# STATE OF HAWAII <br> HAWAII COMMUNITY DEVELOPMENT AUTHORITY <br> Kakaako Community Development District <br> Honolulu, Hawaii 

January 3, 2018

Chairperson and Members
Hawaii Community Development Authority
State of Hawaii
Honolulu, Hawaii
HCDA Board Members:

## SUBJECT:

Shall the Authority Approve the Request for a Conditional Use Permit (CUP) for the Bakery \& Table Restaurant Addition Pursuant to Hawaii Administrative Rules (HAR) § 15-217-91(f), Expansion of Nonconformities?

## SUMMARY:

Pursuant to HAR § 15-217-91(f), Expansion of Nonconformities, Advanced Fresh Concepts ("Applicant"), is requesting a CUP for the Bakery \& Table restaurant to install a 260 -square foot awning over an existing bar area located on the outdoor deck. A CUP is required for the addition of the proposed awning as it increases the floor area of the restaurant by more than twenty-five percent of existing floor area.

## AUTHORITY:

Hawaii Revised Statutes § 206E-4 and § 206E-7 HAR, Chapter 217.

## BACKGROUND:

The Project site is located in the Kakaako Community Development District Mauka Area and is identified as Tax Map Key (TMK): 2-3-011:003. The Project site is 15,680 square feet in size and its street address is 938 Piikoi Street, Honolulu, Hawaii 96814. The landowner and applicant is Advance Fresh Concepts Corporation and its authorized agent is Roy Yamamoto.

The original legal nonconforming structure was built in 2002, under Development Permit MUZ $98-02$, for use as a Sub-Zero Showroom. The Project site was 10,979 square feet and comprised 4,170 square feet of commercial floor area. In 2013, the Applicant purchased the Sub-Zero property along with an adjacent 5,100 square foot property identified as TMK: 2-3-011:019. The two parcels have been consolidated into one TMK parcel identified as TMK: 2-3-011:003.

On July 2, 2014, the Hawaii Community Development Authority ("HCDA") issued a CUP for the Project. Pursuant to §15-217-26, Land Uses and Figure 1.9, Land Use, HAR, Restaurant and Bars within the Sheridan Tract Zone is permitted as a Conditional Use and requires a CUP.

On August 24, 2014, an Improvement Permit was issued to the Applicant allowing for the renovation and expansion of the legal nonconforming structure pursuant to HAR § 15-21791(e)(4), Nonconformities. The Applicant proposed an addition of 989 square feet, comprising twenty-five percent of the existing nonconforming floor area. HAR § 15-217-91(e)(4), Nonconformities, allows the enlargement, limited up to twenty-five percent of existing floor area without compliance with all the provisions of Mauka Area Rules, Subchapters 2, 3, and 4 provided that $(\mathrm{A})$ the floor area of the proposed construction does not exceed twenty-five percent of the floor area of the structure as it legally existed on February 27, 1982, excluding proposed demolitions; (B) the proposed construction does not encroach into a frontage area; (C) the proposed construction does not exceed forty-five feet in height; (D) the proposed construction does not affect neighboring properties; (E) the parking requirements of this Chapter are satisfied; and $(\mathrm{F})$ the area created by the proposed construction is a permitted use.

## ANALYSIS:

Pursuant to HAR § 15-217-91(f), Expansion of Nonconformities, no nonconforming use or structure shall expand more than twenty-five percent of the floor area of the structure unless a CUP has been granted as set forth in HAR § 15-217-81, CUP.

Pursuant to HAR § 15-217-81(d), CUP, Findings, the following findings of fact are required in approving a CUP.
(1) The use is allowed within the applicable zone and complies with all other applicable provisions of the rules.
(2) The use will conform to the Mauka Area Plan.
(3) The design, location, size and operating characteristics of the proposed use are compatible with the existing and future uses in the vicinity.
(4) The site is physically suitable for the type, density and intensity of use being proposed, including access, utilities, and the absence of physical constraints.
(5) Granting the permit would not be detrimental to the public health, safety, or welfare or be materially injurious to persons, lots or improvements in the vicinity and zone in which the lot is located.

Upon review and analysis of the CUP Application submitted by the Applicant, staff finds the following with respect to HAR § 15-217-81(d), CUP, Findings:
(1) Commercial use (bakery sales) is allowed within the Sheridan zone. On July 2, 2014, the HCDA issued a CUP that allows Restaurant for the subject property.
(2) The Mauka Area Plan cites active commercial uses fronting King Street within the Sheridan zone. The proposed bakery and restaurant conforms to and is consistent with the Mauka Area Plan.
(3) The existing restaurant use will not change. The proposed awning will enhance the guest experience as it will allow guests to continue dining through inclement weather.
(4) The site is suitable for the current restaurant use. The proposed awning is intended to enhance the dining experience for restaurant guests.
(5) The proposed awning would enhance the exiting restaurant/bar which complements the existing uses in the vicinity and will not be detrimental to public health, safety or welfare or materially injurious to persons, property or improvements in the vicinity. The Project will be constructed in accordance with all applicable national and local codes and therefore will comply with State and County rules and regulations.

