

Stephen K. Yamashiro  
Mayor



Virginia Goldstein  
Director

Russell Kokubun  
Deputy Director

## County of Hawaii

### PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252  
(808) 961-8288 • Fax (808) 961-8742

#### CERTIFIED MAIL

Z 179 517 259

April 13, 1998

Mr. Pete M. Matsuda, President  
M. Matsuda Nursery, Inc.  
P. O. Box 4010  
Hilo, HI 96720

Dear Mr. Matsuda:

PUD 57

PLANNED UNIT DEVELOPMENT APPLICATION (PUD 97-04)  
AMENDMENT TO VARIANCE 89-6  
Applicant: M. MATSUDA NURSERY, INC.  
Tax Map Key: (3) 2-4-05:38, 151, 155

After reviewing the information submitted with the Planned Unit Development Application, the Planning Director certifies the approval of the Planned Unit Development (PUD) as proposed to allow the creation of 11 agricultural lots with certain waivers for roadway improvements and setbacks from proposed Road Lot A. The Amendment to Variance 89-6 is to allow additional lots not being served by a water system meeting the minimum water requirements of the Department of Water Supply. The project site is situated east (Puna) side of Waikahe Road, approximately 3,800 feet south from its intersection with Ainaola Drive, Waiakea Homesteads, South Hilo, Hawaii, TMK: 2-4-05:38, 151, 155.

#### FINDINGS:

1. M. Matsuda Nursery, Inc. is the developer of this Project.
2. In accordance with Section 25-247 of the Zoning Code, the proposed 7 lot subdivision and 4 lot subdivision are permitted under the existing Agricultural zoning (A-3a) of the property. The total land area of this PUD is 36.281 acres.

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3. In accordance with requirements of Section 25-251(Finding by Planning Department to approve P.U.D.) The construction on the project shall begin within a reasonable period of time from the date of full approval and shall be completed within a reasonable period of time.

The applicant has submitted Subdivision Applications and will proceed with preparation of the final subdivision map and engineering drawings upon receipt of the PUD Permit. The proposed Planned Unit Development will be developed as soon as all other necessary governmental approvals have been secured in conjunction with the Subdivision Applications.

4. The proposed development substantially conforms to the General Plan.

The following General Plan elements goals, policies and standards of action are in conformance with the proposed Planned Unit Development.

#### **AGRICULTURE ELEMENT**

The following goals and policies are intended to address some of the land related problems of agriculture and are to be consistent with and supportive of the overall land use element.

##### **GOAL**

Identify, protect and maintain important agriculture lands on the island of Hawaii.

##### **POLICIES**

Zoning shall protect and maintain important agricultural lands from urban encroachment. New approaches to preserve important agricultural land shall be implemented by the County.

The County shall assist in the development of basic resources such as water, roads, transportation and distribution facilities for the agricultural industry.

Rural-style residential-agricultural developments, such as new small-scale rural communities or extensions of existing rural communities, shall be encouraged in appropriate locations.

The County shall develop subdivision standards which make a distinction between agricultural and urban land uses.

Designate, protect and maintain important agricultural lands from urban encroachment. New approaches to preserve important agricultural land shall be implemented by the County.

### **HOUSING ELEMENT GOALS**

Attain safe, sanitary and livable housing for the residents of the County of Hawaii. Attain a diversity of socioeconomic housing mix throughout the different parts of the County. Maintain a housing supply which allows a variety of choice. Develop better places to live in Hawaii County by creating viable communities with decent housing and suitable living environments for our people. Improve and maintain the quality and affordability of the existing housing stock. Seek sufficient production of new affordable rental and fee-simple housing in the County in a variety of sizes to satisfactorily accommodate the needs and desires of families and individuals. Ensure that housing is available to all persons regardless of age, sex, marital status, ethnic background and income. The cornerstone of the County's Housing programs and activities shall continue to be the encouragement and expansion of appropriate home ownership opportunities for our residents.

### **POLICIES**

The County shall encourage a volume of construction and rehabilitation of housing sufficient to meet growth needs and correct existing deficiencies. The County shall initiate and participate in activities with the private sector including the provision of leadership and expertise to neighborhoods and nonprofit organizations in the development of housing and community development projects.

## **LAND USE ELEMENT GOALS**

Designate and allocate land use in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.

## **POLICIES**

Promote and encourage the rehabilitation and use of urban and rural areas which are serviced by basic community facilities and utilities. The County shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.

