

Best Practices Webinar Series:

Local Zoning Codes for Addressing Concrete Batch Plants

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SPEAKERS

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Cliff Kaplan

Welcome, everybody. We're going to get started in about two minutes. We're just going to give folks another two minutes to get into the webinar before we begin. So thanks for being here and sit tight. Thanks.

Okay, everybody, it's 6:05. So, we'll go ahead and get started. Thanks again, everybody for being here. Welcome to our webinar on Local Zoning Codes for Addressing Concrete Batch Plants. This webinar is co-hosted by Texas for Responsible Aggregate Mining and the City of Dallas Environmental Commission. I'm Cliff Kaplan. I'm the secretary for Texans for Responsible Aggregate Mining or TRAM and the Program Director for the Hill Country Alliance, a regional nonprofit in Central Texas and a member of the TRAM coalition. TRAM is a statewide coalition of local and regional organizations that are concerned about the impacts of quarries and gravel mines and sand mines and concrete and asphalt plants. We recognize the need for these building materials and we recognize that there are operators who are using best practices that are commendable, and we want to see those best practices proliferated throughout the state. Before I go on, I want to acknowledge my colleague, TRAM's Coordinator, Sydney Beckner, who's working behind the scenes to make this webinar run smoothly and did a lot of the work to organize it. Thank you, Sydney.

Tonight's webinar is about what cities can do to address some of the impacts of batch plants in their local communities. It's our hope that through this discussion, we can inform folks who are in the webinar now, as well as, local officials and community advocates who may watch this video in the future. If you're joining us tonight, but haven't registered, I encourage you to do that we're putting a link in the chat. Registering will help us get the slides and recording of this webinar back to you. We also expect to have these materials posted on the TRAM website and I believe also on the Dallas Environmental Commission website by the middle of next week.

The plan for tonight is that Kathryn Bazan, the City of Dallas Environmental Commission's chair, will kick off the program with a brief presentation. That presentation will be followed by a really incredible panel that I'll let Kathryn introduce. We may have time for one or two questions between the presentation and the panel. After the panel we'll open the floor up for audience questions. Until then, if you have a burning question that you just have to get out, please put it in the chat. We ask that

everyone stay on mute until we've opened up the floor for Q&A after the panel. That's all the housekeeping I have.

Now, I have the pleasure of introducing our partner and co-host for this webinar. Kathryn Bazan. Kathryn is the chair of the city of Dallas Environmental Commission, the advisory body supporting the implementation of Dallas's climate action plan prior to that she spent about five years working for the Texas Commission on Environmental Quality, where she provided environmental regulatory compliance assistance conducted comprehensive site assessments and served as the Environmental Assistance divisions air project manager. She has a lot of experience working with communities and operators on concrete batch plant issues, and is an ideal person to have leading this discussion. So I feel very lucky to have partnered and had the privilege to organize this webinar with her. It's been a delight. So, thank you very much, Kathryn. Over to you.

[PRESENTATION - CITY OF DALLAS' CONCRETE BATCH PLANT ZONING CODE]

Kathryn Bazan

All right. Thank you so much Cliff. I want to say a big thanks to both you and Sydney for helping us organize this important discussion this evening. As Cliff said, I'm Kathryn Bazan. I am chair of the Dallas Environmental Commission, and I'm going to take a brief moment just to pull my presentation up. So, give me one moment please.

All right, and Cliff if you'll just confirm that you can see the screen. Yep, looks good. All right, then we'll go ahead and get started. So, as we do get started this evening, I want to direct everyone to our website, DallasClimateAction.com Here you'll find the city of Dallas has full comprehensive environmental and climate action plan, our annual work plan progress and upcoming meeting information for the Environmental Commission. A little background on the Commission and our role we were created last year and it's our role to advise the City Council on the implementation of our Climate Plan and to support the equitable and effective solutions needed to resolve environmental issues within our city. As Chair, it's my role to set our agendas and this item that you'll hear tonight is the very first item that the Commission heard at our very first meeting. And I'll preface this meetings conversation with this, as Cliff said, we need concrete. We need concrete for infrastructure, for regional mobility goals. A concrete batch plants or any other incompatible industrial use like it does not need to be located near residential communities where they can negatively impact resident's health or quality of life. I've been working in grassroots community organizing for environmental issues for some time and this issue that we're discussing this evening is one that I see often it's one of the most impactful and it's one that our communities often have to navigate alone. So, we're going to start this evening with a brief overview of the state level permitting for concrete batch plants and in this taking a look at what role the state plays in determining where concrete batch plants can and cannot be located. The Environmental Protection Agency has delegated authority of the Clean Air Act implementation and enforcement to the Texas Commission on Environmental Quality. The TCEQ in Dallas and in some other municipalities then delegated enforcement aspects to those cities. But the TCEQ retains exclusive permitting authority. Now there are numerous ways that concrete batch plants emissions can be permitted. But the majority of our concrete batch plants are permitted or authorized by a standard permit. And there are two kinds of standard permits one with and without enhanced controls of the two kinds. The standard permit without enhanced controls is the most common permitting mechanism. To standard

