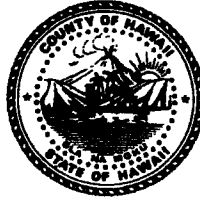


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## County of Hawai'i

### LEEWARD PLANNING COMMISSION

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720  
Phone (808) 961-8288 • Fax (808) 961-8742

NOV - 9 2016

Edward W.K. Haitsuka, Esq.  
Carlsmith Ball LLP  
75-1000 Henry Street, Suite 209  
Kailua-Kona, HI 96740

Dear Mr. Haitsuka:

**SUBJECT: Special Permit No. SPP-16-000190**  
**Applicant: PR Puu Pa, LLC**  
**Permitted Use: Establishment of a Concrete Ready-Mix Batching Plant Facility, Manufacturing and Storage of Concrete Precast Products, and a Base Yard for the Storage of Equipment, Materials, Stockpiling of Aggregate/Sand, and Related Uses and Improvements**  
**Tax Map Key: 6-8-001:001 (Por.)**

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The Leeward Planning Commission, at its duly held public hearing on October 20, 2016 voted to approve the above-referenced request to allow the establishment of a concrete ready-mix batching plant facility, the manufacturing and storage of concrete precast products, and a base yard for storage of equipment, materials, stockpiling of aggregate/sand, and related uses and improvements on an approximately 2.0-acre portion of a 13,285.024-acre parcel of land situated in the State Land Use Agricultural District. The project site is situated on the makai/west side of Māmalahoa Highway approximately one-half (.5) mile to the south of Lalamilo Farm Road, Waikoloa, South Kohala, Hawai'i.

Approval of this permit is subject to the following conditions:

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval.
2. Construction and commencement of the proposed concrete ready-mix batching plant facility, the manufacturing and storage of concrete precast products, and base yard for the storage of equipment, materials, stockpiling of aggregates / sand, and related uses and improvements shall be completed within five (5) years from the effective date of this permit. Prior to construction, the applicant shall secure Final Plan Approval from the Planning Director in accordance with the

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requirements of the Zoning Code. Plans shall identify all existing and proposed structures, signage, fire protection measures, driveway access and parking stalls, outdoor lighting (if any), and other improvements associated with the proposed development. Landscaping shall be indicated on the plans for the purpose of mitigating any adverse noise, dust, and visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements) and Chapter 25 (Zoning Code), Hawai'i County Code.

3. The location, construction and operation, including hours of operation, of the proposed concrete ready-mix batching plant facility, the manufacturing and storage of concrete precast products, and base yard for the storage of equipment, materials, stockpiling of aggregates / sand, and related uses and improvements shall be conducted in a manner that is substantially representative of plans and details contained within the Special Use Permit Application. Any substantial expansion of the facility, operation, or uses beyond what is represented in these documents shall require an amendment to this permit.
4. Applicant shall comply with Chapter 11-55, Water Pollution Control, Hawai'i Administrative Rules, Department of Health, which requires a NPDES permit for certain construction activity and industrial storm water mitigation.
5. Applicant shall comply with Department of Health Air Pollution Rules, Chapter 60.1, Title 11, State of Hawai'i for fugitive dust control.
6. An individual wastewater system, meeting with the standards and requirements of the State Department of Health, shall be installed prior to commencement of the proposed uses.
7. An adequate supply of water shall be made available on-site for fire prevention and pre-suppression as well as dust control.
8. Prior to the issuance of Final Plan Approval, the applicant shall provide State Department of Transportation-Highways Division (DOT) and the Planning Department a traffic assessment letter stamped by a licensed traffic engineer indicating that the discussion and any conclusions related to traffic impacts has

been reviewed, found to be reasonable and are in accordance with accepted traffic engineering practices. Should this assessment letter not be provided, the applicant shall prepare a traffic impact analysis report for the review and approval of the DOT and provide all recommended traffic mitigation measures prior to the commencement of operations.

