

**MINUTES  
TRACY CITY PLANNING COMMISSION  
REGULAR MEETING  
JUNE 28, 2023, 7:00 P.M.  
CITY OF TRACY COUNCIL CHAMBERS  
333 CIVIC CENTER PLAZA**

**CALL TO ORDER**

Vice Chair Orcutt called the meeting to order at 7:00 p.m.

**PLEDGE OF ALLEGIANCE**

Vice Chair Orcutt led the pledge of allegiance.

**ROLL CALL**

Roll Call found Commissioner Atwal, Commissioner Boakye-Boateng, and Vice Chair Orcutt present. Also present: Alan Bell, Senior Planner; Kenneth Lipich, Associate Planner; Kimberly Matlock, Associate Planner; Bijal M. Patel, City Attorney; Koosun Kim, City Engineer; Al Gali, Associate Engineer; Majeed Mohamed, Assistant Engineer; and Miranda Aguilar, Administrative Assistant.

**MINUTES**

Vice Chair Orcutt introduced the Regular Meeting Minutes from the May 24, 2023 meeting and suggested some corrections to be made.

**ACTION:** It was moved by Vice Chair Orcutt and seconded by Commissioner Atwal to approve the May 24, 2023 Planning Commission Regular Meeting Minutes with corrections. A voice vote found Commissioner Atwal, Commissioner Boakye-Boateng and Vice Chair Orcutt in favor. Passed and so ordered; 3-0-0-0.

**DIRECTOR'S REPORT REGARDING THIS AGENDA**

Alan Bell, Senior Planner, reported that City Attorney, Bijal Patel, and Associate Planner, Kimberly Matlock have joined the meeting via Webex. Additionally, Item 1.D from tonight's agenda would be removed and re-noticed for a later date.

**ITEMS FROM THE AUDIENCE**

None.

**1. NEW BUSINESS**

**A. BY MOTION, ELECTION OF NEW PLANNING COMMISSION CHAIR**

Vice Chair Orcutt nominated himself as Planning Commission Chair.

Vice Chair Orcutt opened the Public Hearing at 7:09 p.m.

Alice English expressed support for Vice Chair Orcutt to be elected as Chair as well as Commissioner Atwal to be elected Vice Chair.

Seeing as no one else came forward, Vice Chair Orcutt closed the Public Hearing at 7:10 p.m.

**ACTION:** It was moved by Vice Chair Orcutt and seconded by Commissioner Boakye-Boateng that the Planning Commission elect Vice Chair Orcutt as Planning Commission Chair.

A roll call vote found Commissioner Atwal, Commissioner Boakye-Boateng, and Vice Chair Orcutt, in favor. Passed and so ordered: 3-0-0-0.

**B. STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION: 1) APPROVING A DEVELOPMENT REVIEW PERMIT (D23-0003) TO ALLOW A NEW OUTDOOR EATING AND DRINKING ESTABLISHMENT CONSISTING OF THREE STRUCTURES AT 22 E. 9TH STREET, INCLUDING REQUISITE CONDITIONS OF APPROVAL NECESSARY TO CURE EXISTING DEFICIENCIES AND MAKE SUCH STRUCTURES CODE-COMPLIANT; AND 2) DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO CEQA GUIDELINES SECTION 15303, WHICH PERTAINS TO CONSTRUCTION OF LIMITED NUMBER OF NEW, SMALL FACILITIES OR SIMILAR STRUCTURES NOT INVOLVING THE USE OF SIGNIFICANT AMOUNTS OF HAZARDOUS SUBSTANCES, AND NOT EXCEEDING 2,500 SQUARE FEET IN FLOOR AREA. THE APPLICANT AND OWNER ARE CANDIDO & GABRIELA MACHUCA.**

Kenny Lipich, Associate Planner, presented the staff report and addressed questions from the Commission.

Gabriela Machuca, Applicant, addressed the Commission.

Chair Orcutt opened the Public Hearing at 7:30 p.m.

Alice English expressed support for Johnny's Diner.

Seeing as no one else came forward, Chair Orcutt closed the Public Hearing at 7:33 p.m.

Alan Bell, Senior Planner, addressed questions from the Commission.