permits are fairly similar but there are key differences. You can find the regulations pertaining to each and 30 Texas Administrative Code and in section three two of the Texas Health and Safety Code. The standard permit can authorize both temporary and permanent facilities. A temporary facility is authorized for 180 days or for as long as the single project for which it was authorized takes the permit with enhanced controls. Is for limited plants only. For distance limitations and buffers. Both plants require that the back house or the emissions filter be 100 feet from the property line. The standard permit requires that stationary equipment and stockpiles or vehicles used in the operation of the concrete batch plant be maintained at a 50-foot buffer from the property line. And for the permit with enhanced control that distance is 100 feet. Is there a common misconception with batch plants is that there is a distance requirement from offsite receptors like homes, churches or schools but that's not always the case. The standard permit for concrete batch plants has no distance requirements for sensitive offsite receptors. The standard permit with enhanced control has a 440-distance requirement, but it's waived if the property is subject to municipal zoning which all properties in the city of Dallas are in that regard. These two permits are the same. There are no considerations for proximity to sensitive receptors, but more. Those permits allow those stockpile buffers to be with the distances to be waived if the applicant installs a 12-foot plants are screen. So, based on the modeling that the agency did they found that the height of the dust plume is typically twice the height of the vehicle generating it and they aim to control it by only 50%. They found 12 feet to be the centerline of that plume and the other 50% of those emissions essentially go unmitigated. So, in this instance, if the applicant installs a 12-foot fence, the distance and buffers for these two standard permits are exactly the same facilities and facilities that meet the conditions of this standard permit. Do not have to meet the other air quality emissions and distance limitations in the TCEQ's rules.

Standard permits are a pre-construction authorization meaning that no one can begin construction without first obtaining a permit. Once an applicant submits their registration form fees, the application undergoes an administrative review. After it's deemed administratively complete, it's passed on for a technical review. And then once the application is deemed both administratively and technically complete, and it demonstrates that it meets the conditions of the permit. The TCEQ is obligated to issue this authorization. It's at that point that the agency gives the public notice that it intends to authorize the facility. Both the standard permits have public notice requirements except for temporary batch plants that support public works projects. The public is not required to be notified at all. Anybody can request a public meeting but one isn't often granted without a legislator doing so on their behalf. The enhanced controls permit triggers an automatic public meeting, but nothing short of evidence proving the applicant doesn't meet the standard permit or persuade the TCEQ not to issue the authorization promise from that public meeting are gathered in a response to comments document and the permit is issued. Now an affected person can request a contested case hearing with the state office of administrative hearing, which are legal proceedings with legal counsel to dispute issues of fact, and that request may or may not be granted by the agency and for the enhanced controls permit. It is not eligible for a contested case hearing. often hear from operators or consultants about negligible emissions that will be emitted from the Backhaus filtration of the batch plant. But that's only one of many sources of emissions from these facilities. The stockpiles and material silos where cement and fly ash must be enclosed the conveyance systems, loading activity, stationary engine, diesel emissions, and open-air fugitive emissions from unpaved roads are all sources of air pollution created by these facilities. They met particulate hazardous air pollutants, volatile organic compounds and many other pollutants, including

criteria pollutants and precursors. That was a lot of information and some of it gets a little technical. So, I'm going to pause here and recap some context. If you're an elected official. That information you just heard is the first of many information hurdles that constituents must overcome before they can begin to be involved in the permitting process. And to summarize what we just discussed, than any municipality with zoning the concrete batch plant standard permits do not mandate distance requirements outside of that applicants property line. The state waives the 440 or distance requirement when municipal zoning is present because it expects a municipality to set and enforce zoning regulations for concrete batch plant and refers to their ability to do so. The TCEQ has no authority to deny a permit that meets this criterion for the standard permit. It cannot consider equity or historic environmental racism or cumulative emissions in proximity to the area.

So, if the state defers to municipal zoning, what did our zoning regulations for concrete batch plants look like? Previously in the city of Dallas concrete batch plants were allowed By-Right in the heaviest industrial manufacturing districts. The previous zoning code also allowed for batch plants by Specific Use Permit (SUP) in most other zoning districts including residential. There was no public notice for any by-right uses or temporary plants for city or state public works projects. The solution to this issue began as most of our meaningful policy revisions do with community advocacy. We worked with elected officials and city staff and neighbors from the hardest hit communities to ensure the policy would protect them where they live and that their voices would be heard. This new zoning code was adopted by the city of Dallas in May and it prohibits communities from essentially being dealt another batch plant without public hearings and land use compatibility reviews by city planning staff. It also eliminated the by-right uses for both temporary and permanent plants. And it eliminated the Administrative Approval Process or by special authorization of the building official that was in the code.

We'll talk more in a moment about the Specific Use Permit but at a high level it begins where staff evaluates the application for land use compatibility and other factors before making a recommendation to the City Planning Commission for approval or denial. Then it's scheduled for City Planning Commission hearing and City Planning Commission hears public input on the application and together with staff's recommendation considers that information and since their recommendation to the City Council. City Council then hears that public input at the second public hearing and considers both the staff and City Planning Commission recommendations for approval or denial.

[PANEL DISCUSSION]

As we mentioned, we're going to now move into the next portion of our event this evening, which is a panel discussion. And before we do that I want to introduce our panelists. Our first is the Director of Planning and Urban Design (PUD), Julia Ryan. And then with us this evening as well, we have our Director of the Office of Environmental Quality and Sustainability (OEQS), Carlos Evans. I'm going to stop sharing my screen so that we can see both of them and give them an opportunity to do a quick introduction if they'd like. All right. So, Julia, I'd like to give you just a minute to introduce yourself and say hello.

Julia Ryan

Yeah, absolutely. Thank you. And thank you for the opportunity to be here this evening to talk about this issue. So, I'm Julia Ryan. I'm the Director of Planning and Urban Design (PUD). I've been with the

City for a little – well about a year and a half now and as the Director for most of that time. We in our department work on a lot of issues of environmental justice, racism. We're looking at future land use. We're also working very closely with our partners specifically with issue but a lot of other issues that face our Dallas residents as well.