9. Prior to commencing operations, the applicant shall restore that portion of the roadway, within the State highway right-of-way and directly fronting the access easement to Tax Map Key 6-8-001:008, to current Hawai'i DOT driveway standards to the satisfaction of the Highways Division Hawai'i District Engineer.
10. The applicant shall comply with all other rules and requirements of the State DOT.
11. At the time of submission of plans for Plan Approval, the applicant shall submit written confirmation from State DOT Airports Division that proposed plans adequately address aviation concerns relative to wildlife, reflective surfaces, fugitive dust, night time operation and high intensity lighting.
12. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations, and requirements.
13. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials, be encountered, work in the immediate area shall cease and the DLNR-SHPD shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-SHPD when it finds that sufficient mitigative measures have been taken.
14. An extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:
  - A. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence.
  - B. Granting of the time extension would not be contrary to the General Plan or Zoning Code.


- C. Granting of the time extension would not be contrary to the original reasons for the granting of the permit.
  - D. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).
15. Should any of these conditions not be met or substantially complied with in a timely manner, the Planning Director may initiate procedures to revoke this permit.

This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies

Approval of this permit is based on the reasons given in the attached Findings Report.

Should you have any questions, please contact Christian Kay of the Planning Department at 961-8136.

Sincerely,



Keith F. Unger, Chairman  
Leeward Planning Commission

LPRPuuPaSPP16-190wpc  
Enclosure: PC Findings Report

cc: PR Puu Pa, LLC  
Department of Public Works  
Department of Water Supply  
County Real Property Tax Division - Hilo  
Department of Land & Natural Resources - HPD  
State Land Use Commission  
State Department of Transportation  
Mr. Gilbert Bailado

**COUNTY OF HAWAI'I**  
**PLANNING COMMISSION FINDINGS**

**PR PUU PA, LLC**

**SPECIAL PERMIT APPLICATION NO. 16-000190 (SPP 16-190)**

Based on the following, Special Permit No. 16-000190 is hereby approved by the Planning Commission to establish a concrete ready-mix batching plant facility, the manufacturing and storage of concrete precast products, and base yard for the storage of equipment, materials, stockpiling of aggregates/sand, and related uses and improvements on an approximately 2.0 acre portion of a 13,285.024 acre parcel of land situated within the State Land Use Agricultural District.

The project site is located on the makai/west side of Māmalahoa Highway approximately one-half (.5) mile to the south of Lalamilo Farm Road,, Waikoloa, South Kohala, Hawai'i, TMK: 6-8-001:Por. 001.

PR Puu Pa LLC is seeking a Special Permit to allow for the establishment of a concrete ready-mix batching plant facility, the manufacturing and storage of concrete precast products, and base yard for the storage of equipment, materials, stockpiling of aggregates / sand, and related uses and improvements, encompassing an approximately two (2)-acre portion of the 13,285.024-acre parcel. An approximately 0.75-acre portion of the two (2)-acre Project Area will be utilized for the concrete ready-mix batching plant facility and water catchment tank and base yard, with the remaining 1.25-acre portion of the Project Area to be utilized for the manufacturing and storage of concrete precast products. An on-site, graveled employee parking area will accommodate six (6) vehicles and no customers will access the Project Area. A landscaping buffer has been planted to mitigate noise, visual, and dust impacts.

According to the applicant, the proposed Project will be operated by Kohala Coast Concrete & Precast, LLC ("Project Operator"), who will enter into a lease with the Applicant when the Special Permit is issued. The Project Operator currently operates a similar ready-mix batching plant facility in Kawaihae. This facility has outgrown its current space and is inadequate to meet its operational needs. The Project Operator's sister company, Edwin DeLuz Trucking & Gravel, LLC operates a base yard located on the adjoining parcel at to the east of the Project Area, a base yard in Pa'auilo and quarry operations in Āhualoa and Waimea. The Project Operator's various business operations primarily support the needs of businesses, governmental entities and others in the Hāmākua, South Kohala, North Kohala and Kailua-Kona communities. Consolidation of the Project Operator's business operations to a centralized location within close proximity to its other existing operations will promote operational and management efficiency and effectiveness, reduce operational costs, and mitigate impacts of its operations on community resources (i.e., reduction of traffic on public roadways, noise, vehicular exhaust and consumption of fuel). Proposed full crew operating hours will be from 5:30 a.m. to 3:00 p.m., Monday through Friday. Reduced crew operations will occur Saturday from 5:30 a.m. to noon. The proposed project will employ seven (7) full-time employees.