Commissioner Boakye-Boateng acknowledged that a lot of work was put into the Project by both City Staff and the applicant.

Commissioner Atwal acknowledged the struggle of closing the businesses while the City reviewed the Project.

Chair Orcutt expressed support of the design idea for this Project.

**ACTION:** It was moved by Commissioner Atwal and seconded by Chair Orcutt that the Planning Commission adopt a resolution:

- 1) Approving a Development Review Permit (D23-0003) to allow a new outdoor eating and drinking establishment consisting of three structures at 22 E. 9<sup>th</sup> Street, including requisite conditions of approval necessary to cure existing deficiencies and make such structures code-compliant; and
- 2) Determining that this project is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines section 15303, which pertains to construction of limited number of new, small facilities or similar structures not involving the use of significant amounts of hazardous substances, and not exceeding 2,500 square feet in floor area.

A roll call vote found Commissioner Atwal, Commissioner Boakye-Boateng, and Chair Orcutt, in favor. Passed and so ordered: 3-0-0-0.

**C. STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION: 1) APPROVING A DEVELOPMENT REVIEW PERMIT FOR THE TRIANGLE PLAZA COMMERCIAL DEVELOPMENT ON A 1.91-ACRE SITE LOCATED AT 3788 N. TRACY BLVD., APN 212-250-01 & 02; 2) APPROVING A 20% OFF-STREET PARKING SPACE REDUCTION PURSUANT TO TRACY MUNICIPAL CODE SECTION 10.08.3740(E); AND 3) DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PER SECTION 15332. THE APPLICANT IS TECTA ASSOCIATES AND THE PROPERTY OWNER IS 3788 TRACY LLC, APPLICATION NUMBER D21-0006.**

Kimberly Matlock, Associate Planner, presented the staff report and addressed questions from the Commission.

Chair Orcutt opened the Public Hearing at 7:50 p.m.

Ahmad Mohazab, Project Architect, addressed the Commission.

Chris Kensil, Traffic Engineer, addressed the Commission regarding the Parking Study.

Seeing as no one else came forward, Chair Orcutt closed the Public Hearing at 8:00 p.m.

Chair Orcutt expressed concern about parking during the holidays for projects such as this.

Commissioner Boakye-Boateng suggested the City somehow keep track of information learned by studies from each project in order to inform everyone for future ordinances.

**ACTION:** It was moved by Chair Orcutt and seconded by Commissioner Atwal that the Planning Commission adopt a resolution:

- 1) Approving a Development Review Permit for The Triangle Plaza Commercial Development on a 1.91-acre site located at 3788 N. Tracy BLVD., APNs 212-250-01 & 02;
- 2) Approving a 20% off-street parking space reduction pursuant to Tracy Municipal Code section 10.08.3740(e); and
- 3) Determining that this project is categorically exempt from the California Environmental Quality Act in accordance with CEQA Guidelines section 15332.

A roll call vote found Commissioner Atwal, Commissioner Boakye-Boateng, and Chair Orcutt, in favor. Passed and so ordered: 3-0-0-0.

**2. ITEMS FROM THE AUDIENCE**

None.

**3. DIRECTOR'S REPORT**

None.

**4. ITEMS FROM THE COMMISSION**

Chair Orcutt expressed gratitude to former Chair Hudson and former Commissioner Augustus for their participation at these meetings.


**5. ADJOURNMENT**

**ACTION:** It was moved by Vice Chair Orcutt and seconded by Commissioner Atwal to adjourn.

A voice vote found Commissioner Atwal, Commissioner Boakye-Boateng, and Chair Orcutt, in favor. Passed and so ordered: 3-0-0-0.

Time: 8:06 p.m.

  
\_\_\_\_\_  
STAFF LIAISON

  
\_\_\_\_\_  
CHAIR

**From:** [Gina Peace](#)  
**To:** [Miranda Aguilar](#)  
**Subject:** FW: Planning Commission 5/24 Outdoor Eatery  
**Date:** Tuesday, May 16, 2023 8:44:59 AM

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**From:** Kathleen Francisco [REDACTED]  
**Sent:** Tuesday, May 16, 2023 6:38 AM  
**To:** Public Comment <publiccomment@cityoftracy.org>  
**Subject:** Planning Commission 5/24 Outdoor Eatery

Dear Planning Commission,

I am requesting (imploring) that you vote "YES" to approving the permit for Machuca's Kitchen/Johnny's Diner at their 9th St. location. It's excellent food provided by an excellent family-run business.

