Subject to: (Select only if applicable)

- ☐ Inclusionary Housing (Sec. 315)
- ☐ Jobs Housing Linkage Program (Sec. 313)
- ☐ Downtown Park Fee (Sec. 139)
- ☐ First Source Hiring (Admin. Code)
- ☐ Child Care Requirement (Sec. 314)
- ☐ Other

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Motion No. 17988

HEARING DATE: DECEMBER 3, 2009

Date:	November 23, 2009
Case No.:	**2009.0772C**
Project Address:	**1050 TARAVAL STREET**
Zoning:	NC-2 (Small-Scale Neighborhood Commercial District) *Taraval RUSD* *65-A* Height and Bulk District
Block/Lot:	2349/022
Project Sponsor:	Damien Quinn 1102 Taraval Street San Francisco, CA 94116
Staff Contact:	Sharon Lai – (415) 575-9087 sharon.lai@sfgov.org
Recommendation:	**Approval with Conditions**

ADOPTING FINDINGS RELATING TO CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303, 711.44, 790.91 AND 781.1 OF THE PLANNING CODE TO ALLOW A SMALL SELF-SERVICE RESTAURANT (D.B.A. QUICKLY) USE WITHIN THE NC-2 (SMALL-SCALE, NEIGHBORHOOD COMMERCIAL) DISTRICT AND A 65-A HEIGHT AND BULK DISTRICT.

PREAMBLE

On August 20, 2009, Jian Hua He (Project Sponsor) filed an application with the Department for Conditional Use Authorization under Planning Code Sections 303, 711.44, 790.91, and 781.1 of the Planning Code to allow a small self-service restaurant (d.b.a. Quickly) within the Taraval Street RUSD (Restaurant and Fast-food Sub-district) and NC-2 (Small-Scale, Neighborhood Commercial) District and a 65-A Height and Bulk District.

On December 3, 2009, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2008.0185C.

The Project was determined by the San Francisco Planning Department (hereinafter "Department") to be categorically exempt from environmental review. The Commission has reviewed and concurs with said determination.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2009.0772C, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.

2. **Site Description and Present Use.** The proposed project is located at 1050 Taraval Street, at the northeast corner of 21st Avenue and Taraval Street, Block 2349, Lot 022. The property is located within the Taraval Street RUSD (Restaurant and Fast-Food Sub-District) and NC-2 (Small-Scale Neighborhood Commercial District) with a 65-A height and bulk district. The property is 100-feet deep and 32-feet, 6-inches wide. The property is developed with a two-story mixed-use building with two commercial uses at the ground floor. The current ground floor tenants at the subject property include: the "New Taraval Café" located at the corner commercial space at 1054 Taraval Street; and the subject establishment located at 1050 Taraval Street, "Quickly." The present use of the subject commercial space is a formula retail establishment, in the form of a retail drinking establishment as defined per Planning Code Section 790.102. "Quickly" currently serves ready-to-drink nonalcoholic beverages, primarily tapioca-based drinks, for consumption on or off the premises.

3. **Surrounding Properties and Neighborhood.** The Project site is located in the Taraval Street NC-2 (Small-Scale Neighborhood Commercial) District and Taraval Street RUSD (Restaurant and Fast-Food Sub-District), as defined in Section 711.1 of the Planning Code. The Taraval Street NC-2 District is bordered by 36th Avenue to the west and 12th Avenue to the east runs approximately 1.4 miles in length, and has approximately 19,438 feet of total lineal commercial street frontage. The subject block located at the northeast corner of Taraval Street and 21st Avenue contains one full-service restaurant (New Taraval Café at 1054 Taraval Street). The block across the subject property contains three full-service restaurant (Chick-N-Coop; Zen Sushi at 1041 Taraval; and Dragon City Restaurant). Additionally, this entire neighborhood contains a total of 42 eating and/or drinking establishments, 28 vacant commercial spaces, and four businesses that would be classified as formula retail uses under Planning Code Section 703.3, which are Safeway,

Walgreens, a Kelly Moore Paint store, and a combined KFC and Taco Bell restaurant. A majority of the businesses in the immediate area are independently owned businesses. The neighboring properties located to the north and south of Taraval Street are primarily zoned for one- and two-family houses. The overall neighborhood has a diverse mix of commercial uses which in addition to eating and drinking establishments also contains a grocery store, video stores, dry cleaners, medical offices, business and professional services, various personal services, various retail stores, liquor stores, and specialty food stores.