Kathryn Bazan

It's so good to see you. I know that you've had a very long day. Your day started with City Council this morning, and we're very glad that you're here with us still this evening. Mr. Evans, it's great to see you as well. I'm going to give you a minute just introduce yourself and say hello before we jump into our panel.

Carlos Evans

Thank you, Kathryn. This is a Carlos Evans. I've been here at the city of Dallas since January, so this is my first year. I love the fact that we get to work with a very active Environmental Commission consisting of residents handpicked from our council members throughout the throughout the city. And you can really you can really get a sense as to kind of the progress that we're making with such an active Environmental Commission, led by our madam chair here, Kathryn Bazan. As a department, we focus on a number of different things. We kind of have two components in our office we have kind of core environmental programs like stormwater enforcement, regulatory air enforcement. And we have a separate component kind of looking forward, trying to build a more sustainable, resilient, and environmentally-just society. So that's really advancing our Climate Action Plan, or our "Comprehensive Environmental and Climate Action Plan" (CCAP), was adopted by the City Council in 2020. We're going to get into the details about that plan as we proceed. But again, happy to be here and appreciate the opportunity to speak about this really significant source of air pollution throughout the city and really throughout the state.

Kathryn Bazan

All right, thank you so much. So Julia, I'm going to start with you. I think as a policy maker or a decision maker or an elected official, I would want to begin to understand where does the Specific Use Permit get its legal authority?

Julia Ryan

Yeah, that's a great question. The authorization comes from our zoning ordinance or zoning ordinance gives us the authority to be able to establish criteria for Specific Use Permits and specifically what we're looking at in these in these instances are things that are not detrimental to public health. That they are, there's an assurance that there is compatibility with those who rent surrounding land uses. And so we typically see these with some of the more industrial uses. We often see them for other uses. Specifically, things like schools where sometimes the traffic and other things that go along with schools can provide some interesting entertainment for neighbors, you know, with traffic and the things that happen with schools. So, we utilized this specifically to be that sort of public facing process, as you mentioned, it's not a very clear process and our elected officials and decision makers often felt that they were left out of that process that that was established. And so, this was sort of our first blush, if you will, at bringing some of that community engagement back and some of that local influence back to these very important discussions.

Kathryn Bazan

That's great. And I want to switch out to you, Carlos, and talk about the local impact. Can you talk about the implication of locating sources of air pollution in residential communities? And do you see this as a criminal justice issue?

Carlos Evans

Sure. I mean, as folks probably know on this call, the residents near our polluting sources are the ones that are typically the most impacted by the source's pollution, right? And so historically, these are fence line communities that have been our communities of color and our low-income communities. And you see the same thing with batch plants. Throughout the city of Dallas, you'll see batch plants in West Dallas, South Dallas in the southern sector. So, these are in black and brown communities, our low-income communities, that are disproportionately impacted by the dust and pollution from the facilities, stockpiles, roll off containers, trucks, and the like. All the various sources that you listed in your presentation. So, is this an environmental justice (EJ) issue? Most definitely. I mean, historically our communities of color have not been meaningfully involved in locating, permitting and operating these facilities, right. So, because of the history of segregated zoning, redlining, deed restrictions, and the like. Zoning is already set up to locate our communities of color near our industrial facilities. And our existing zoning procedures, as both you and Julia have talked about don't always require public input. It comes to state permitting - and you've walked through the state permitting process already - so we know that public commenting regarding our air permitting occurs at the middle or end of the permitting, process. Definitely not at the beginning, definitely not throughout the process. Right. So, when it comes to meaningful engagement, or the lack thereof, this is definitely an environmental justice concern. And again, the fact that our communities of color and low-income communities are disproportionately impacted by the environmental hazards of these facilities, also makes it an EJ issue as well.

Kathryn Bazan

Thank you. And so, Julia, I want to kind of continue down that that road of engagement. Can you talk to us about the zoning code revisions adoption process and how you went about doing the community engagement and ultimately getting the community buy in?

Julia Ryan

Yeah, absolutely. I will start by saying this was an amendment to our zoning code that I think was long overdue, because of the permissive nature of our zoning ordinance that pretty much allowed them in many different areas without a lot of public input. The public's response was overwhelmingly excited about being able to move this forward. And so, we attack this on a two phased approach. There was a month where I think we had received three permits, three requests for different batch plants in areas that were less than ideal, and that was sort of the impetus for us to say "We need to do something. We've got people knocking down our doors, upset about these facilities. Our council members, our community members," and so we made an effort to prioritize this code amendment so that we were able to get through in two phases. The first phase was adopted in May. We are still working towards that second phase. But it wasn't a difficult conversation, I think because of the interest of the community members, and especially those that have been impacted by existing facilities that are out there and have really borne the brunt of a lot of the industrial zoning that's out there now, adjacent to residential

areas. We also made sure that we engaged the manufacturing sector, that they are part of our community engagement process, and we wanted to make sure that, you know, that what we were proposing, we were able to have that conversation with them as well. And so, the other thing I would mention about the city of Dallas, and this may be the same about other cities is that a lot of times our zoning doesn't actually match our land use and so there's a lot of zoning out there. That's not quite right. Specifically, the areas that have come into the city, you know, in the 50s and 60s, that have sort of placeholders zoning in ag districts, which allows pretty wide allowance of industrial uses within those areas. And so, we also had a lot of people that were living in those areas that that were adjacent to that and so I think that's a really important thing to note. We have a permissive process with the state, we also had a code that didn't respond well to these uses. And so having them pop up pretty frequently was an issue and I think the community engagement that we were able to get from both the community and the manufacturing stakeholders was helpful specifically for that first phase but also for the second phase that will be rolling out.