In addition to the criteria required to be met for a CUP, pursuant to HAR §15-217-91(f)(2), Evaluation Criteria, the following criteria shall apply to the issuance of a CUP for the expansion of a nonconforming use or structure:
(A) The termination of such nonconformity will result in unnecessary hardship.
(B) The expansion of the nonconformity will not be contrary to the public interest.
(C) The expansion of the nonconformity will not substantially or permanently injure the appropriate use of adjacent conforming property.
(D) The use is consistent with the spirit and purpose of these regulations and the Mauka Area Plan goals, objectives, and policies.
(E) The plight of the applicant for which the expansion of the nonconformity is sought is due to unique circumstances existing on the property and within the surrounding area.
(F) The expansion of the nonconformity will not substantially weaken the general purposes of this section or the regulations established in this section for the applicable neighborhood zone.
(G) The expansion of the nonconformity will not adversely affect the public health, safety, and welfare.

With respect to the Evaluation Criteria, staff finds the following:
(A) The installation of the awning does not constitute an unnecessary hardship; however, the proposed awning will enhance the guest experience as it will allow guests to continue dining through inclement weather.
(B) The installation of the awning will not be contrary to the public interest.
(C) The installation of the awning will not substantially or permanently injure the appropriate use of adjacent conforming property.
(D) Bakery and restaurant use along Kapiolani Boulevard is consistent with the spirit and purpose of the Mauka Area Plan goals, objectives, and policies.
(E) Although the plight of the applicant for which the expansion of the nonconformity is sought is not due to unique circumstances existing on the property, installation of the awning will enhance the outdoor restaurant and bar area, which complements the existing uses in the vicinity and the surrounding area.
(F) The proposed awning will not substantially weaken the general purposes of Mauka Area rules or the regulations established in this section for the Sheridan Tract Zone.
(G) The installation of the awning will not adversely affect the public health, safety, and welfare.

The Project's compliance with the Kakaako Community Development District Mauka Area Rules Chapter 217 is provided as Exhibit A. The CUP application; the Applicant's HAR §15-217-81(d), CUP, Findings; and §15-217-91(f)(2), Expansion of nonconformities is provided as Exhibit B. Staff is proposing the following conditions to be attached to the CUP:
(1) The Applicant shall comply with all applicable State and County rules and regulations.
(2) The Applicant shall comply with the rules of the State of Hawaii Department of Health pertaining to Community Noise, Title 11, Chapter 46, HAR and Sanitation, Food Safety Code, Title 11, Chapter 50, HAR.

## RECOMMENDATION:

Staff recommends that the Authority approve the request for a CUP, pursuant to HAR § 15-21781(d) and § 15-217-91(f)(2), for the Addition to the Bakery \& Table Project, located at Tax Map Key 2-3-011:003, to allow the applicant to install a 230 -square foot awning over an existing outdoor bar area with the conditions proposed by staff.


## APPROVED FOR SUBMITTAL:



Garett Kamemoto, Interim Executive Director
Hawaii Community Development Authority

Exhibit A
Bakery and Table
January 3, 2018
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Table 1: PROJECT SUMMARY AND ENTITLEMENTS

| Category | Mauka Area Rules | Required/Allowable | Proposed | Comments |
| :---: | :---: | :---: | :---: | :---: |
| Land Use | HAR Figure 1.9 Land Use | Commercial | Commercial \& Restaurant and Bars | Conditional Use Permit ("CUP") required for Restaurant and Bars use. CUP approved by the Authority on July 2, 2014. |
| Site Area | N.A. | N.A. | 15,680 square feet | Project site is less than 20,000 s.f. and is considered an Improvement Project. |
| Project Type |  | Improvement Permit \& Existing Non-conforming pursuant to §15-217-91, Nonconformities, Hawaii Administrative Rules ("HAR"). | Improvement Permit; HAR §15-217-91(f), Expansion of Nonconformities. | A CUP is required to allow the addition of the 230 s.f. awning, which increases the floor area to 30 percent of existing floor area. |
| Density |  | Existing total floor area of the Project site is 5,159 s.f. with a density of .33 FAR. | Proposed total floor area is 5,419 s.f. with a proposed density of 35 FAR. | Project conforms to Mauka Area Rules. |