4. **Project Description.** The request is for a change of use from an existing retail drink establishment d.b.a. "Quickly"', as defined by Planning Code Section 790.102, to a small self-service restaurant, as defined by Planning Code Section 790.91.

   The Project proposes to expand the existing "Quickly", retail drink establishment to also provide ready-to-eat food items, which would be categorized as a small self-service restaurant. The proposed restaurant will serve a variety of snack items ranging from $2 to $5. The Quickly brand has been identified as a formula retail use and there are currently 14 locations in San Francisco, including the subject location.[1]

   The proposed small-self service restaurant does not propose any change in ownership or business name, and no interior or exterior improvements are proposed. The proposed establishment will operate under the current business hours (Sunday to Thursday from 11 a.m. to 12 p.m.; and Friday and Saturday from 11:00 a.m. to 1 a.m.) and proposes to hire 1 to 3 additional employees under the new restaurant use. The subject commercial space has approximately 692 square feet of commercial space, of which approximately 375 square feet is currently dedicated to the seating area.

5. **Public Comment**. The Department has received 26 letters and 945 signatures in support of the proposed project. The Department is not aware of any opposition to the project.

6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

   A. **Small Self-Service Restaurant.** Planning Code Sections 711.44 and 781.1 states that a Conditional Use Authorization is required for a small-self service restaurant as defined in Section 790.91, within the Taraval Street Restaurant and Fast-Food Subdistrict.

      Planning Code Section 790.91 defines a small-self service restaurant as:

      A retail eating or eating and drinking use which provides ready-to-eat food for consumption on and off the premises and which may or may not provide seating.

[1] Quickly Store Location, http://www.quicklyusa.com/quicklystores.html, November 17, 2009.

Such use exhibits characteristics including: contains fewer than 50 seats and less than 1,000 square feet of gross floor area; a limited menu of ready-to-eat food prepared in advance of customer orders, or food which is able to be quickly prepared for consumption on or off the premises; food served in disposable wrappers or containers; food is ordered and served at customer service counter; food is paid for prior to consumption; public food service area, including queuing areas and service counters without fixed seats, which counters are designed specifically for the sale and distribution of food and beverages; and food available upon a short waiting time.

It does not include retail grocery stores with accessory take-out food activity, as described in Section 703.2(b)(1)(C) of this Code, self-service specialty food use, as described in Section 790.93 of this Code, or retail uses which sell prepackaged or bulk ready-to-eat foods with no-site food preparation area, such as confectionery or produce stores. When a fast-food restaurant operates within and in conjunction with another retail use, such as a retail grocery store, the area of the fast-food restaurant use shall be measured to include the area devoted to food preparation and service, seating and separate public food service counters, excluding fish, poultry and meat counters.

It may provide off-site beer, wine and/or liquor sales for consumption off the premises (with ABC licenses 20 or 21) or on-site beer and/or wine sales for drinking on the premises (with ABC licenses 40, 41 or 60). If it serves liquor for drinking on the premises (with ABC licenses 47 or 48) or does not admit minors (with ABC licenses 42 or 61), then it shall also be considered a bar, as defined in Section 790.22 of this Code.

It shall be conducted in accordance with the conditions that: all debris boxes shall be kept in enclosed structures; the operator shall be responsible for cleaning the sidewalk within a one-block radius daily to maintain the sidewalk free of paper or other litter during its business hours, in accordance with Article 1, Section 34 of the San Francisco Police Code; and noise and odors shall be contained within the premises so as not to be a nuisance to nearby residents or neighbors.

The Project complies with Planning Code's definition of a small self-service restaurant, in that it serves ready-to-eat food items where patrons pay prior to consumption. The proposed seating and commercial space square footage complies with this Code Section.