[REDACTED]

**From:** [Gina Peace](#)  
**To:** [Miranda Aguilar](#)  
**Subject:** FW: Planning Commission 5/24 Outdoor Eatery  
**Date:** Tuesday, May 16, 2023 8:45:10 AM

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**From:** Michelle Walker-Wade [REDACTED]  
**Sent:** Monday, May 15, 2023 10:02 PM  
**To:** Public Comment <[publiccomment@cityoftracy.org](mailto:publiccomment@cityoftracy.org)>  
**Subject:** Planning Commission 5/24 Outdoor Eatery

Hello City of Tracy,

I've been a resident of Tracy since 2011 and Johnny's has always been my go-to place for a good, hometown burger and a hometown feel. I've watched his kids grow up working in the family business, and a family stick together through the toughest of times.

Johnny's Outdoor Eatery is an amazing community space. Although I miss their ice cream I'm happy to know a delicious burger is right downtown. I can drop my car off for service, take a stroll around the corner and get a bite to eat made by people who actually know who I am. And I don't know what they do to those fries but they are ALWAYS hot. That can't be said of any of the franchise burger spots.

Please, keep our community together and approve Johnny's Outdoor Eatery to remain at 22E. 9th Street.

Warmly,

[REDACTED]

**From:** [Gina Peace](#)  
**To:** [Miranda Aguilar](#)  
**Subject:** FW: Planning Commission 5/24/23 Outdoor Eatery  
**Date:** Tuesday, May 16, 2023 9:04:26 AM

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**From:** Ruth Acosta [REDACTED]  
**Sent:** Tuesday, May 16, 2023 8:51 AM  
**To:** Public Comment <publiccomment@cityoftracy.org>  
**Subject:** Planning Commission 5/24/23 Outdoor Eatery

Hello!

My name is Ruth Acosta and I'd like to comment on the Outdoor Eatery project at 22 E. 9th St.

Tracy has done a good job filling 10th street up with places to go. With the same token I feel that downtown is geared towards adults.

We need more family oriented places to go and have fun with the family. Kids like to be out in the evening as well and having fun at an outdoor eatery with patio lights and giant size games is just awesome! What a fun environment and great hamburgers to boot!

Johnny and Gaby have created just the place! We need this in Tracy!! A place where people gather together to socialize and maybe have some ice cream, play family games with family and friends. This outdoor eatery is a win win for Tracy. I for one would like to see more places for families or others that like that good warm cozy atmosphere of family, to go to. The outdoor eatery is a very welcome and longtime needed place for Tracy!

Please vote YES for the Outdoor Eatery 22 E. 9th St. on May 24th!!!!

Thank you!

Sincerely,

[REDACTED]

**From:** [Gina Peace](#)  
**To:** [Miranda Aguilar](#)  
**Subject:** FW: Planning commission 5/24 Outdoor Eatery  
**Date:** Tuesday, May 16, 2023 9:56:44 AM

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**From:** Nadia C. [REDACTED]  
**Sent:** Tuesday, May 16, 2023 9:22 AM  
**To:** Public Comment <publiccomment@cityoftracy.org>  
**Subject:** Planning commission 5/24 Outdoor Eatery

Please vote Yes to keep the Outdoor Eatery at 22 E. 9th st Johnny's Diner & Creamery /Machucas Kitchen open. My family would like to show support for this local business and we urge you to vote Yes to keep it open.

Thank you,  
[REDACTED]



**From:** [Gina Peace](#)  
**To:** [Miranda Aguilar](#)  
**Subject:** FW: Planning Commission 5/24/23 Outdoor eatery  
**Date:** Tuesday, May 16, 2023 9:56:56 AM

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-----Original Message-----

From: mpelayo86 [REDACTED]  
Sent: Tuesday, May 16, 2023 9:38 AM  
To: Public Comment <publiccomment@cityoftracy.org>  
Subject: Planning Commission 5/24/23 Outdoor eatery

To Whom it May Concern:

My name is Marisol Pelayo. I Vote YES on outdoor eatery project 22 East 9th street.

