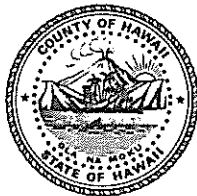


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 Fax (808) 961-9615

CERTIFIED MAIL
Z 416 228 843

September 28, 1995

Ms. Carla L. Bateman
145 Palani Street
Hilo, HI 96720

Dear Ms. Bateman:

Special Permit Application No. 95-12

Applicant: Bolton, Inc.

Request: Establish a Contractor's Baseyard, Administrative Office
and Other Related Improvements

Tax Map Key: 7-8-6:64

The Planning Commission at its duly held public hearing on September 14, 1995, voted to approve the above-referenced application. Special Permit No. 912 is hereby issued to establish a contractor's baseyard, administrative office and other related improvements on approximately 3.00 acres of land situated within the State Land Use Agricultural District. The property is located along the Old Mamalahoa Highway approximately 600 feet north from the Old Mamalahoa Highway-Kuakini Highway intersection, Keauhou, North Kona, Hawaii.

Approval of this request is based on the following:

Such use is not contrary to the objectives sought to be accomplished by the land use law and regulations. The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, 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 Hawaii. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. The proposed project will be located within an area whose soils are classified as "E" or "Very Poor" by the Land Study Bureau's Overall Master Productivity Rating and unclassified by the Department of Agriculture's ALISH map.

In recognizing that lands within agricultural districts might 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.

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The subject property is situated within the County's Agriculture 5-acre (A-5a) zone district. The proposed contractor's baseyard operation would be situated on a 3.00-acre portion of a 5.00-acre parcel of land. The proposed 3.00 acres of land that will be taken out of the agricultural inventory for this area will not significantly affect the agricultural resource of the area. The proposed use will be confined to an area which is presently being quarried, and three surrounding parcels have been granted Special Permits--for a Department of Water Supply baseyard, a bus maintenance yard, and the Bonsai Visitor Center. No additional lands will be taken out of production to provide the area necessary to establish this use.

Therefore, based on the above circumstances, approval of the subject request would not be contrary to the objectives of the State Land Use Law Rules and Regulations given the subject conditions. The proposed use would not displace agricultural activity nor diminish the agricultural potential of the area since this parcel has not been in agricultural use in years. Therefore, the proposed use would not be contrary to the objectives of the State Land Use Law for the Agricultural district.

The desired use will not adversely affect the surrounding properties. The subject property is currently vacant. The site is located between the former Fuku Bonsai Visitor Center and a vacant lot to the north. Also to the north is the Department of Water Supply baseyard; to the west is the Yamaguchi Bus maintenance yard; and to the east is the Kahaluu Farm Lots Subdivision. The depth of the subject parcel to the rear where it abuts the Kahaluu Farm Lots Subdivision is approximately 437 feet. The proposed construction baseyard will be located within 300 feet from the property's frontage on Mamalahoa Highway. The topography of the subject property is such that there is a difference in elevation between the rear of the subject property and the west property line of the Kahaluu Farm Lots Subdivision. As such, there is a natural buffer, in terms of height between the proposed construction baseyard and the Kahaluu Farm Lots Subdivision. The facility will be naturally screened by this change in topography. In addition, there will be a condition of approval to require landscaping in the form of trees to further mitigate any visual impacts which may result from the Kahaluu Farm Lots Subdivision. The property is of sufficient size to allow for adequate setbacks and buffers that will minimize any physical, social or other impacts that this construction baseyard may have on the area.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water drainage and police and fire protection. The site is currently served by water, telephone and electrical utilities. There would be an increase to traffic from the construction baseyard, but not to a significant amount which would adversely impact Mamalahoa Highway. In addition, the Department of Public Works is also planning to resurface this portion of the Mamalahoa Highway to a pavement width of 20 feet with 1-foot shoulders. In addition, the proposed construction baseyard has not generated concerns for additional services as reflected in agency responses. All requirements of the Department of Health, Department of Public Works, Department of Water Supply and Fire Department shall be complied with prior to establishment of the proposed use.

The land upon which the proposed use is sought is not unsuitable for the uses permitted within the district. The soils within the project area are not suitable for many types of agriculture uses. The nature of the request is to allow for the permanent establishment of a construction baseyard. The only industrial zoned properties are in Kailua and north of Kailua Village. There are no industrial zoned properties beyond Kailua and in South Kona or Kau. The subject property's soil classification is rated "Very Poor" by the Soil

Conservation Service Soil Survey Report. The subject area is central to the North and South Kona and Kau areas which it will service. There have already been five Special Permits granted in the area, two of which are industrial in nature.