B. **Formula Retail.** Planning Code Section 703.3 and 703.4 defines a formula retail use and requires Conditional Use authorization from the Planning Commission for all new formula retail uses within all Neighborhood Commercial Districts.

The proposed project is an intensification of an existing Quickly establishment. Although Quickly has been identified as a formula retail use, the subject project does not trigger a formula retail review, because the subject Quickly was established prior to the enactment of the current Code Sections 703.3 and 703.4. City records indicate Planning Department

approval for the subject establishment in February, 2003. Planning Code Sections 703.3 and 703.4 were adopted in 2004.

C. **Hours of Operation.** Planning Code Section 711.27 states that hours of operation between 6a.m. to 2a.m. are permitted as of right, as defined by Planning Code Section 790.48.

The small self-service restaurant does not propose a change in business hours. The current hours of operation are Sunday to Thursday from 10:00 a.m. to 12:00 a.m.; and Friday and Saturday from 11:00 a.m. to 1:00 a.m., which are within the permitted hours of operation per Section 711.27.

D. **Parking**. Planning Section 151 of the Planning Code requires off-street parking for every 200 square-feet of occupied floor area, where the occupied floor area exceeds 5,000 square-feet.

The Subject Property contains approximately 692 square-feet of occupied floor area and thus does not require any off-street parking.

E. **Street Frontage in Neighborhood Commercial Districts.** Section 145.1 of the Planning Code requires that NC Districts containing specific uses, including large fast-food restaurants, have at least ½ the total width of the new or altered structure at the commercial street frontage devoted to entrances to commercially used space, windows or display space at the pedestrian eye-level. Such windows shall use clear, un-tinted glass, except for decorative or architectural accent. Any decorative railings or decorated grille work, other than wire mesh, which is placed in front or behind such windows, shall be at least 75 percent open to perpendicular view and no more than six feet in height above grade.

The subject commercial space does not propose any changes to the exiting storefront. The subject commercial space has approximately 16-feet of frontage along Taraval Street, of which approximately 13-feet has been devoted to windows and doors.

F. **Signage**. Currently, there is not a proposed sign program on file with the Planning Department. Any proposed signage will be subject to the review and approval of the Planning Department.

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:

A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The size of the proposed use is in keeping with other storefronts on the block face. The proposed full-service restaurant will not impact traffic or parking in the District because it is not a destination restaurant. This will compliment the mix of goods and services currently available in the district and contribute to the economic vitality of the neighborhood by removing a vacant storefront.

B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

The height and bulk of the existing building will remain the same and will not alter the existing appearance or character of the project vicinity. The proposed work will not affect the building envelope, yet the inclusion of outside seating will alter the use of the property.

ii. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

The Planning Code does not require additional parking or loading for an approximately 692 square-foot small self-service restaurant. The proposed use is designed to meet the needs of the immediate neighborhood and should not generate significant amounts of vehicular trips from the immediate neighborhood or citywide.

iii. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

The proposed use is subject to the standard conditions of approval for full-service restaurants and outlined in Exhibit A. Conditions 5 and 6 specifically obligates the project sponsor to mitigate odor and noise generated by the restaurant use.

iv. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;

The proposed small self-service restaurant does not require any additional tenant improvements. The Department shall review all lighting and signs proposed for the new business in accordance with Condition 7 of Exhibit A.

C. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

The Project complies with all relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan as detailed below.

D. That the use as proposed would provide development that is in conformity with the purpose of the applicable Neighborhood Commercial District.

The proposed project is consistent with the stated purposed of the NC-2 Districts in that the intended use is located at the ground floor, will provide a compatible convenience service for the immediately surrounding neighborhoods during daytime hours.

8. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

NEIGHBORHOOD COMMERCE

Objectives and Policies

OBJECTIVE 1:
MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKINIG ENVIRONMENT.

Policy 1.1:
Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development that has substantial undesirable consequences that cannot be mitigated.

The proposed establishment is to be located within an existing commercial space owned and operated by the Sponsor. The proposed addition of food service to the existing retail drink establishment d.b.a. Quickly, will enhance the available goods and services offered to patrons and increase potential employment opportunities.