The project operator anticipates commencing operation of the concrete ready-mix batching plant operation immediately upon issuance of all required permits and approvals. The concrete pre-cast operations will commence approximately one (1) year after the batching plant is fully operational.

The grounds for approving a Special Permit are based on Rule 6-6 in the Planning Commission Rules of Practice and Procedure. It states that the Planning Commission shall not approve a

Special Permit unless it is found that the proposed use (a) is an unusual and reasonable use of land situated within the Agricultural District; and (b) the proposed use would promote the effectiveness and objectives of Chapter 205, Hawai'i Revised Statutes, as amended.

**The proposed use is an unusual and reasonable use of land situated within the State Land Use Agricultural District and would promote the effectiveness and objectives of Chapter 205, Hawai'i Revised Statutes (HRS), as amended.** The State Land Use Law and Regulations are intended to preserve, protect, and encourage the development of lands in the state for those uses to which they are best suited in the interest of the public health and welfare of the people of the State of Hawai'i. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. In recognizing that lands within the Agricultural district may not be best suited for agricultural activities and yet classified as such, and in recognition that certain types of uses might not be strictly agricultural in nature, yet reasonable in such districts, the legislature has provided for the Special Permit process to allow certain unusual and reasonable uses within the Agricultural District.

The request is considered unusual in that the proposed concrete ready-mix batching plant facility, the manufacturing and storage of concrete precast products, and base yard for the storage of equipment, materials, stockpiling of aggregates / sand, and related uses and improvements has no direct relationship to any potential agricultural activities that could be conducted upon the property. Although the property is designated for agricultural uses by both the State Land Use Commission and the County Zoning Code, its soils are classified as "E" or "Very Poor" for agricultural productivity by the Land Study Bureau and unclassified by the Agricultural Lands of Importance to the State of Hawai'i (ALISH) Map and are considered very poor and not optimal to support agricultural activities, except for pasture use. In addition, the proposed Project Area will utilize a total area of two (2) acres which represents 0.0002% of the entire 13,285.024-acre property. The remaining 13,283.024 acres will continue to remain in active open pasture and ranching use by Parker Ranch. Given the Project Area's low productivity potential, need for high inputs, is not suitable for agricultural activity. Therefore, construction of the concrete ready-mix batching plant facility, the manufacturing and storage of concrete precast products, and base yard for the storage of equipment, materials, stockpiling of aggregates / sand, and related uses and improvements will not reduce the inventory of productive lands available for agricultural uses. Based on the above circumstances, approval of the request would not be contrary to the objectives of the State Land Use Law Rules and Regulations given the subject conditions.

In addition to the above listed criteria, the Planning Commission shall also consider the following criteria listed under Section 6-3(b)(5) (A) through (G) of its rules of practice and procedure:

**(A) Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.** As mentioned previously, approval of this request will not be contrary to the objectives of the State Land Use Law and is considered an unusual and reasonable use of the agricultural land due to the poor soil quality that is not conducive to agricultural activities. Therefore, the proposed request will not adversely affect the preservation and agricultural use of the County's prime agricultural lands.

**(B) The desired use would not adversely affect surrounding properties.** . The surrounding properties in this region are a combination of vacant lands utilized for agricultural pursuits such as cattle grazing and ranching operations, single-family and farm dwellings, the

Parker Ranch Arena, DHHL Pu'ukapu Homesteads, and commercial operations. Lands to the immediate east of the Project Area are zoned Light Industrial (ML-20) and consist of industrial-type operations (DeLuz Trucking & Gravel base yard and Waimea Self Storage facility). The DeLuz Trucking & Gravel base yard will serve as the operational headquarters for the proposed Project. The closest residences are located in the Lālamilo Farm Lots which are located approximately 2,100 feet north of the Project Area's northern boundary. The Kohala-Waimea Airport is located on the mauka/easterly side of Māmalahoa Highway approximately a half-mile southeast of the Project Area and Waimea Town is located approximately 1.25 miles to the north.