Kathryn Bazan

Yeah, and you know, I felt like you during that period where we got several applications right in a row. It was really like a game of Whack a Mole. And, you know, we've got these communities that are upset and they're learning the process and trying to educate themselves. At what point do they get their say? And is it going to be meaningful if they spend the time that it takes to write their comments and participate? So, can you talk more about how the city is revising its comprehensive land use plan, and how creating a city-wide land use plan can help with addressing those incompatible uses?

Julia Ryan

Yeah, absolutely. So, we are in the process of our "Forward Dallas," which is what we're calling our comprehensive land use plan. The city of Dallas does not have a city-wide adopted land use plan. And these for those who don't know, are helpful for cities to make zoning decisions. When zoning changes come through we can see if you know we are residential in this area if industrial is coming in, does that make sense? Yes or No? Probably not. It also helps us with infrastructure decisions. So understanding where we need to make water, transportation infrastructure decisions is also helpful for that. And so what we're really using this for, in addition to some of those things, is looking at the areas where we have these adjacencies of residential and industrial. We do have many cases of this, again, that contribute to the concerns that we had in the community about these residential adjacencies. And so, putting that in and as we go forward with the public engagement on that (we're in the middle of some public engagement on that plan that will continue through the end of I think, next year, is what we're anticipating) but we really want to understand the areas where these issues exist. And we can obviously see those with aerials and with zoning, where you see residential, directly adjacent to industrial, existing industrial. What we want to do is to establish some parameters (and we're not there yet, but we're working towards that) to establish parameters on how do we separate these uses. Whether it be buffers. We're going to have to have some hard conversations about relocations as we move forward, but these are really important things that we need to address. And because we haven't had a future land use plan that addresses this, this is going to be our first attempt and it's going to be really important. And again, going back to that community engagement, we really need the community to pop in and make sure that you know, we've addressed these issues because as we move forward, we really want to make sure that this plan is implementable and that we implement it through zoning

changes. That's really the key piece of what we're looking at with future land use - if you don't establish implementation, through zoning, there's really not a reason for you to embark on this kind of effort. So, this is really important for us, as a department, as a city, and all the residents and business owners and anyone that drives through the city because they're all impacted by the decisions. That's really where we're going forward with we're also going to be undertaking very soon a complete rewrite of our zoning code, which is also going to help with a lot of this, you know, having some of the ambiguous definitions that have been in there some of the things that don't really incorporate a lot of the appropriate distancing and other things that we should have in a modern zoning code. So, we're working towards it on sort of a three phased approach (we do a lot of phases and planning) but the three phase approach for Dallas and making sure that we're being comprehensive and addressing the adjacency issues with industrial and residential.

Kathryn Bazan

Yeah, this is a city that likes its plans, a lot of plans, and one that I particularly fond of is, as I mentioned, our Comprehensive Environmental and Climate Action Plan or as we call it, the CCAP. Carlos, can you talk about how a zoning code revision could support a plan like the CCAP?

Carlos Evans

Definitely, let me just say, I think it's great - I've been here at the city of Dallas since January – and the fact that we have such active sister departments is fantastic. The fact that planning and urban design is so active in supporting a sustainable future is I think, every city doesn't have such an active community. So we appreciate the work that Julia Ryan is doing. Yeah, so the CCAP, Comprehensive Environmental and Climate Action Plan, [has] eight goals [and] 97 actions. Again, it was developed to advance sustainability, resiliency and equity or environmental justice. Sue is on the line now, Sue Alvarez, Assistant Director, played a significant or substantial role in developing the plan. Folks really had the forethought of developing or integrating land use into the CCAP. So one of the actions is actually within the CCAP is making sure that there's appropriate distance between industrial sources and our neighbors. Julia Ryan and her team have taken that on aggressively and what they're doing is supporting the CCAP. Phase 1, as Kathryn, you mentioned, indirectly supports that action specifically making sure that council members have a say in the approval of batch plant operations. And then Phase 2 more directly by requiring buffers and the like. So, again, I just couldn't be more excited with it's such an active PUD and in the EPC, all these acronyms.

Kathryn Bazan

So, part of again, the CCAP, there are the eight goals and one of them talks specifically to air quality and not just air quality, but neighborhood level air quality. And so, the city has begun a sort of like a hyperlocal neighborhood level air quality monitoring network and we've gotten some sensors and determined that at least a couple of them are going to be placed at a local concrete batch plant. What will the city be able to do with the data that it collects and what won't it be able to do?

Carlos Evans

It can do a lot. So, we want to develop a city-wide neighborhood level air monitoring program, which will prioritize locating the monitors in communities that are living with our industrial facilities. We'll use that information to better inform our residents, make better policy decisions, and more strategically use our

compliance programs. This data will be helpful, for example, as council members evaluate Specific Use Permits (SUPs) for batch plants, and other sources and make other land use decisions. Permission can help us identify sites for future use, for future air and stormwater investigations, especially as a screening tool. And the information can inform residents with already existing and planned sources. As far as the city side that you're raising, we want to better understand any emissions leaving the facility. We plan to put one monitor upwind and one monitor (or sensor) downwind to identify different emissions. The monitor will also be able to track CO2 and ozone, but those are less I think, an emphasis for these batch plants. This will help us you know meaningfully and equitably engage our residents during facility operations. And again, this data will we can use this as a screening tool to determine if our air and stormwater teams need to conduct further investigations. So, it's going to be very helpful data for both us department, I think for the residence.