Thank you for your time!

[REDACTED]

Sent from my iPhone

**From:** [Gina Peace](#)  
**To:** [Miranda Aguilar](#)  
**Subject:** FW: Planning committee outdoor eatery 5/24/23  
**Date:** Tuesday, May 16, 2023 10:32:27 AM

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**From:** Michelle [REDACTED]  
**Sent:** Tuesday, May 16, 2023 10:31 AM  
**To:** Public Comment <[publiccomment@cityoftracy.org](mailto:publiccomment@cityoftracy.org)>  
**Subject:** Planning committee outdoor eatery 5/24/23

My VOTE is YES For outdoor eatery 22 E 9th st Tracy Ca

**From:** C Sampino  
**To:** Public Comment  
**Subject:** Planning commission 5/24/23 outdoor eatery  
**Date:** Tuesday, May 16, 2023 5:27:34 PM

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YES FOR THE OUTDOOR EATERY 22 east 9th st.



**From:** [REDACTED]  
**To:** [Public Comment](#)  
**Subject:** planning commission 5/24 outdoor eatery  
**Date:** Wednesday, May 17, 2023 9:10:48 AM

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I have been a customer of Johnny's for over 7 years and I would like for their project at 22 E. 9th Street "Outdoor Eatery" to be approved, I feel like they have been a great addition to Tracy. The food is great and its very family oriented. Please approve it.

Thank you

[REDACTED]

**From:** [dbeveler](#)  
**To:** [Public Comment](#)  
**Subject:** Muchucas Kitchen/Johnny's Diner  
**Date:** Wednesday, May 17, 2023 8:37:25 PM

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Please vote Yes on allowing The Machuca's to operate their outdoor eatery... This location is an unobtrusive location that would compliment downtown Tracy. Please allow his restaurant to continue at the Ninth St location!



Sent from my Verizon, Samsung Galaxy smartphone

**From:** [REDACTED]  
**To:** [Public Comment](#)  
**Subject:** Johnny's Diner  
**Date:** Thursday, May 18, 2023 4:57:39 AM

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>  
> To Tracy City Council,

> Good day to you from overseas, where we are currently on holiday. This email is in support of Johnny's Diner.  
>  
> We first visited the diner when it was brand new and located on Tracy Blvd. Since then, we have followed the business through its various phases.  
>  
> We have found their menu to be consistently good and the owners/staff to be very professional. They very much support our Tracy community and it is our response to support them.  
>  
> Please vote in favor of their business proposal.  
>  
> Thank you,  
> [REDACTED]

>  
>  
>  
> Sent from my iPhone by [REDACTED]

**From:** [REDACTED]  
**To:** Public Comment; [REDACTED]  
**Subject:** Invite to visit site D23-0003 Outdoor Eatery 22 E. 9th  
**Date:** Thursday, May 18, 2023 2:09:22 PM

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Good Afternoon Planning Commissioners,

We would like to extend each of you the opportunity to visit our project site at 22 E. 9th Street in Downtown Tracy prior to the Planning Commission meeting on 5/24/2023 7:00pm in order to visually see this Outdoor Eatery.... it is existing because it was opened under a T.U.P (temporary use permit).