The subject two (2)-acre Project Area and surrounding lands are zoned Agricultural (A-5a) and is encompassed by the remaining 13,283.024-acre portion of the subject Property along the northern, southern and eastern boundaries. The Project Area is currently partially fenced along its southern and eastern boundaries and will be entirely fenced prior to the commencement of operations.

The batching plant consists of a central dust control filtration system and truck mixer shroud that discharges dust directly into the cement batcher which substantially mitigates fugitive dust and noise exposure. Additionally, the applicant has planted landscaping buffers of Paperbark trees to the north and Podocarpus Neriifolius and Ficus Benjamina trees to the south to mitigate fugitive dust exposure, noise, and visual impacts.

Finally, the applicant has stated that it they will obtain a noncovered source permit per Department of Health rules. According to the State Department of Health, the applicant will need to meet the requirements of Department of Health Air Pollution Rules, Chapter 60.1, Title 11, State of Hawai'i Fugitive Dust Control. Compliance with these regulations will be a condition of this permit.

The subject parcel is located within a 5 mile radius of the Kohala-Waimea Airport. According to the State Department of Transportation-Airports Division, the subject property is located 0.45 miles from the northwesterly of the Air Operations Area of the Waimea-Kohala Airport. Due to this close proximity the Airports Division cited the potential for impacts on the Project Area, from airport operations including smoke, fumes, vibrations, odor, etc. They were also concerned that while the application proposed a 25-foot high batching plant apparatus, the sample photo submitted with the application looked closer to 50 feet in height which would trigger the need for an FAA permit. They also indicated that the photo appeared to have high-intensity lighting fixtures, which could potentially impact airport operations at night. The applicant has stated that they will cease operations at 3 PM, so here will be no nighttime operations. They were also concerned that truck washing operations might inadvertently create areas of standing water which might attract hazardous wildlife. Finally, they were concerned that due to the prevailing winds and the nature of the proposed activity, there is a potential for fugitive dust to impact airport operations. As stated above, the applicant will be required to meet the requirements of Department of Health Air Pollution Rules, Chapter 60.1, Title 11, State of Hawai'i Fugitive Dust Control. The applicant will be required to address these concerns as a condition of permit approval.

The applicant anticipates that the proposed project approximately five (5) daily round trips, with only two anticipated for the AM peak hours and none form the PM peak hours as operations will cease at 3:00 pm. As such, the applicant does not anticipate the proposed project to generate significant additional traffic to the area.

DOT Highways Division indicated that the applicant is required to obtain a traffic assessment letter from a licensed traffic engineer indicating that the discussion and any conclusions represented by the applicant relative to traffic impacts from the proposed project has been reviewed, found to be reasonable and are in accordance with accepted traffic engineering practices. If not, a traffic assessment report must be prepared and submitted to the Hawaii DOT for review and acceptance. In addition, they required that the applicant repair the roadway, within the State highway right-of-way, to current Hawaii DOT driveway standards to the satisfaction of the Highways Division Hawai'i District Engineer prior to commencing operations. They also indicated that the movement of vehicles and loads onto the State highway would not exceed the provisions of Hawai'i Revised Statutes Chapter 291, Sections 34, 35 and 36 without an approved special permit. Finally, they required the applicant to provide for prompt removal of debris generated by their operations from the access road and ensure all vehicles have been cleared of any loose materials. Compliance with these requirements will be a condition of permit approval.

The Project Area is relatively isolated from residential uses and is in close proximity to other industrial-types of activities have. All required measures to minimize traffic, dust, and noise shall be adhered to by the applicant. Therefore, the proposed use is not anticipated to adversely affect surrounding properties.