Kathryn Bazan

Going back to you, Julia. We've talked about forward Dallas, we've talked about how we got to where we are, what are the next set of zoning code revisions that the city is working on for Phase 2. And can you talk to us about my favorite new website which is the mapping tool for concrete batch plants in the city of Dallas?

Julia Ryan

Yeah, absolutely. So, Phase 2, we've been working even before Phase 1 was adopted on the Phase 2, which is a more detailed standard. So, our first our first initial attempt was, you know, let's just you know, put it through a public input process, which is the SU P process. So our second phase, which we knew was going to take longer, which was why we split it up into two phases, because we wanted to make sure that we had immediate impact with the community and with these plants coming in. So, we're looking at things like distancing. I think we're looking at potentially 1500 feet from residential uses or other sensitive uses. There's site cleanup and remediation, so a lot of these temporary plants, you know, putting the site back to the way it was previously, making sure that the cleanup happens. Things like screening, other design standards, like dust suppression, outside storage, and also things like ingress and egress, which you know, it did become something that we did notice with some of the permits coming in that, we had some applications that may have residents on that street and we wanted to make sure that any of the site access was taken off of our larger street systems. Or thoroughfares, or other industrial streets and not residential streets. And so those are some of the things that we're working towards.

I think we're scheduling for sometime this fall to come back and start going through the process. We have a very established process on how to move zoning code amendments forward. We have a specific zoning committee, so it's a subcommittee of our City Planning Commission, the Zoning Ordinance Advisory Committee. It's made up of City Planning Commissioners and just regular folks that want to play a role in what the zoning code looks like. They sort of take their first crack at it, give us their feedback. Once it moves forward, then we go to City Planning Commission again and then City Council for approval. So, that's our process and we're hoping to get really through some of the meat of this into City Council probably by early next year.

Now, the mapping tool. We've got some pretty phenomenal staff that are really interested in environmental justice and looking at the impacts of these things. And as we started this process, we really didn't have a map, a tool, to show us where all the plants were that were currently in operation. We had some phenomenal staff that really worked hard pulling down all the information about where they were, what was operating, whether it was still active or not. They have been working really hard on assembling this information so that we can then take it with this ordinance. And it's going to be really helpful for us as we move forward with Forward Dallas and with our zoning code to provide this data because this was information that was requested in our Phase 1 approach. Where are these? Right. What is the scope that we're looking at across the city? And there was a definite trend that we saw and so, it was definitely important for us to step one show it on a map, but then also, really understand what those impacts are.

Kathryn Bazan

And I think my favorite feature of the map is that it kind of indicates to you: how far you are from some of those sensitive receptors? What the base level of zoning is. When the SUP is coming up for renewal. All of those things that we should be looking at and evaluating as we're making these policy decisions and land use decisions on a case by case basis.

Carlos, I want to ask you, so you know that we have several communities that are very engaged, particularly on concrete batch plants, and I can tell you that, you know, a community can activate and mobilize and create a get grassroots campaign in a matter of days. And I'm here to tell you about it because I co-founded and lead and almost 2000-member community group that was found on the opposition of a concrete batch plant in a residential community where I live. And so, can you talk about what role environmental advocates can play in supporting policy changes and asking for their local elected officials to take the step into a policy like this?

Carlos Evans

It's just that. The most important thing to me is for advocates to use their voices and expertise on behalf of the residents. You know, as folks on this call know, in any given government effort it's going to be kind of a narrow view of things, right? And we need the perspective of residents and their advocates, to build out whatever project or program or process that we're working on, to make sure that we're looking at the right, you know, identifying the right concerns and identifying the right solutions. For advocates to really voice the concerns of residents, and not just advocate for the sake of advocating, but really express the resident's perspective on things so that we can really build our programs and projects and policies in the right way. The second thing I'll just say, is, you mentioned just engage elected officials and help make policy and legislative recommendations. I think one of the one of the strengths of the city of Dallas is that we have the Environmental Commission, that they specifically- you guys provide recommendations to our council members on these various programs, projects and policies and they get to be informed with those recommendations as I think through these various efforts. And I think that really matters in trying to make sure that we build an effective and equitable future. So, I think those are the two things that I would say.

Kathryn Bazan

And Carlos can you talk a little bit more about - I know that the TCEQ is the enforcement authority, but a municipality, like Dallas, the city has actually taken on that role. Can you talk about how it is that the city helps to ensure compliance for our batch plant operators through your office?

Carlos Evans

Yeah. So, the TCEQ has as you mentioned, the permitting authority, and in some cases, like in the case of city of Dallas, they'll delegate enforcement authority. So, our office (OEQS), we have a team that actually stands in the shoes of TCEQ and it goes out and inspects these facilities, these sources for these batch plants. TCEQ staff can do this as well but it will most likely be OEQS staff to investigate inspect these facilities. It's one of the benefits of having a program with us is that, you know, that enforcement arm can coordinate with the local air monitoring network team, so there can be cross pollination there. So, our enforcement team can use the data that is coming from the monitoring team, to better target and more equitably use our enforcement arm to ensure that these facilities are complying with their permits and meeting the needs of our residents.

Kathryn Bazan

All right, so we have time for maybe just a couple of wrap up comments, maybe go into Q&A. Julia, I want to pitch it over to you and see if there's anything that we didn't talk about that you would want to share, or if there's anything that's coming up that you want to talk about related to this topic.