The proposed Planned Unit Development will implement the above goals and policies of the applicable element of the General Plan, in particular with the above cited elements.

5. All commercial and residential development shall constitute an environment of sustained desirability and stability, shall be in harmony with the character of the surrounding neighborhood and shall result in an intensity of land utilization no higher than, and standards of open space at least as high as permitted or as otherwise specified for the district in which this development occurs.

The applicant's design concept for the proposed Planned Unit Development is to provide a 11 lots. The maximum number of lots allowable under the present zoning, Agricultural-3 acres (A-3a), is 12 lots. The access to the subdivision will be from Waikaha Street. The surrounding land uses in the general vicinity of the subject property consist of single family residential and agricultural uses and vacant parcels of land zoned Agricultural-20 acres (A-20a), Agricultural-3 acres (A-3a), and Agricultural-1 acre (A-1a). Thus, the land utilization will be no higher than the general vicinity and that which has been permitted for the development.

6. The development of a harmonious, integrated whole justifies exceptions, if required, to the normal requirements of the Zoning and Subdivision Codes, and that the contemplated arrangements or use make it desirable to apply regulations and requirements differing from those ordinarily applicable under the district regulations.

The proposed PUD fosters the "agricultural" character of the community with the proposed development. The variance from the requirements of Section 23-41, Minimum right-of-way and pavement widths and Section 23-28, Cul-de-sacs will minimize the physical and visual impact on the existing character of the area, while recognizing existing agricultural development and density trends. The proposed Planned Unit Development is a development of a harmonious, integrated whole which justifies exceptions to the normal requirements of this chapter, as the contemplated arrangements make it desirable to apply regulations and requirements differing from those ordinarily applicable under the district regulations.

In accordance with Section 25-252 (Actions permitted on application), the planning department may conditionally approve an application for a P.U.D.. In accordance with Section 25-253 (Imposition of conditions upon approval) Any conditions imposed by the planning department upon approval of an application for P.U.D. may include but are not limited to the time within which the project shall begin and be completed, changed boundaries of the project, uses permitted, specification of minimum development standards, specified street dedication and improvement, utilities to be furnished, and a list or limit of variances permitted. In accordance with Section 25-555 (Effect of P.U.D. application approval). Any P.U.D., as approved, shall be subject to all conditions imposed and shall be excepted from other provisions of this chapter only to the extent specified in said approval.

Based on the above, the following list of variances are approved for this Planned Unit Development:

**7. SUBDIVISION CODE:**

Cul de sacs of approximately 590 feet and 1,460 feet in length with a 20-25 foot width and with 12-16 foot pavement and 4 feet wide grass shoulders.

**8. ZONING CODE**

- a. To allow the retention of existing farm buildings with front yard setbacks of fifteen (15) feet for the lots fronting proposed Road Lot A within Lot A.
- b. To allow the retention of the main warehouse building with front yard setback of fifteen (15) feet and with a ten-foot overhang resulting in five feet clearspace from proposed Road Lot A within Lot A.

9. **AMENDMENT of Condition 2(a) of Variance No. 365**

Condition 2(a) requires that "no portion of the subject property may be further subdivided without first having a water system meeting with the standards of the Department of Water Supply." However, the current zoning, Agricultural-3 acres (A-3a), permits the creation of lots with a minimum area of 3 acres. There is no public water system adjacent to the property which can be used; the closest public water system is approximately 4,000 linear feet away and must be extended by the Applicant to its frontage along Waikahe Road at a cost of more than \$185,000.

The Nursery, however, has subsisted on the limited water available through its existing connection to the Department of Water Supply's System and on rainfall. Variance No. 365 requires that any dwellings constructed on the affected parcel(s) be constructed with a minimum of 650 square feet of roof catchment surface with a minimum of 10,000 gallons of water storage. The Planning Director in issuing Variance No. 365 found that the median annual rainfall at this site is adequate to support such a water system.

The foregoing are special and unusual circumstances which allow the amendment of Condition 2(a) to read: "That the subdivider agrees and accepts the fact that a County dedicable public water system is not now or in the foreseeable future available to service the subdivision." The amendment of Condition 2(a) will not change the character of the area.

Based on the above findings, the Planning Director approves the Planned Unit Development Application subject to the following conditions:

- A. The applicant, its successors or assigns be responsible for complying with all of the stated conditions of approval.
- B. 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 granting of this permit.
- C. The applicant shall secure final subdivision approval within 5 years from the effective date of the PUD, except as otherwise conditioned.