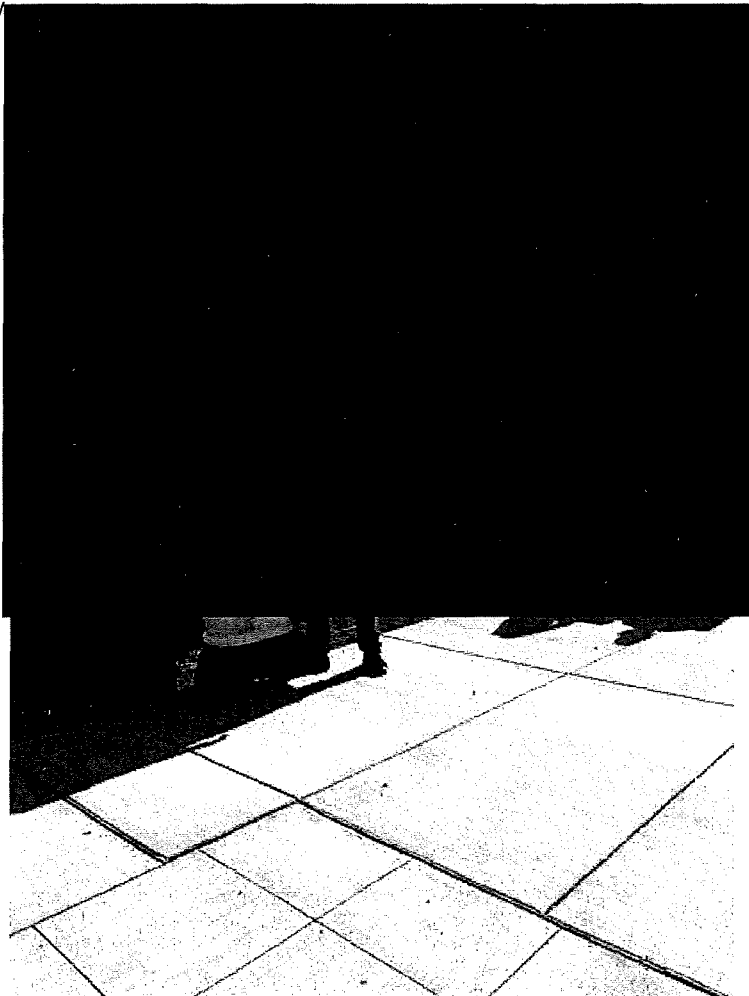
If you would like to visit in person we can set up a time that is convenient for each of you ( separately of course).

You may call or text us at [REDACTED] ask for "Johnny"

We will be at the location Thursday 5/18 and Friday 5/19 4:00pm -8:00 pm or we arrange a more convenient time.

thank you for your time,

Candido " Johnny



**From:** [REDACTED]  
**To:** [Public Comment](#)  
**Subject:** Planning Commission 5/24 Outdoor Eatery  
**Date:** Friday, May 19, 2023 8:08:49 AM

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Caution: This is an external email. Please take care when clicking links or opening attachments.

Good Evening,

Thank you for this opportunity to voice my opinion and support of Johnny's Diner and Creamery.

Johnny's Diner and Creamery / Machuca's Kitchen needs to be embraced by the City of Tracy. This is a small, local, family business. Isn't that what is encouraged? Just because their kitchen is considered mobile should have no bearing on a permit being issued. Other towns and cities encourage such businesses and center events around them.

This business is such a positive addition to Downtown Tracy. Neighborhood residents can walk there and drive if necessary. This will actually increase the amount of patrons downtown, not take away from any business. This adds another choice in dining, including for families. In addition to being a lunch and dinner eatery, patrons will want to walk around downtown and then go to other establishments for shopping, after dinner desserts, beverages, and more eating! Plus the Grand Theater has many events and this is another option for the patrons.

How would Johnny's Diner and Creamery/ Machuca's Kitchen be a negative business for Downtown Tracy? How can you even consider a "No" vote?

Downtown is the heart of the Historic District. Johnny's Diner and Creamery/ Machuca's Kitchen is a positive addition to Downtown. Look at all the vacant lots where there is now blight in the Historic Downtown. Fencing and weeds in more than a few lots, most notably on corners in the heart of Downtown. And more destruction and construction is planned. There does not seem to be a focus on what we have, just what can be replaced.

Please vote "YES" to grant Johnny's Diner and Creamery/ Machuca's Kitchen the permit that has been applied for. This would be in the best interest for Downtown Tracy.

Thank you,  
[REDACTED]



**From:** [REDACTED]  
**To:** [Public Comment](#)  
**Subject:** Johnny's Diner  
**Date:** Monday, May 22, 2023 1:47:40 PM

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**Caution:** This is an external email. Please take care when clicking links or opening attachments.

Please allow the zoning laws to be changed to allow Johnny's Diner to finally have a home in Tracy. He has supported many organizations in our community with service from his Diner. It's time for Tracy to give back.