Julia Ryan

Absolutely. And again, thank you all for being part of this conversation. I think the thing I would like to stress is that what we're doing here isn't about killing development. It's not about killing the industry, right? We absolutely understand the need for these types of things. You know, you build our cities with concrete, and it's very important for us as we continue to grow that we are able to utilize these materials. What we just want to do is to make sure that we're being thoughtful and context sensitive about where we're putting these and what they look like. And so, making sure that we save space for that as important through Forward Dallas, making sure that we are providing our residents with the highest quality of life, regardless of your income or your race or ethnicity. That we can make sure that everyone has a good quality of life as we move forward. We just want to make sure that we're doing this thoughtfully, strategically, and that we're able to continue to develop it as we need to, but within the parameters that we're able to put forward.

Kathryn Bazan

All right, and Carlos, I'm going to give you the same opportunity for just a quick wrap up comment before we turn it over to Q&A.

Carlos Evans

No, I think we captured everything. We just have to continue to push forward. We have so much work to do and I feel like we're kind of on the 10-yard line looking at 90 yards to go. We're at the starting gate. How many analogies can I come up with? I don't know. I think the key thing is that we have partnerships with our sister departments. We have a supportive City Council, and we have a partnership with our Environmental Commission and the residents they're engaged with. And we have

direct relationship with the various neighborhoods as well, but it's really important to have an active commission. So that so that we can get moving in an expedited manner.

Kathryn Bazan

And I'll just piggyback on that to say that we have had a really great experience working with our local elected officials. Everyone from our Mayor Eric Johnson, our Chair of the Environment and Sustainability Committee, Councilwoman Paula Blackman, both who prioritized finding a solution to this issue that they have seen repeatedly in our communities here in Dallas. And I think that we have currently one of the most environmentally thoughtful and sort of progressive councils that we've ever had and that we have been able to make a tremendous amount of progress on not only our CCAP, but some of these really impactful environmental justice issues that we're having here in the city of Dallas. And so, with that, I think we're going to pitch it back over to our host Cliff to see if we want to open it up now for Q&A. I see that our chat is pretty full. So, whenever you're ready.

[PUBLIC Q&A]

Cliff Kaplan

Yeah, thanks. We have several questions and Sydney, I think we can just go ahead and open up all the videos. And if people feel like coming off camera to ask a question, that's fine, and if not, that's fine, too. So, in the chat, we kind of have three different lanes of questions. We have questions about monitors and Sue Alvarez from the city of Dallas has been answering some of those questions in the chat. We have some questions about legislation and the extent of the city's ability to work within existing legislation and what changes the city might like to see. But I want to start with this question from Melissa Beeler, at Air Alliance Houston. How does the new Specific Use Permit process impact temporary concrete batch plants proposed for public works projects, specifically TxDOT projects in Dallas?

Julia Ryan

Yeah. For TxDOT public works projects, I believe that they are - and Kathryn you may be able to help me out with this - but I believe that they are exempt [from the SUP process] if their temporary plant is on their site. And I can't quite remember the specifics behind that. But I believe that's specific to TxDOT projects.

Kathryn Bazan

I won't contradict. I think that for other temporary plants, we did make the requirement that they would obtain the SUP. I can't recall if TxDOT specifically is exempt from that, but I know that a significant number of our plants do come in as temporary and that was sort of one of the concerns that we had the temporary plants popping up within residential communities. So for the most part, those will be regulated going forward by SUP I believe.

Julia Ryan

That's correct.

Cliff Kaplan

Thanks. So, there's a lot of questions on the monitors but some of that gets very technical. I'm some of the responses that Sue Alvarez has given are technical and so it's good that we have them in writing. I think what I'm going to do is put off some of the monitor questions and discussions to a little bit towards the end and then we can see how much of that we can get into giving that given there's a lot of content in the chat on that already.

So, I'm going to ask my own question because it's about the adoption of this kind of zoning amendment in other places, so it's a two-part question. One is small communities that don't have all of the staff that Dallas has or may not even have as extensive land use regulations and zoning but do have some zoning on a basic level. Is a tool like this that you all have developed and put into your zoning code available to smaller communities in our state? That's the first question and then I have another.

Julia Ryan

Yeah, and I would say generally, yes. That many cities small or large have the ability to regulate certain uses through Specific Use Permit. In some towns it's called a Conditional Use Permit, it just depends on where you're at. But they're generally the same thing. This was a super easy way for us to get something going. It didn't take a lot of staff. It just took a little bit of public engagement that we did you know, we had a couple, you know, online public meetings. Our process that we went through it was very painless, to be able to utilize this tool and move this forward. So, I would think that many cities would be able to do this with their existing staff, even if it's a small staff. Just begin looking at their zoning ordinance to see if they have those tools to be able to utilize a Specific Use or Conditional Use Permit.

Cliff Kaplan

Thank you. And then my kind of follow up to that is in the other category, cities that don't have zoning, have you - obviously, you're not working in that context so maybe you have nothing to say about that context but maybe you do. So, cities that don't have zoning, are there some creative ways that they can make use of what you all have developed here to address their needs?

Julia Ryan

Yeah, that's a really interesting question. And I only know of one which is Houston, famously, that doesn't have zoning. And so, I know that, you know, regulation of uses has created some challenges with Houston because they don't have zoning, so there's not sort of that basis for them to be able to do this. But there are other things that could potentially be part of that process. And some of it is just looking at the development process that a city has. Thinking about, what are the what are the controls that you have on land use. There are controls, even in Houston where they don't have zoning, so what could you utilize that you have existing that is open? Again, that's not zoning because you can't require a Specific Use Permit if you don't have zoning. But you know, what else could you do in terms of the controls that your city has to either require a public hearing, if there are specific things you could put in your subdivision ordinance that required distance checks? You know, some of these things may be available to cities depending on how their codes are written. But there may be controls that you wouldn't think about putting in place if you don't have zoning. But again, I think there's just one city.

