

# Board of Zoning Adjustment

## Staff Report

May 01, 2023



<b>Case No:</b>	22-VARIANCE-0173, 23-WAIVER-0070, 23-WAIVER-0071
<b>Project Name:</b>	Advance Ready Mix
<b>Location:</b>	1000 W. Kentucky Street
<b>Owner:</b>	Cambil, LLC & JDA Properties, LLC
<b>Applicant:</b>	Camilla Schroeder, Advance Ready Mix
<b>Representative:</b>	Jon Baker, Wyatt, Tarrant & Combs, LLP
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	4 – Jecorey Arthur
<b>Case Manager:</b>	Heather Pollock, Planner I

### REQUESTS:

- **Variance** from section **5.2.5.C.3.d** to allow a proposed structure to exceed the maximum height in EZ-1 zoning district.
- **23-WAIVER-0070: Landscape Waiver** from section **10.2.12** to allow a reduction of the required interior landscape areas.
- **23-WAIVER-0071: Waiver** from section **4.4.8.C.2** to allow outdoor storage within 25ft. of a public right of way.

Location	Requirement	Request	Variance
Height	45 ft.	77.13 ft.	32.13 ft.

### CASE SUMMARY/BACKGROUND

The subject site is zoned EZ-1 in the Traditional Workplace Form District. The site is 4.4 acres and is currently covered in an impervious surface with no structures. The applicant is proposing to construct a concrete plant.

This site is related to a Category 2B development plan under case number 22-CAT2-0060.

### STAFF FINDINGS

Staff finds that the requested variance and waivers are adequately justified and meet the standards of review.

Based upon the information in the staff report, and the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards for granting a variance and waivers established in the Land Development Code.

## **TECHNICAL REVIEW**

- The applicant is required to obtain a building permit and the proposed structure may require alterations to the proposed building plans in order to meet building code requirements.
- Transportation Planning and MSD have preliminarily approved the proposal.

## **INTERESTED PARTY COMMENTS**

Interested party comments have been received by staff and are attached to this agenda item.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.2.5.C.3.d**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all building codes and the LDC except where relief is requested. The subject site will be fenced in and screened from the public right of way and closed to the public.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity as the proposed use is compatible with other industrial uses in the area. In addition, there are other structures in the general vicinity that exceed the maximum height permitted. The closest residential use is over 900 ft. away.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public because the structure must be constructed to comply with all building codes. The subject site will be fenced in and secured. The closest residential use is a little over 900 ft. away.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations as the requested height is standard for a concrete plant and there are other structures in the general vicinity that exceed the maximum height requirements.

## **ADDITIONAL CONSIDERATIONS:**

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance does not arise from special circumstances which do not generally apply to the land in the general vicinity or the same zone as the proposed use is compatible with others in the area.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the proposed use can not fit within the 45 ft. height maximum.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant has not started construction and is requesting the variance.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER FROM SECTION 4.4.8.C.2 to allow outdoor storage within 25 feet of a public right of way.**

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waivers will not adversely affect adjacent property owners as the use is compatible with other uses in the area and the outdoor storage areas will be screens with fencing, landscaping, and a masonry wall.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: Community Form Goal 1, Policies 4 of Plan 2040 calls to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District Community Form. Community Form Goal 1, Policy 20 calls to mitigate adverse visual intrusions when there are impacts to residential areas, roadway corridors, and public spaces. The waiver will not violate these guidelines as the property will be screened with fencing, landscaping, and a masonry wall.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as all other site design standards of the Land Development Code will be met on the subject site.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as this property has double street frontage and there is extensive vehicle use areas in the interior of the property due to the nature of the proposed use. The applicant will also provide landscaping around the perimeter of the property.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR LANDSCAPE WAIVER FROM SECTION 10.2.12 to allow a reduction of ILA from 7.5% to 1.33%:**

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners as the land uses in the area are similar in intensity and the perimeter of the subject site will have landscaping and screening.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1, Policy 12 calls for the proposal to Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes. Community Form Goal 1, Policy 20 calls to mitigate adverse visual intrusions when there are impacts to residential areas, roadway corridors, and public spaces. Economic Development goal 2 policy 3 calls to Encourage design elements that address the urban heat island effect and energy efficiency, such as the planting and preservation of trees, cool roofs and green infrastructure, for new development. Applicant is providing ILAs in the employee parking areas as well as landscaping and visual screening around the perimeter of the subject site. The closest residential use to the subject site is over 900 ft. away.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the majority of the vehicle use area will be for heavy truck and industrial use. The applicant is providing landscaping around the perimeter of the subject site as well as ILAs in the employee parking area.