Jan Haws  
[REDACTED]

**From:** [REDACTED]  
**To:** [Public Comment](#)  
**Subject:** Planning Commission 5/24 Outdoor Eatery  
**Date:** Tuesday, May 23, 2023 11:18:34 AM

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Caution: This is an external email. Please take care when clicking links or opening attachments.

Dear Planning Commission,

Please vote YES for Outdoor Eatery!

This place deserves to be in Tracy, especially the historic downtown. I used to go to their other locations as Johnny's Diner & Creamery and the owner is passionate about his business. The food was always great and I miss them terribly! Even though I now live in San Jose, I still drove to Tracy to eat there, I love them so much.

Please bring them back!!!

Thank you so much for listening.

Sincerely  
Vivian Krampt

Sent from my iPhone

**From:** [REDACTED]  
**To:** [Public Comment](#)  
**Subject:** Planning Commission 5/24 Outdoor Eatery  
**Date:** Tuesday, May 23, 2023 4:40:26 PM

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Caution: This is an external email. Please take care when clicking links or opening attachments.

Hello,

As a resident of Tracy I am asking for a yes vote for the machuca family to open their outdoor eatery. The Machuca's have been in Tracy for a long time and are trying to bring something that this city needs, SOMETHING TO DO! As a long time resident of this town, it is crazy to see the hoops needed to open a business when so much of our down town is empty.

Thank you for your consideration.

Regards,  
Jesse Souza

Sent from my iPhone

**From:** [REDACTED]  
**To:** [Public Comment](#)  
**Subject:** Johnny's Outdoor Eatery  
**Date:** Thursday, June 22, 2023 10:56:31 AM

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**Caution:** This is an external email. Please take care when clicking links or opening attachments.

Please vote yes.

As a long term resident of the city of Tracy. I have loved going to Johnny's dinner over the years. Please consider allowing them to stay at their location in downtown Tracy. Its businesses like this that we need in downtown to bring people to our downtown.

Thank you,  
Brian

**From:** [REDACTED]  
**To:** [Public Comment](#)  
**Subject:** Johnny's Outdoor Eatery  
**Date:** Friday, June 23, 2023 9:37:02 AM

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**Caution:** This is an external email. Please take care when clicking links or opening attachments.

To Whom It May Concern,

We write this email on behalf of Johnny's Outdoor Eatery. We are long time Tracy residents and feel our voices should be heard. As you are aware, there is very little for our community to do as a family. This location here is an ideal spot to bring the entire family out for delicious food, great conversation and fun for all. It's a gathering spot, just another way to bring our community together. Isn't this what we all strive for?

We're pleading with you. Please consider our request as we speak for so many of our residents. This is what Tracy needs.

Best Regards,  
Stella Lakey

[REDACTED]  
Happyfaces Childcare & Transportation Services  
Get 5 Star Notary Services  
Jay's Gourmet food with soul

**From:** [REDACTED]  
**To:** [Public Comment](#)  
**Subject:** Event #2552 387 5749  
**Date:** Sunday, June 25, 2023 7:53:27 PM

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Caution: This is an external email. Please take care when clicking links or opening attachments.

I'm getting a hold of you in regards to our burger place on 9th Street. Not sure how it was voted on, picked to be there but it is a great location, great restaurant and needs to be approved to have its home there. Many of us love the place, frequent it and want it there. Please consider a final approval for this place and location. This is not a new location for Johnny's but a long term place that chose a new location. Someone must have approved it as it should be approved.

Thank you, Jackie Manley  
Sent from my iPhone

To: PublicComment@cityoftracy.org <PublicComment@CityOfTracy.org> v

Cc:

Subject: VOTE YES ON OUTDOOR EATERY Project on 22 E. 9th St., Tracy, CA.

My name is Germaine Clark and I have been a resident in Tracy since 1984. I support and totally **VOTE YES ON OUTDOOR EATERY Project on 22 E. 9<sup>th</sup> St., Tracy, CA.**

Johnny and Gaby Machuca's are hard working, community minded, Tracy Chamber members, who thought beyond the COVID crisis, to create an incredible outdoor eatery for Tracy residents. I was fortunate to enjoy a beautiful outdoor event last fall, where Johnny and Gaby served delicious food and the atmosphere was relaxing.