Cliff Kaplan

And is there any - I guess a follow up to that - I saw you, Kathryn looked like you wanted to get in a word. Go ahead.

Kathryn Bazan

Yeah. I'll just add to that we've helped several communities who are located in the ETJ (extraterritorial jurisdiction) or who are out in the county who don't have zoning code. That process obviously looks different for them but as Julia said, there are regulations that either the County Commissioners or through their processes with the county government can use, including asking the fire marshal to look into the fire code and just really taking a look at all of the land use tools that the county has available in lieu of actual zoning.

Cliff Kaplan

Kathryn, I also had a question come in about counties, so you just spoke to that. Thank you. That's perfect. Another question from the chat. What happens when the plant is not compliant? What is your ability to enforce a permit issue?

Julia Ryan

Yeah, and so, our code gives us the ability to, if there are complaints within the timeframe of the Specific Use Permit, that we can verify that we can go out and actually revoke that Specific Use Permit. So that is an available tool for us to be able to use.

Carlos Evans

Then from the air enforcement side, we're just inspecting to ensure compliance with their standard permit. So, the investigation is no different than any other investigation, but they do have specific requirements they need to comply with. Again, we're using the air monitoring data as a screening tool - or we will be using their monitoring tool - but then once we start the inspection or investigation, it's just like any other investigation of air quality monitoring.

Cliff Kaplan

I guess along similar lines, I recently learned that the TCEQ is planning to amend their air quality standard permit for concrete batch plants and they posted this on their website just recently. I'm wondering if how changes to the state's permit may or may not impact the city's policy or the city's activities.

Julia Ryan

Great question. I need to look that up.

Cliff Kaplan

I just find out about it today.

Julia Ryan

But I think that we're able as a city - specifically through zoning and the police powers that were granted to us by the state to be able to do zoning - allow us to provide different regulations as it relates to land uses. So, provided that they don't restrict local control, I think that our zoning ordinance would

still be able to move forward as is. And I think we would probably be a little bit more restrictive than TCEQ, looking at some of the things that we're looking at with screening and buffering and outside uses and things like that. But I think we would obviously want to talk to our attorneys, if there are any concerns about what's going on, but as long as they don't restrict our local control, then we should be able to move forward as is.

Carlos Evans

I'll just add that our responsibility is to enforce whatever permit is approved. So, if that's an updated permit, and we'll do that. I also want to note because it's no less important that these facilities need stormwater permits. So, we also enforce those. To the extent that these facilities are not complying, but they're still more permanent getting debris and whatnot into the stormwater system than then we look for those things as well.

Cliff Kaplan

Thank you both. I want to remind everybody that if you want to voice your question, you are welcome to you could put your hand up you could open up your camera if you prefer to do that and that way I'll know if you use either those signals, I'll know that you want to ask a question. So, you're certainly welcome to do that. And I'm still watching the chat. There were some questions about the upcoming legislative session and what kinds of interests the city has there as a means to these issues. I'm going to just presume that one interest would be in protecting Dallas's local control authority to address concrete batch plants through this strategy that you all have developed. So maybe you could speak to that. And then the broader question about the legislative session. Sue has been fielding these questions in the chat and so I just want to let you know Sue, it's certainly okay with me if you come off mute to say anything, if that's if that's helpful to your colleagues as well.

Carlos Evans

While she does that I'll just so timely enough, I guess. Our Office Government Affairs just sought approval of our federal and state legislative program for advocacy in Austin. One of them is we're looking to require local approval of standard permits for polluting industries and impose minimum distances from schools, hospitals and residents. So, that's what's stated in our state legislative program.

Kathryn Bazan

And Cliff, I'll just add to that, that community members and grassroots organizations and even more established environmental groups (Sierra Club, Public Citizen, the usual suspects) have been advocating for aggregate bills each session as they come up with little success and a lot of those bills just never make it out of committee. What it's going to take is quite a bit of advocacy in order to make any meaningful legislative changes. And so that's certainly something that we're all looking into and looking forward to better protect communities where they have a significant number of batch plans in the same sort of area and there's not a lot that the city or county can do. I spoke to a gentleman recently and they were going to put a batch plant between his school and the next to school down. He said, "Look, I'm just a school administrator. This is baptism by fire. I've had to educate myself about everything there is to know about concrete batch plant in the past two weeks and started making those connections." And I told him, we have to continue to be engaged and when the legislative session

returns, I mean, that's something that your community they want to voice. So, it's something that we should all really keep in mind. If we want to see a significant change in just a fundamental way that the batch plants are regulated, it's going to come from the state. It has to.

Cliff Kaplan

Thanks, Kathryn. I want to maybe turn to some of the monitors questions. I'll note that Sue is no longer on the call, so she won't be here to address some of these monitor questions, but she did a very thorough job in the chat. Some of the questions basically were what kinds of monitors, is the data going to be publicly available and where, how are you selecting which batch plant to position those particular monitors and what other uses for the monitors you have? Oh, Sue has come back. Maybe you could just speak generally to these types of questions.