|  |  |  |  | Exhibit A <br> Bakery and Table January 3, 2018 Page 2 of 2 |
| :---: | :---: | :---: | :---: | :---: |
| Category | Mauka Area Rules | Required/Allowable | Proposed | Comments |
| Maximum Height | HAR §15-217-91(4), Nonconformities. | 45 feet | 28 feet | Project conforms to Mauka Area Rules. |
| Build to Line | Figure NZ. 4 | 8'-12' Build to line. | 8' Build to line. | Project conforms to Mauka Area Rules. |
| Frontage Occupancy | Figure NZ.4; Minimum length of the principal frontage that must contain a building street front element. | $50 \%$ minimum frontage occupancy. | 56.7\% frontage occupancy | Project conforms to Mauka Area Rules. |
| Off-Street Parking | HAR §15-217-63, OffStreet Parking. | - 19 parking stalls required. <br> - Pursuant to Figure 1.10, Parking, a 40' parking setback is required. | - 20 parking stalls provided. <br> - A $40^{\prime}$ parking setback is provided. | Project conforms to Mauka Area Rules. |
| Off-Street Loading | HAR §15-217-63, Loading Spaces. | 1 loading stall | 1 loading stall | Project conforms to Mauka Area Rules. |
| Public Facilities Dedication | HAR §15-217-65 (a), Nonconformities. | Public facility dedication fee applies since the improvement project increases floor area more than $25 \%$. The original permit (KAK 14-067) proposed an expansion of 989 s.f. (24\%). | This amendment increases floor area by an additional 260 s.f. for a total addition of 989 s.f. or $30 \%$ of existing floor area. | Public facilities dedication fee applies since total floor area addition exceeds $25 \%$. |

Application No.


I hereby acknowledge that I have read this application and attached information for the above-referenced project site and state that the information is correct. I hereby agree to comply with all City and County of Honolulu ordinances and state laws regulating development and building construction and authorize HCDA to inspect the property or construction upon notification of the undersigned fg compliance with the respective Permit
Signature (applicant or agent):
Print name: Michael Yoshino


## JUSTIFICATION

## SECTION 15-217-81(d), Findings

1. The use is allowed within the applicable zone and complies with all other applicable provisions of the rules. Commercial use is allowed within the Sheridan zone. The existing restaurant use required a Conditional Use Permit which was approved by the Authority on July 3, 2014.
2. The use will conform to the Mauka Area Plan. The Mauka Area Plan cites active commercial uses fronting King Street within the Sheridan zone. The existing bakery and restaurant is in line with the Mauka Area Plan and will continue to contribute to the active commercial street frontage.
3. The design, location, size and operating characteristics of the proposed use are compatible with the existing and future uses in the vicinity. The existing restaurant use will not change. The proposed awning will enhance the guest experience as it will allow guests to continue dining through inclement weather.
4. The site is physically suitable for the type, density and intensity of use being proposed, including access, utilities, and the absence of physical constraints. The site is appropriate for the current use. The proposed awning is meant to enhance the dining experience for restaurant guests.
5. Granting the permit would not be detrimental to the public health, safety, or welfare, or materially injurious to persons, property, or improvements in the vicinity and Zone in which the property is located. The proposed awning would enhance the existing restaurant/bar which complements the existing uses in the vicinity and will not be detrimental to public health, safety or welfare or materially injurious to persons, property or improvements in the vicinity. The project will be constructed in accordance with all applicable national and local codes and, therefore, will comply with State and County rules and regulations.

## SECTION 15-217-91(f)(2), Evaluation Criteria

(A) The termination of such nonconformity will result in unnecessary hardship. The installation of the awning does not constitute an unnecessary hardship; however, the proposed awning will enhance the guest experience as it will allow guests to continue dining through inclement weather.
(B) The expansion of the nonconformity will not be contrary to the public interest. The installation of the awning will not be contrary to the public interest.
(C) The expansion of the nonconformity will not substantially or permanently injure the appropriate use of adjacent conforming property. The installation of the awning will not substantially or permanently injure the appropriate use of adjacent conforming property.
(D) The use is consistent with the spirit and purpose of these regulations and the Mauka Area Plan goals, objectives, and policies. Bakery and restaurant use
along Kapiolani Boulevard is consistent with the spirit and purpose of the Mauka Area Plan goals, objectives, and policies.
(E) The plight of the applicant for which the expansion of the nonconformity is sought is due to unique circumstances existing on the property and within the surrounding area. Although the plight of the applicant for which the expansion of the nonconformity is sought is not due to unique circumstances existing on the property, installation of the awning will enhance the outdoor restaurant and bar area, which complements the existing uses in the vicinity and the surrounding area.
(F) The expansion of the nonconformity will not substantially weaken the general purposes of this section or the regulations established in this section for the applicable neighborhood zone. The proposed awning will not substantially weaken the general purposes of Mauka Area rules or the regulations established in this section for the Sheridan Tract Zone.
(G) The expansion of the nonconformity will not adversely affect the public health, safety, and welfare. The installation of the awning will not adversely affect the public health, safety, and welfare.




