host Type "Speak – your name 0+ dly and address" in the chat Mike King Chat box OR raise your hand using the 🖤 To: Host ~ Enter chat message here Speak – Sarah May - 1500 Marilla St. Mute ~ 🖸 Start video 🖌 🖄 Share \cdots 2 Participants () Chat

# **Procedure to Speak:**





# Contact and More Information

Project webpage:

https://dallascityhall.com/departments/pnv/Pages/C ABatchPlants.aspx

#### Contact us:

- Lori Levy, AICP
   Lori.levy@dallas.gov
- Sarah May, AICP
   <u>Sarah.may@dallas.gov</u>





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> > Lori Levy, AICP, Senior Planner Planning and Urban Design City of Dallas

# Issues/Concerns (Permanent)



### Sec. 51A-4.20 Industrial Uses

- Concrete or Asphalt Batching Plants are **not** listed as "Potentially Incompatible Industrial Use" in Industrial Manufacturing.
- Considered an industrial outside use and permitted in IM District with no public hearing process.



# (Previous) Public Input and Discussion



#### 1. What is an appropriate distance from concrete or asphalt batch plants to?:



Schools



Public Parks

Residential

#### 2. What do you think about the renewal process for Specific Use Permits (SUP's)?:

- Automatic renewals
- o Renewal timeframe
  - 2-year 3-year 5-year 10-year 15-year
- Extensions for Temporary Batch Plants (after 6 months)
  - Unlimited 2 3 4 or more



# (Previous) Public Input and Discussion



# 3. Do you think there should be any additional conditions for concrete or asphalt batch plants?:

- Location on a commercial or industrial roadway
- Screening of production equipment and trucks If so,
  - Height? Materials?
- Other