The use will not substantially alter or change the essential character of the land and the present use. The proposed use will alter the character of the land, but not to the extent that it will be detrimental to the area. The property is presently vacant. The applicant intends to construct a new 18,000-square foot warehouse building for storage, equipment maintenance and fabrication of pre-cast concrete products, a 2,400-square foot office building with 22 off-site parking stalls and landscaping. Any future structures shall be conditioned to be approved by the Planning Director through the Plan Approval process. This condition of approval will help ensure that the structural, visual and public safety concerns will be mitigated to the best extent possible.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. The rapid residential growth experienced in North and South Kona and Kau has resulted in an increase in the customer base for construction activities. However, light industrial development has not occurred at the same pace in the North Kona, South Kona and Kau districts. There are no existing, developed, appropriately zoned lands on which to operate the construction baseyard needed to adequately maintain those expanding facilities and serve the growing area of North Kona, South Kona and Kau. To meet this demand, the applicant is seeking to establish a construction baseyard facility in a central location on 3.00 acres of land. Therefore, no existing or proposed areas for agricultural activities will be curtailed or diminished as a result of the establishment of this activity on this property. As such, other undeveloped areas are still available for agricultural development and the removal of 3.00 acres of land from the agricultural inventory will not have a detrimental impact on the agricultural resources of the area or the County of Hawaii.

The request is not contrary to the General Plan. The subject request is contrary to the General Plan LUPAG map, which designates the property for Orchards uses. However, the soil classification rating for the subject area is "E" or "Very Poor" by the Soil Conservation Service Soil Survey Report. The request would also support the General Plan's goals and policies of the Economic, Public Utilities, Land Use (Industrial) Elements of the General Plan.

Based on the above considerations, the proposed construction baseyard and related improvements are an unusual and reasonable use of land, which would not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.

Approval of this request 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. The applicant shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury or death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors and agents under this permit or relating to or connected with the approval of this permit.

3. A metes and bounds description of the 3.00-acre area for the construction baseyard in written and map form shall be submitted to the Planning Department within one (1) year from the effective date of this Special Permit.
4. Final Plan Approval shall be secured for the construction baseyard and related improvements. Plans shall identify structures and parking associated with the proposed construction baseyard operation, including landscaping where appropriate. All driveway, loading and unloading and parking areas shall be paved with an all weather dust free surface. The landscaping plan shall include tree form landscaping around the perimeter of the proposed construction baseyard. The tree plantings at the rear should be designed to be heavily dense so as to mitigate any impacts to the Kahaluu Farm Lots Subdivision. Any future related uses and structural development related to the construction baseyard shall also be required to secure Final Plan Approval from the Planning Director.
5. The construction baseyard use and related activities shall be completed within two (2) years from the effective date of Final Plan Approval.
6. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, paving or walks be encountered, work in the immediate area shall cease and the Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken.
7. The applicant shall comply with all applicable agency requirements, including those of the Department of Water Supply, Department of Health and the Department of Public Works.
8. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the permit. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with, and a detailed listing of public complaints or problems and their disposition. If the applicant fails to comply with the conditions of approval or is unable to resolve any public complaint(s), the Planning Director shall investigate and, if necessary, enforce the appropriate conditions. The Planning Director may, as part of any enforcement action or remedial effort, refer the matter to the Planning Commission for review. Upon appropriate findings by the Planning Commission that the applicant has failed to comply with the conditions of approval or has caused an unreasonable adverse impact on surrounding properties, the permit may be suspended or revoked. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
9. An extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:
 - A) 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.


Ms. Carla L. Bateman
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- 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).
10. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the 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.

Should you have any questions, please feel free to contact Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,

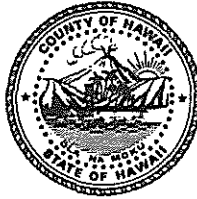


Edward E. Crook, Chairman
Planning Commission

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cc: Honorable Stephen K. Yamashiro, Mayor
Planning Director
Department of Public Works
Department of Water Supply
County Real Property Tax Division
Department of Health
West Hawaii Office
State Land Use Commission
Department of Land & Natural Resources
Plan Approval Section
Mr. Daniel Bolton/Bolton, Inc.

Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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CERTIFIED MAIL
Z 095 323 759

SEP 20 1996

Mr. Daniel Bolton
Bolton, Inc.
P.O. Box 898
Kailua-Kona, HI 96745

Dear Mr. Bolton:

Special Permit (SPP 912)

Applicant: Bolton, Inc.

Request: Revocation of Special Permit No. 912 Which Allowed the Establishment
of a Contractor's Baseyard, Administrative Office and Other Related Improvements

Tax Map Key: 7-8-6:64

The Planning Commission, at its duly held public hearing on September 19, 1996, voted for the revocation of Special Permit No. 912, which allowed the establishment of a contractor's baseyard, administrative office and other related improvements on approximately 3 acres of land situated within the State Land Use Agricultural District. The property is located along the east (mauka) side of Old Mamalahoa Highway approximately 600 feet north of the Old Mamalahoa Highway-Ha'awina Street intersection at Keauhou 1st, North Kona, Hawaii.

The applicant had requested the revocation of Special Permit No. 912 because the Deposit Receipt Offer and Acceptance for the subject property had expired. Therefore, Special Permit No. 912 is hereby revoked.

Sincerely,

Kevin M. Balog, Chairman
Planning Commission

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cc: Honorable Stephen K. Yamashiro, Mayor
Land Use Commission
Department of Public Works
Real Property Tax Office
Jon R. Ono, Esq.
Ms. Carla Bateman
West Hawaii Office

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