- D. The applicant, its assigns or successors, shall file a written agreement with the Planning Department prior to the receipt of final subdivision approval containing the following stipulations and covenants:
- a. That the subdivider agrees and accepts the fact that a County dedicable public water system is not now or in the foreseeable future available to service the subdivision.
  - b. That the subdivider agrees and accepts the fact that the County will not at any time bear the responsibility of supplying public water to the subdivision.
  - c. That any future dwellings constructed on the property covered by this PUD shall have a minimum of 650 square feet roof catchment surface area with a minimum water storage facility of 10,000 gallons .
  - d. That no ohana dwellings will be permitted on the lots that are not served by the County water system.
  - e. That the written agreement shall be duly recorded at the Bureau of Conveyances of the State of Hawaii by the Department at the cost and expense of the subdivider.
- E. In the event that there are any amendments or changes in the Subdivision after the agreement is signed, the Subdivider shall be responsible for informing the Planning Department of the amendments or changes so that the written agreement can reflect the amendments of changes, further, the written agreement shall be considered as a condition and covenant running with the land and shall be binding upon the subdivider or owner, his heirs, executors, administrators or assigns, and its successors and assigns, and shall be incorporated as an exhibit and made part of each agreement of sale, deed, lease, or other similar documents affecting the title or ownership of each subdivided lot.
- F. In the event that all of the resulting lots are provided by a water service (individual meter) from the Department of Water Supply or an approved private water system, the above covenants will no longer be in effect.

- G. 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 Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
  
- H. Access to the property from Waikahe Road shall include improvements as required by the Department of Public Works and the Fire Department and as otherwise conditioned. The interior roadway shall be constructed in compliance with the roadway variances as approved in the Planned Unit Development application. Any deviations from roadway standards for which the Department of Public Works or Fire Department has sole jurisdiction shall be applied for and secured through the proper appeal process whether it be an administrative or an appeal from the Board of Appeals.
  - a. Provide proper sight distance at the intersections of Waikahe Road and Road to Lot A and Road to Lot C. All signs, markings, and street lights must meet the requirements of the Department of Public Works.
  
  - b. The Road to Lot A and to the Road to Lot C shall be improved to allow access by Fire Apparatus and such improvements shall approved by the Fire Chief.
  
- I. The applicant shall comply with the drainage, wastewater and water system improvements required by the Department of Water Supply, Fire Department, Department of Public Works and State Department of Health.
  
- J. The applicant shall comply with the drainage, roadway, wastewater and water system improvements required by the Department of Water Supply, Fire Department, Department of Public Works and State Department of Health.
  
- K. The applicant shall comply with all other applicable rules, regulations and requirements.
  
- L. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the Planned Unit Development (PUD) 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. 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.

- J. An initial extension of time for the performance of conditions within the Planned Unit Development Permit may be granted by the Planning Director upon the following circumstances:
1. 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.
  2. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
  3. Granting of the time extension would not be contrary to the original reasons for the granting of the Planned Unit Development Permit;
  4. 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 five years may be extended for an additional five years);
  5. If the applicant should require an additional extension of time, the applicant may request for further time extension pursuant to Section 25-256 (Extensions and Amendments).

Should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate the nullification of the Planned Unit Development Permit.