- (d) Either:  
(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR  
(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the majority of the subject site will vehicle use area for heavy trucks and storage for concrete making materials. The applicant will also provide landscaping and screening around the perimeter of the property as well as ILAs in the employee parking area.

## VARIANCE PLAN REQUIREMENT

In accordance with LDC Section 11.5B.1.C (Requirement to Follow Approved Plan), a variance shall be approved only on the basis of the plan approved by the Board and shall be valid only for the location and area shown on the approved plan. All construction and operations must be conducted in accordance with the approved plan and conditions attached to the variance.

## REQUIRED ACTIONS

### APPROVE or DENY:

- **Variance** from section **5.2.5.C.3.d** to allow a proposed structure to exceed the maximum height in EZ-1 zoning district.
- **Landscape Waiver** from section **10.2.12** to allow a reduction of the required interior landscape areas.
- **Waiver** from section **4.4.8.C.2** to allow outdoor storage within 25ft. of a public right of way.

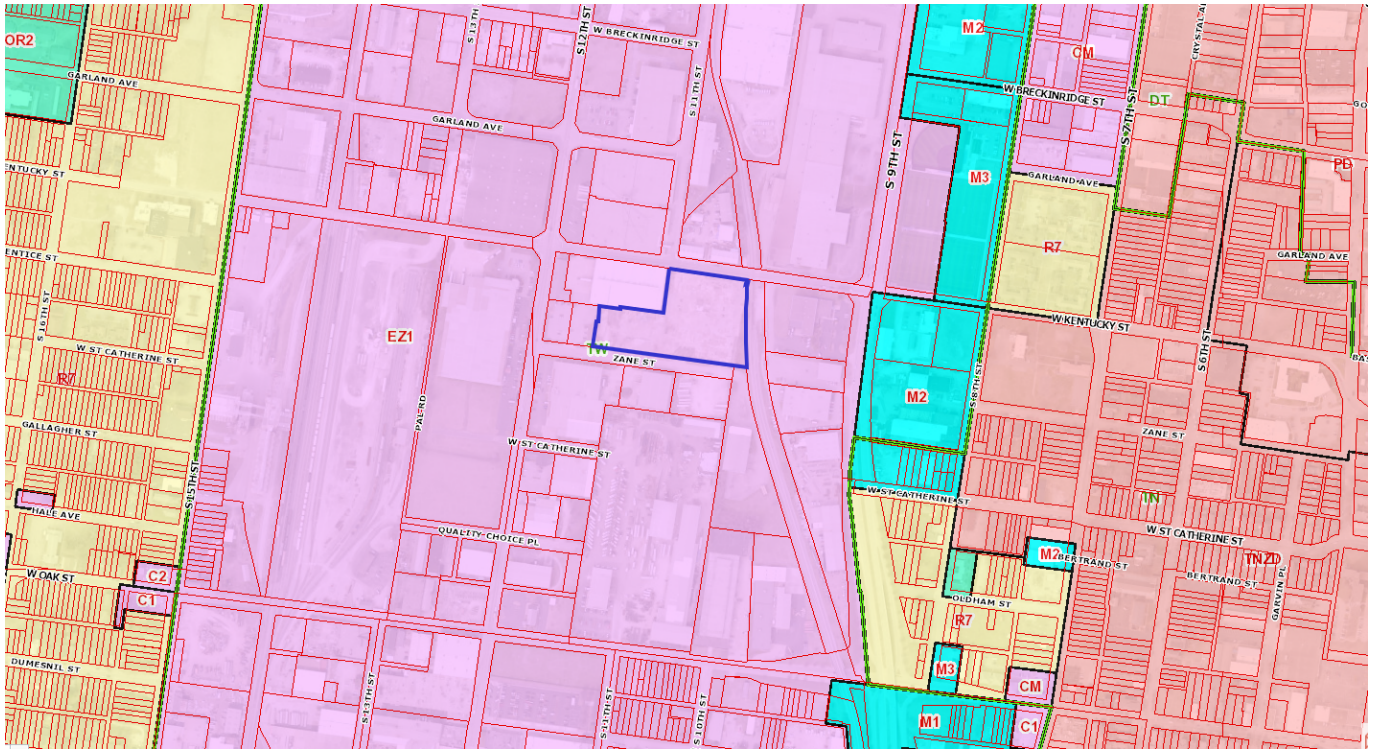
## NOTIFICATION

Date	Purpose of Notice	Recipients
4/17/2023	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 4
4/19/2023	Hearing before BOZA	Notice posted on property

## ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Elevations
5. Site Photos

# 1. Zoning Map

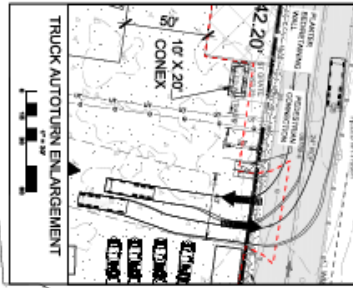


# 2. Aerial Photograph

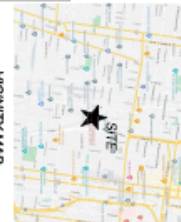


### 3. Site Plan

INSPIRED PEOPLE ► CREATIVE DESIGN ► TRANSFORMING COMMUNITIES