I have supported the Machucas for years, especially when they owned Johnny's Dinner off Tracy Blvd. So many fond memories with my family enjoying meals and my daughters loving their great milkshakes.

I support and **VOTE YES ON OUTDOOR EATERY Project on 22 E. 9<sup>th</sup> St., Tracy, CA** and believe that it will bring more people to Downtown Tracy and is another excellent option for families to support and enjoy.

Respectfully yours,

*Germaine Clark*  
Germaine Clark

5/16/23



**From:** [REDACTED]  
**To:** [Midori Lichtwardt](#); [Nancy Young](#); [Dan Arriola](#); [Matt Bedolla](#); [Eleassia Davis](#); [Dan Evans](#); [Public Comment](#); [Tracy City Council](#)  
**Cc:** [REDACTED] [Sekou Millington](#)  
**Subject:** URGENT Defending our reputation Fwd: Rebuttal to 1/25/23 S. Claar letter Fwd: 22 E. 9th Street : Machuca/ Johnny's Diner  
**Date:** Tuesday, June 27, 2023 3:05:01 PM  
**Attachments:** [two Public Hearing -more conditions.pdf](#)  
[APPEAL request.pdf](#)  
[TUP22-0021 Johnny's Diner Food Truck Approval Letter.pdf](#)

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**Caution:** This is an external email. Please take care when clicking links or opening attachments.

This Communication is being addressed and sent to Interim City Manager Midori Lichtwardt and The Tracy City Council,

From: Candido "Johnny" Machuca & Gabriela Rodriguez Machuca ; Johnny's Diner aka MachucasKitchen 22 E. 9th Street

**Attached : APPEAL :** *Please read our response*  
**two Public hearing:** *Please read and compare; written about the same project by two different people and the 6/28 has more conditions and please note those conditions have absolutely nothing to do with safety.*  
**Email Thread Below :** *See our responses to letter from 1/25/23 in RED and Orange*

**Ms. Midori Lichtwardt ,**

**You have allowed your Staff to make some documents PUBLIC without having giving us the opportunity to discuss in private our concerns and grievances. Since City of Tracy has made this public we will RESPOND in public to defend our personal and professional reputation**

We have submitted in writing to you several times from February 12, 2023 thru Now with NO RESPONSE other than acknowledgement from your assistants that you were in receipt of the emails. Requests to your assistants for meeting times/dates were answered with;" We will review with Ms. Lichtwardt and get back to you next week" Well "next week" has come and gone several times.

**If our emails were acknowledged and you did not hear from us in person and you still allowed Staff to continue on the same path:**

**\*\* Delaying our project**

**\*\*Delaying the mobile food ordinance discussion** (1. Please note that in the letter written 1/25/23 from S. Claar he writes that staff will bring discussion to Council on March 21st to discuss food truck ordinances, that has not happened yet. Council needs to ask WHY? Is the delay tactic just one way to hurt our business?) 2. And recall the different times Council has asked the CM where is the Mobile food ordinance discussion one answer was : "going to Planning Commission in April and then to Council in May; and that has not happened. Council needs to ask WHY?

3. Than at a different meeting the question was asked again and the answer was " something to the effect of : there was a priority given to the project and convoluting of the project and mobile food ordinance.Council needs to ask WHY? Is perhaps Staff not following CM direction?

**\*\* Finding and creating new conditions**

**\*\* Constantly putting our integrity into question**

**Than what are we supposed to think ?**

**The documents published are all one sided, we submitted an appeal letter to the Notice and Order and we also submitted responses to your Staff member letter and NONE of our responses were**



published .

**To us this feels like a blatant way to continue to disparage our Personal and Professional reputation.**

**Its an attempt to make us look like we are irresponsible business owners without knowledge or regard to process and procedures. Which simply is not True.**

**We also asked** Chief Millington to meet and discuss **how a code violation escalated to a Notice and Order** and you were CC'd on that communication.(6/15/2023)

The Chief responded: *" I had a discussion with Interim CM Midori Lichtwardt and was made aware of a planned stakeholders meeting being coordinated for next week... to make sure you receive current and reliable information all at once....."*

If this meeting happened, WE were not a part of the meeting.