Carlos Evans

Yeah. That's an important point. These are non-regulatory monitors, which is why we can't use the data to bring in any type of enforcement action, right? Because technically, they're called their sensors. They're better than your peripheral air monitors, not as good as your regulatory air monitors, but they are they are accurate when it comes to identifying levels of PM (particulate matter). So, the standard sensors that we have will monitor for PM, ozone and NO2. We also will have some sensors that will also be able to track data for SO2 and BOCs. So, our process is really a city-wide network focused on our environmentally overburdened communities in our industrial corridors. We're working with various communities throughout the city to meet with them first to talk about, "Okay, we want to install these monitors or sensors. Where should we do it?" I mean, we have a technical kind of understanding of where to install these sensors, but we don't live in your community and we want to hear from you about where to install these. So, we started in West Dallas. We just went into South Dallas to do the same thing. We're gradually hitting various communities to do this kind of engagement before installation. Now, we just received our first eight air sensors, they're coming from UK and so they're being calibrated right now to ensure that they are recording and working properly. By the end of the year, we're tasked with installing and operating at least 40 of the sensors. We hope to install more than that. That's kind of the general frame, if you will. I'm not sure if I missed anything.

Cliff Kaplan

Thanks, Carlos. That's helpful. Kathryn, you mentioned that there was - maybe it was Julia who mentioned - engagement with the with the industry itself during the amendment to the zoning code. I'm just wondering, you know, what that looked like? What the reactions were from industry as you guys moved towards this amendment?

Julia Ryan

Yeah, that's a great question. And I think specifically with the first phase where we were just adding the SUP process to the requirements, the comments were really limited and more towards how is this going to affect my process. Specifically, with the temporary batch plants because it can take some time to get through our development process, if you have a temporary batch plant that's open for a year, maybe year and a half or two, or if you need a renewal, right, what does that look like? So really just trying to feel out what the impact would be. I think this next process it is a little bit more in depth, right. So, we're having more conversations about the design characteristics that we're going towards. We've worked

with the Texas Aggregate and Concrete Association, TxDOT, and some of those, I think we've met with TCEQ as well. So really focused on first of all letting them know what we're doing and why we're doing it and that this isn't about killing business, but it's about doing it responsibly. But then also making sure that we're hitting our bases in terms of that communication that we can provide to them that may allay some of their fears or maybe get some good feedback about what the requirements are that maybe this specific doesn't work, but let's look at something else. Right? So really trying to come to a compromise about what this looks like. I think with that first round, just sort of being that that line in the sand of you know what we're going to do. The other thing that we're doing sort of in Phase 2 is that in some cases, that there may be opportunities, if the site allows that, that maybe a SUP isn't required, right. So, in some cases potentially clawing back some of those requirements because it's in an area that is a far enough distance away from any sensitive land uses and that there are design standards in place that effectively address the concerns that have been raised.

Cliff Kaplan

Thanks. Well, the chat has quieted down. I have one or two more kind of wrap up very easy questions for you all. But if no one else feels like either putting a question in the chat, or coming off of mute and asking a question then we will move to my two easy wrap up questions. The first one is - well it's not a question, it's a statement. I would love to visit with you all again and maybe do another webinar after Phase 2 has been developed and adopted so that we can talk about that. So that's not really a question because I won't put you on the spot about that. The question is, if local officials or advocates in other communities want to reach out to you to get some additional insight into this ordinance, so that they can pursue something similar in their communities. Are you all open to fielding some of that?

Julia Ryan

Yeah, absolutely. And, and I will say we've had an amazing staff member who's been working on this code amendment and I know she's learned a lot and I think she's really happy to share what she's learned with others specifically if it'll help you know, to bridge some of that gap that's out there about this this issue.

Cliff Kaplan

Awesome. And Kathryn, you have a slide that has everybody's contact information on it.

Kathryn Bazan

I do but I'm actually just going to pop it in the chat because that might just be easier for everybody. So everybody's contact information from this evening will be there and you can grab that real quick. I will just say a quick note. Reach out to me any time with your questions. Most of my friends and colleagues know this about me but concrete batch plants are one of my favorite things to talk about. I love to help and to problem solve and to see if there's a resource that I've already come across that might help you in your particular situation. So, don't hesitate if you need anything just to reach out.

Cliff Kaplan

We have another question, a late arrival question. So, let's get to it. What kinds of regulations - Carlos you'd mentioned stormwater - what kinds of regulations do you require for stormwater construction permits for concrete batch plants?

Carlos Evans

What kind of regulation - so that these facilities needs stormwater permits and then we enforce the requirements of the permit. I'm not really sure what regulations that we're talking about?

Cliff Kaplan

And those permits are from the TCEQ?

Carlos Evans

Yes.

Cliff Kaplan

I think the question is, are there additional stormwater requirements that batch plants have to follow at the local level in Dallas?

Carlos Evans

Ah, gotcha. I can get back to you. I don't think so.

Cliff Kaplan

Sue's got her hand up.

Sue Alvarez

I managed our stormwater program for, I don't know 10 years or so. I've got a little bit of background there. There is an additional chapter in the Texas Pollutant Discharge Elimination System permit (TPDES) for that applies to construction projects that disturb more than an acre or more than a quarter of an acre if it's adjacent, or within a quarter mile of another construction site. So, there's a whole chapter related to specific requirements for batch plants, and that includes off site batch plants associated with the construction project.

Cliff Kaplan

Thanks, Sue. Thanks, everybody. I just want to say thanks to each of our panelists: Julia, Carlos, Sue, making a surprise appearance. And thank you, Kathryn for not just moderating the discussion and putting the presentation together but co-hosting this event with us on behalf of the City of Dallas Environmental Commission. Thanks, everybody. Kathryn, were you going to say anything? It looks like you might have been about it. Nope. Thanks to all of you who made it to this webinar and on behalf of Texans for Responsible Aggregate Mining, we hope that this is useful to your communities and please reach out to any of us if you have further questions, and we'll see you next time. Thanks, everyone. Good night.