- GENERAL NOTES:**
  1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF KENTUCKY ZONING ORDINANCES AND ALL APPLICABLE REGULATIONS.
  2. THE DEVELOPER SHALL OBTAIN ALL NECESSARY PERMITS FROM THE CITY OF KENTUCKY AND ALL APPLICABLE AGENCIES.
  3. THE DEVELOPER SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.
  4. THE DEVELOPER SHALL MAINTAIN ALL EXISTING UTILITIES AND STRUCTURES UNLESS OTHERWISE NOTED.
  5. THE DEVELOPER SHALL PROVIDE ADEQUATE DRAINAGE AND EROSION CONTROL MEASURES.
  6. THE DEVELOPER SHALL MAINTAIN ALL EXISTING TREES AND LANDSCAPE FEATURES UNLESS OTHERWISE NOTED.
  7. THE DEVELOPER SHALL PROVIDE ADEQUATE LIGHTING AND SECURITY MEASURES.
  8. THE DEVELOPER SHALL MAINTAIN ALL EXISTING SIDEWALKS AND CURBS UNLESS OTHERWISE NOTED.
  9. THE DEVELOPER SHALL PROVIDE ADEQUATE SIGNAGE AND MARKING.
  10. THE DEVELOPER SHALL MAINTAIN ALL EXISTING UTILITIES AND STRUCTURES UNLESS OTHERWISE NOTED.
- LEGEND:**
  - 1.1. EXISTING CONCRETE
  - 1.2. EXISTING ASPHALT
  - 1.3. EXISTING GRAVEL
  - 1.4. EXISTING SOIL
  - 1.5. EXISTING VEGETATION
  - 1.6. EXISTING UTILITIES
  - 1.7. EXISTING STRUCTURES
  - 1.8. EXISTING DRIVEWAYS
  - 1.9. EXISTING SIDEWALKS
  - 1.10. EXISTING CURBS
  - 1.11. EXISTING FENCES
  - 1.12. EXISTING LIGHTING
  - 1.13. EXISTING SECURITY
  - 1.14. EXISTING SIGNAGE
  - 1.15. EXISTING MARKING
  - 1.16. EXISTING UTILITIES
  - 1.17. EXISTING STRUCTURES
  - 1.18. EXISTING DRIVEWAYS
  - 1.19. EXISTING SIDEWALKS
  - 1.20. EXISTING CURBS
  - 1.21. EXISTING FENCES
  - 1.22. EXISTING LIGHTING
  - 1.23. EXISTING SECURITY
  - 1.24. EXISTING SIGNAGE
  - 1.25. EXISTING MARKING