**(C) Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection.** Access to the Project Area is from Māmalahoa Highway, which is a paved, two-lane, State Department of Transportation (DOT) owned and maintained roadway which connects to a private 40-foot wide easement that the applicant has over TMK (3) 6-8-001:008, CPR Units 1, 2, and 3. The easement consists of an asphalt paved roadway over Units 1 and 2 and a gravel roadway over Unit 3. The Project Area will be entirely fenced to include a security gate, and access onto the Project Area will be strictly limited to the proposed Project employees. Fire and emergency access will be coordinated with the Fire Department. The applicant does not anticipate any sight distance concerns given the relatively flat terrain along Māmalahoa Highway in this area.

The subject property is not currently serviced by the County sewer system. According to the applicant, a portable toilet would be made available for employee use, however, per Hawai'i Administrative Rules 11-62-06 (e) related to Wastewater Systems, "No portable toilets shall be used for any permanent structure unless approved by the director." Based on the preceding, the applicant will be required to install an individual wastewater system meeting with the requirements of the State Department of Health.

For wastewater related to the proposed concrete ready-mix operations, green water and green solids associated with the concrete truck washout will be recaptured in holding bins to be reused in subsequent batching operations. Removal of wastewater associated with the proposed operations is subject to federal and state clean water regulations. According to the State Department of Health, the applicant must determine the need for a Section 401 Water Quality Certification, a National Pollution Discharge Elimination System (NPDES) permit, and any other applicable federal permits from the US Army Corps of Engineers prior to construction and commencement of operation. Compliance with these regulations will be a condition of this permit.



The applicant is proposing to utilize a 10,000-gallon, metal rainwater catchment tank to support the proposed project operations and fire protection purposes. The applicant anticipates using approximately 5,000 gallons per day for concrete ready-mix and truck washout operations. Water for concrete precast and landscaping uses will come from the same source. The remaining 5,000 gallons will be dedicated to fire protection purposes. Of the required 2,800 gallons of water per day needed for truck washout, 67% of the green water will be recaptured into a holding bin to be re-used by subsequent batching operations. The Project Operator will ensure sufficient water levels in the catchment tank by trucking in water as necessary. Bottled water for drinking will be made available to employees. According to the Department of Water Supply (DWS), the subject parcel is served by an existing 5/8" meter, which is limited to one unit of water (average of 400 gallons per day). The existing water system cannot support any additional water to the property, however they have no objection to the proposed use of rainwater catchment system.

Electric and telephone services are available to the Project Area and police, fire and medical services are available nearby in Waimea Town.

Based on the above, the proposed use will not unreasonably burden public agencies to provide services or infrastructure.

**(D) Unusual conditions, trends, and needs have arisen since district boundaries and regulations were established.** In the 1960's and 1970's, the State's Agricultural district boundaries and regulations were established and subsequently amended pursuant to HRS Chapter 205. The State Land Use Commission was created in 1961, and interim regulations and temporary district boundaries became effective in 1962. Subsequently, the regulations and Land Use District Boundaries became effective in August of 1964. Since the district boundaries and regulations were established, the allocation of industrial zoned lands in Waimea has not kept pace with the demand for these types of uses which has resulted in the absence of appropriately zoned areas. Through the issuance of a Special Permit, a community may establish various non-agricultural services that may not be available or allowed by zoning for the rural and agricultural communities in which they are located. Continuing the industrial type uses in the area will allow for productive use of this land, which would not be contrary to the objectives of HRS Chapter 205, which seeks to protect lands that have a high potential of being agriculturally productive from inappropriate or premature development.

**(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district.** The subject property is rated "E" or "Very Poor" for agricultural productivity by the Land Study Bureau and unclassified by the ALISH Map. The soils in this area are not suitable for many types of agricultural uses. Finally, the immediate surrounding area is industrial in nature with surrounding activities existing of a trucking base yard and a self-storage facility.