Policy 1.2:
Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

The proposed establishment meets all applicable sections of the Planning Code. There are no current active violations or complaints on the site.

Policy 1.3:
Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

The proposed development will provide desirable goods and services to the neighborhood and will provide resident employment opportunities to those in the community. Further, the Project Site is

located within a Neighborhood Commercial District and is thus consistent with activities in the commercial land use plan.

OBJECTIVE 2:
MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1:
Seek to retain existing commercial and industrial activity and to attract new such activity to the City.

The Project will retain and strengthen existing commercial activity in the neighborhood and will enhance the diverse economic base of the City by introducing a new self-service restaurant. The existing retail drink establishment use will be retained under the proposed project, while adding a new service to serve ready-to-eat food items.

OBJECTIVE 6: MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

Policy 6.1:
Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

The project is to expand the existing goods and services offered at the subject business, d.b.a. Quickly. The proposed small self-service restaurant is heavily supported by the neighborhood and is a consistent use for a neighborhood commercial district.

The following guidelines, in addition to others in this objective for neighborhood commercial districts, should be employed in the development of overall district zoning controls as well as in the review of individual permit applications, which require case-by-case review and City Planning Commission approval. Pertinent guidelines may be applied as conditions of approval of individual permit applications. In general, uses should be encouraged which meet the guidelines; conversely, uses should be discouraged which do not.

Eating and Drinking Establishments
Eating and drinking establishments include bars, sit-down restaurants, fast food restaurants, self-service restaurants, and take-out food. Associated uses, which can serve similar functions and create similar land use impacts, include ice cream stores, bakeries and cookie stores. Guidelines for eating and drinking establishments are needed to achieve the following purposes:

- Regulate the distribution and proliferation of eating and drinking establishments, especially in districts experiencing increased commercial activity;
- Control nuisances associated with their proliferation;

- Preserve storefronts for other types of local-serving businesses; and
- Maintain a balanced mix of commercial goods and services.
- The regulation of eating and drinking establishments should consider the following:
- Balance of retail sales and services;
- Current inventory and composition of eating and drinking establishments;
- Total occupied commercial linear frontage, relative to the total district frontage;
- Uses on surrounding properties;
- Available parking facilities, both existing and proposed;
- Existing traffic and parking congestion; and
- Potential impacts on the surrounding community.

There is a concern with the potential over-concentration of food-service establishments. The Commerce and Industry Element of the General Plan contains Guidelines for Specific Uses. For eating and drinking establishments, the Guidelines states, "the balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20% of the total occupied commercial frontage." Planning staff has performed a site survey of the NC-2 zoned portion of Taraval Street and found that 15% of the commercial frontage is dedicated to eating and drinking establishments, and the subject project will increase the concentration to 16%, which is well below the 20% threshold stated in the General Plan.

Policy 6.2:
Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to the economic and technological innovation in the marketplace and society.

An independent entrepreneur is sponsoring the proposal. The proposed use is a neighborhood serving use. Although Quickly is a formula retail chain, the subject business is an existing Quickly franchise location and is independently owned by a local resident.

9. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

   A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

   The proposal would enhance the district by providing a small self-service restaurant in an area that is not over concentrated by restaurants. The business would be locally owned and will create 1 to 3 additional employment opportunities for the community. The existing retail drink establishment use will be retained under the proposed project, while adding a new service to serve ready-to-eat food items under the existing ownership and business name.

   B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

The existing units in the surrounding neighborhood would not be adversely affected in that no exterior or interior modifications are proposed. The addition of the restaurant use will allow the existing retail drink establishment, Quickly, to be more diversified in the products it offers and therefore more competitive, within an area heavily affected by multiple vacant storefronts.

C. That the City's supply of affordable housing be preserved and enhanced,

No housing is removed for this Project.

D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

The site is located along Taraval Street and is well served by transit. It is presumable that the employees would commute by transit thereby mitigating possible impacts on street parking. Taraval Street is accessible by four MUNI bus routes (28-L, L-OWL, 28, and 91) and MUNI rail line L.

E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

The Project will not displace any service or industry establishment. The project will not affect industrial or service sector uses or related employment opportunities. Ownership of industrial or service sector businesses will not be affected by this project.