Sincerely,

  
VIRGINIA GOLDSTEIN  
Planning Director

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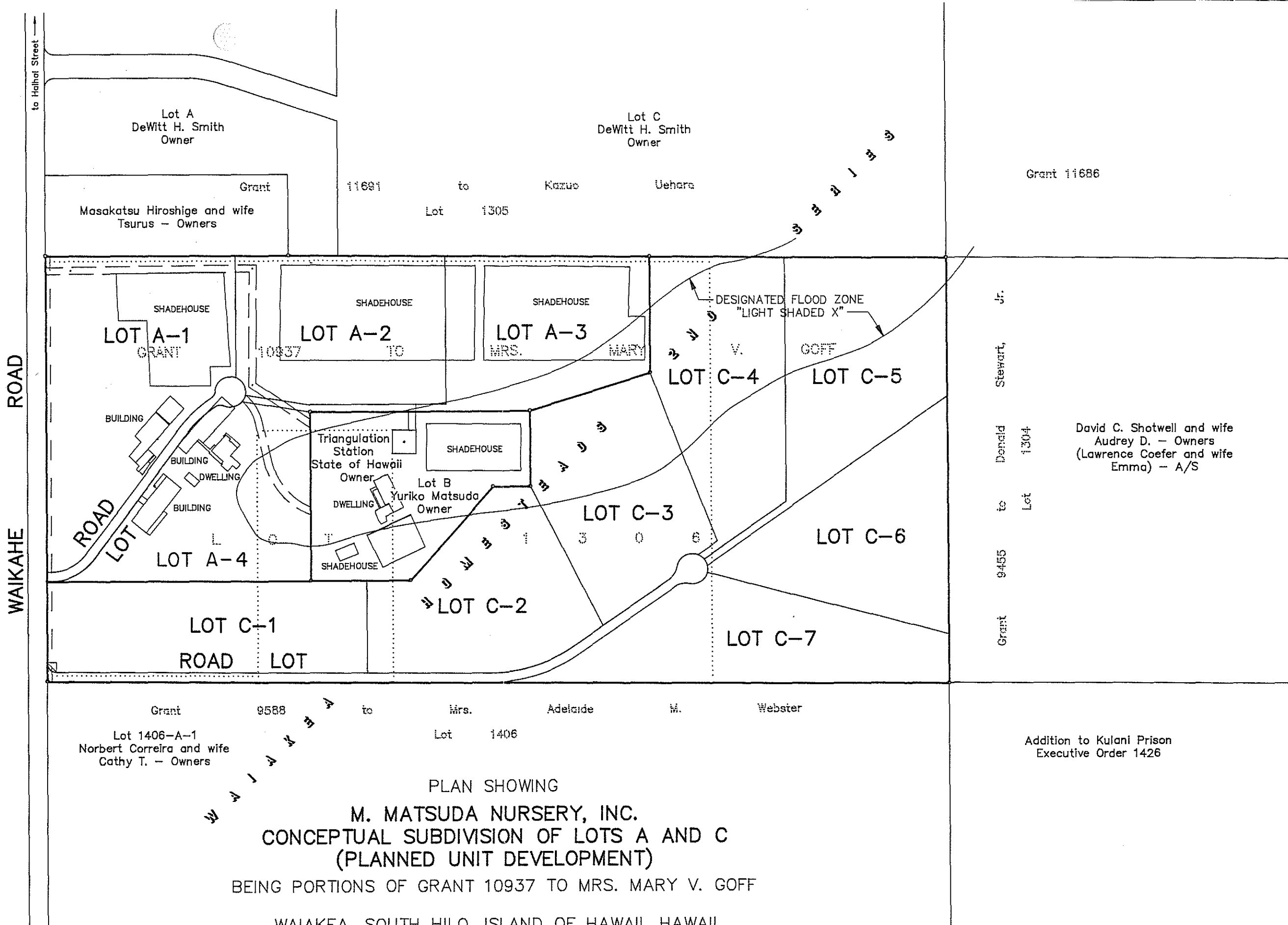
Mr. Pete M. Matsuda, President

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xc: Department of Public Works, Building Division  
Department of Public Works, Engineering  
Department of Water Supply  
Fire Department  
Subdivision Section

TRUE NORTH  
Scale: 1"=200'



Grant 9588 to Mrs. Adelaide M. Webster  
Lot 1406-A-1  
Norbert Correia and wife  
Cathy T. - Owners

Grant 11686 to Kazuo Uehara  
Lot 1305

Grant 11686

Grant 9455 to Donald Stewart, Jr. Lot 1304

David C. Shotwell and wife  
Audrey D. - Owners  
(Lawrence Coefer and wife  
Emma) - A/S

Addition to Kulani Prison  
Executive Order 1426

PLAN SHOWING  
M. MATSUDA NURSERY, INC.  
CONCEPTUAL SUBDIVISION OF LOTS A AND C  
(PLANNED UNIT DEVELOPMENT)  
BEING PORTIONS OF GRANT 10937 TO MRS. MARY V. GOFF

WAIAKEA, SOUTH HILO, ISLAND OF HAWAII, HAWAII

Tax Map Key: 2-4-005:Portions 038, 151 & 155  
Matsuda Nursery, Inc. - Owner

Plan by Island Survey, Inc.  
P.O. Box 4215, Hilo, Hawaii  
November 26, 1997