**(F) The use will not substantially alter or change the essential character of the land and the present use.** The Project Area and surrounding lands are predominantly comprised of cattle grazing and ranching operations, truck crop farming, and commercial operations at the Waimea-Kohala Airport and the Hawai'i Island Humane Society. In addition, the adjoining industrial-type operations at the Edwin DeLuz Trucking & Gravel, LLC base yard and Waimea Self Storage facility, have operated for over 38 years without any record of complaints from area residents. The proposed Project will be setback over 950 feet makai/west of Māmalahoa Highway and is approximately 2,100 feet to the south from the Lālamilo Farm Lots. Further, the Project Area is encompassed by the remaining 13,283.024-acre portion of the

Property along its northern, southern and eastern boundaries, and existing landscape buffers will protect view planes from Māmalahoa Highway and surrounding properties. Therefore, the essential character and use of the proposed Project would be consistent with the essential character of land and surrounding uses in the vicinity.

**(G) The request will not be contrary to the General Plan and official Community Development Plan and other documents such as Design Plans.** The Land Use Pattern Allocation Guide (LUPAG) Map component of the General Plan is a representation of the document's goals and policies to guide the coordinated growth and development of the County. It reflects a graphic depiction of the physical relationship among the various land uses. The LUPAG Map establishes the basic urban and non-urban form for areas within the County. The General Plan LUPAG Map designates the Project Area as Extensive Agriculture (EA) which are lands with better potential for sustained high agricultural yields because of soil type, climate, topography, or other factors. The goal of the Agricultural District and one of the Agriculture policies under the Land Use element of the General Plan provide for the protection and maintenance of important agricultural lands on the island of Hawai'i. As previously mentioned, the soils on the property are classified as "E" or "Very Poor. In addition, the proposed Project Area is only a two (2) acre which represents 0.0002% of the entire 13,285.024-acre property. As such, the proposed use is unlikely to displace any active or potential agricultural activity on the property. The project would complement the following goals and policies of the General Plan:

Economic Element:

- Economic development and improvements shall be in balance with the physical and social environments of the island of Hawai'i.

Land Use Element – Industrial:

- Industrial development shall be located in areas adequately served by transportation, utility, and other essential infrastructure.
- Industrial development should be in harmony with surrounding uses and the environment.
- Industrial activities may be located close to raw materials or key resources.
- Topography of industrial land shall be reasonably level.
- Buffer zones shall be established between industrial and adjacent incompatible uses of land.

The South Kohala Community Development Plan (SKCDP) was adopted by the Hawai'i County Council by Ordinance No. 08-159 on November 20, 2008. The Waimea Town Concept Plan adopted as part of the SKCDP covers the Project Area and depicts the Project Area within the industrial zoned planned development area, therefore the proposed project would be consistent with the SKCDP.

**The proposed use is not contrary to the objectives sought to be accomplished by Chapter 205A, Hawai'i Revised Statutes, relating to the coastal zone management program.** An Archaeological Assessment Survey (AAS) was conducted in September, 2015 by Haun and Associates and covers the two (2) - acre Project Area. The Department of Land and Natural Resources-State Historic Preservation Division by letter dated April 21, 2016, issued a "no historic properties affected" determination letter for the proposed project.

The Project Area is not located within the SMA and is located over nine (9) miles from the nearest shoreline and does not contain streams or waterways that empty into the sea and therefore will not cause beach erosion or affect marine resources, coastal ecosystems, and coastal recreational opportunities. Nor will the property be affected by coastal hazards. The property is

located well outside of the Special Management Area (SMA) and tsunami evacuation zone. Additionally, there is no designated public access to the shoreline areas or mountain areas over the property. Therefore, the proposed use is not contrary to the objectives of Chapter 205A, Hawai'i Revised Statutes.

Lastly, this approval is made with the understanding that the applicant remains responsible for complying with all other applicable governmental requirements in connection with the approved use, prior to its commencement or establishment upon the subject properties. Additional governmental requirements may include the issuance of building permits, the installation of approved wastewater disposal systems, compliance with the Fire Code, installation of improvements required by the American with Disabilities Act (ADA), among many others. Compliance with all applicable governmental requirements is a condition of this approval; failure to comply with such requirements will be considered a violation that may result in enforcement action by the Planning Department and/or the affected agencies.