F. That the City achieves the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The Project is designed and will be constructed to conform to the structural and seismic safety requirements of the City Building Code. This proposal will not impact the property's ability to withstand an earthquake.

G. That landmarks and historic buildings be preserved.

The subject building is not a known landmark or historic building. No exterior changes are being made.

H. That our parks and open space and their access to sunlight and vistas be protected from development.

The project will have no negative impact on existing parks and open spaces. The Project does not have an impact on open spaces.

10. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.

11. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2009.0772C** subject to the following conditions attached hereto as "EXHIBIT A" which is incorporated herein by reference as though fully set forth**.**

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 17988. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on December 3, 2009.

Linda D. Avery
Commission Secretary

AYES: Moore, Sugaya, Lee, Antonini, Miguel, Olague, Borden

NAYS:

ABSENT:

ADOPTED: December 3, 2009

Exhibit A
Conditions of Approval

1. This authorization is for a Conditional Use Authorization under Planning Code Sections 303, 711.44, 790.92, and 781.1 of the Planning Code to allow a small self-service restaurant (d.b.a. Quickly) at 1050 Taraval Street within the Taraval Street RUSD (Restaurant and Fast-food Subdistrict) and NC-2 (Small-Scale, Neighborhood Commercial) District and a 40-X Height and Bulk District, in general conformance with plans filed with the Application as received on August 20, 2009 and stamped "EXHIBIT B" included in the docket for **Case No. 2009.0772C**, reviewed and approved by the Commission on December 3, 2009.

2. Prior to the issuance of the Building Permit for the Project the Zoning Administrator shall approve and order the recordation of a notice in the Official Records of the Recorder of the City and County of San Francisco for the premises (Assessor's 2349, Lot 022), which notice shall state that construction has been authorized by and is subject to the conditions of this Motion. From time to time after the recordation of such notice, at the request of the Project Sponsor, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied.

3. Secure an Entertainment Permit from the Entertainment Commission prior to any entertainment use.

4. Violation of the conditions contained in this Motion or of any other provisions of the Planning Code may be subject to abatement procedures and fines up to $500 a day in accordance with Planning Code Section 176.

5. Should monitoring of the Conditions of Approval contained in Exhibit A of this Motion be required, the Project Sponsor or successors shall pay fees as established in Planning Code Section 351(e)(1).

6. The property owner shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean condition. Such maintenance shall include, at a minimum, daily litter pickup and disposal, and washing or steam cleaning of the main entrance and abutting sidewalks at least once each week.

7. Signs and exterior lighting for the business shall be reviewed and approved by the Planning Department before they are installed.

8. The Project Sponsor shall maintain an attractive storefront providing visibility of the restaurant interior through the storefront windows.

9. The Project shall appoint a Community Liaison Officer to address issues of concern to neighbors related to the operation of this Project. The Project Sponsor shall report the name and telephone number of this Officer to the Zoning Administrator and the neighborhood for reference. The Applicant will keep the above parties apprised should a different staff liaison be designated.

10. The project sponsor shall maintain appropriate odor control equipment to prevent any significant noxious or offensive kitchen odors from escaping the premises.

11. The project sponsor shall operate the proposed restaurant such that noise is kept at reasonable levels so as not to unduly disturb neighboring businesses and residents.

12. Refuse containers shall be provided both inside and outside the establishment for use by patrons of the restaurant. The operator of the use shall be responsible for maintaining the sidewalk within a one-block radius of the site free of paper or litter generated by the restaurant.

13. An enclosed garbage area shall be provided within the establishment. All garbage containers shall be kept within the building until pick-up by the disposal company.

14. The hours of operation shall be limited between 6a.m. to 2 a.m. daily.

15. The authorization and right vested by virtue of this action shall be deemed void and canceled if, within 3 years of the date of this Motion, a site permit or building permit for the Project has not been secured by Project Sponsor. This authorization may be extended at the discretion of the Zoning Administrator only if the failure to issue a permit by the Department of Building Inspection is delayed by a city, state, or federal agency or by appeal of the issuance of such permit.