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WIN#12545  
22-CATZ-0060  
22-CATZ-0060

**KLEINGERS GROUP**  
414 Lexington  
Lexington, KY 40502  
781.432.1234  
www.kleingers.com

**CLIENT:** KENTUCKY CONCRETE

**PROJECT:** ADVANCE READY MIX CONCRETE PLANT

**LOCATION:** 12545 WIN, 22-CATZ-0060

**DATE:** 12/2022

**SCALE:** 1" = 40'

**DRAWN BY:** [Name]

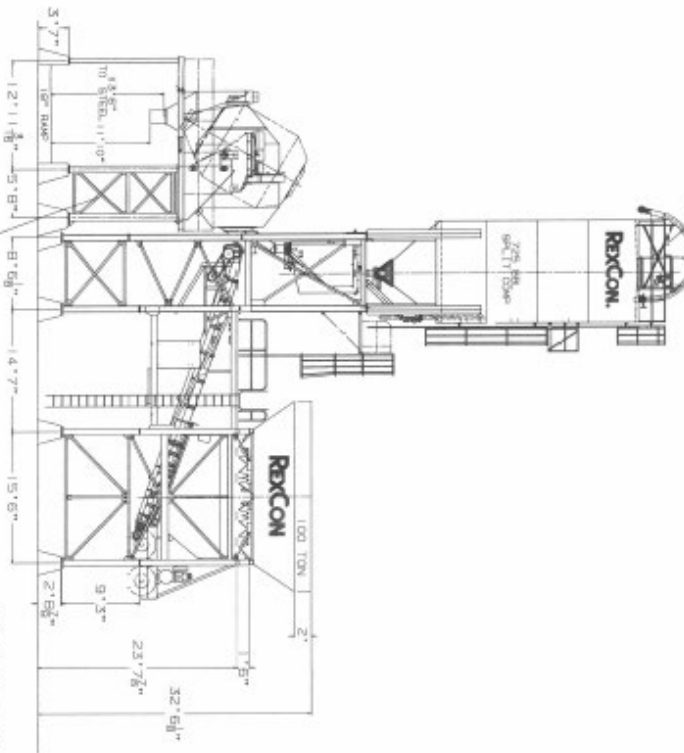
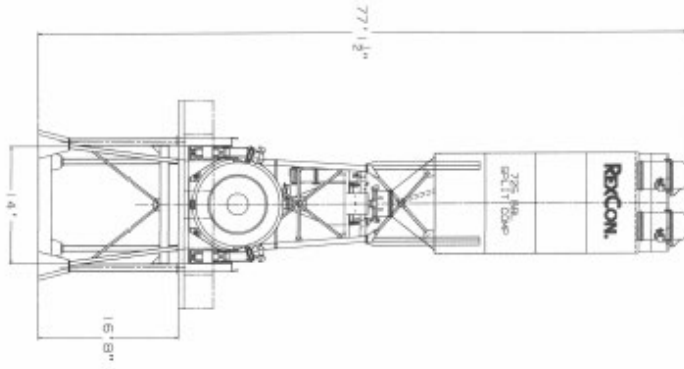
**CHECKED BY:** [Name]

**DATE:** 12/2022

**1 OF 1**

**DEVELOPMENT PLAN**

#### 4. Elevations



**RECEIVED**  
 DWG 21402  
 1-1-2023  
 DESIGN SERVICES

ADVANCE READY MIX

NO.	DATE	BY	CHKD.	DESCRIPTION

3016 APT. 0000



**5. Site Photos**



Subject property from W. Kentucky St. Google, 2022.



Subject property from Zane St. Google, 2019.



Network: Apr 19, 2023 at 10:37:30 AM EDT  
Local: Apr 19, 2023 at 10:37:30 AM EDT

Property to the right.



Network: Apr 19, 2023 at 10:38:18 AM EDT  
Local: Apr 19, 2023 at 10:38:18 AM EDT

Property across W. Kentucky St.