Since July 2022 most of the verbal communications we have been given have resulted in being misleading or incorrect because each time we took an action or submitted paperwork based on the verbal communications we were responded by email that what we submitted was not acceptable or lacking. And when we have asked for some responses in writing, we have gotten ZERO responses in writing. It would appear that no one wants to be held accountable.

The email attached in this thread below is our response ( our responses are all in **RED** and **ORANGE** **\*\*PLEASE read our responses)**

to a letter emailed to us and many staff on 1/25/2023 from S. Claar.

It was his attempt to put us in our place by stating ; He informed us....of procedures and that we allegedly ignored all process which simply is not the case

*( and we do have emails to back up*

*some of the actions we did take)*

We Sent our responses to then CM Rogers to not engage in confrontation with Staff member.

We disagreed with 95% of what he reported. And at the time of this email he, S. Claar, had already been instructed to not contact us. And yet he did.

On January 30,2023, before than CM Rogers left on medical leave he assured us that the retaliation would stop and he informed us that he was forwarding ALL our email communications to his Assistant M. Lichtwardt and she would be addressing all our concerns.

The only in person communication we had with Ms.Lichtwardt regarding our concerns was on February 15,2023 and that was the only time we communicated after that meeting every time we emailed her , the new Director Jaylen French would respond. ( and I have some voicemails saved 4/12/23 & 4/14/23)

So ZERO response from Ms. Lichtwardt

until 6/08 2023 a phone call to personally inform us that the 6/14 planning commission meeting had to be cancelled due to internal problems and wanted to assure us that "No Funny business ."

Then next communication response from Ms Lichtwardt was on 6/14/2023 9:01pm letting us know that the rescheduled Planning commission meeting would be 6/28.

We took it upon ourselves to make the assumption that since CM Rogers delegated "Us" to Ms. Lichtwardt she than delegated "Us " to Jaylen French, Director DES.

However Mr French was only addressing the project 22 E. 9th, two shipping containers /outdoor eatery He was not addressing any of the other concerns/issues we had experienced.

We originally shared our concerns/issues on Oct.18, 2022 with than Director Kris Balaji who subsequently left City of Tracy.

We also shared our our concerns/issues in Dec. 2022 and January 2023 with than CM Rogers.

We also shared our concerns in Oct/Dec 2022 with a City Council member and

We again shared with a different Council member in Late January 2023.

We have spoken up at many Council Meetings since October 18, 2022 .

We shared frustrations with Director Jaylen French, who unfortunately has also left City of Tracy. (

Council needs to assess and ask WHY?)

**We feel we have conducted ourselves with respect and integrity.**  
**We felt it was and is necessary for us to PUBLICLY Defend ourselves** in writing  
because 2 - 5 minutes oral comments is just not enough time.

We hope that the City Managers Office and the Tracy City Council will read and listen and take notice of  
our journey and  
We hope and expect that both will take action and make corrections where needed.

Respectfully,  
Candido " Johnny" Machuca & Gabriela Rodriguez Machuca  
22 E. 9th Street

-----Original Message-----

From: [REDACTED]  
To: [REDACTED]  
Sent: Sun, Jun 25, 2023 11:18 pm  
Subject: Rebuttal to 1/25/23 S. Claar letter Fwd: 22 E. 9th Street : Machuca/ Johnny's Diner

-----Original Message-----

From: [REDACTED]  
To: midori.lichtwardt@cityoftracy.org <midori.lichtwardt@cityoftracy.org>  
Cc: attorney@cityoftracy.org <attorney@cityoftracy.org>; [REDACTED]  
Sent: Wed, Jun 7, 2023 1:28 pm  
Subject: Fwd: 22 E. 9th Street : Machuca/ Johnny's Diner

Good Afternoon Ms Midori Lichtwardt,

I am forwarding you this email that I had sent to the CM back on January 29,2023.

**We chose not to respond to the staff member and engage in confrontation but rather we spoke to the City Manager**

and sent him ( the CM) our written response because we felt that this staff members actions were retaliatory.

Subesequent interactions with Staff that had been copied on this email sent by Scott Claar felt uncomfortable.

This was our response to an email that had been sent out by staff member Scott Claar.... full of "mis information"

All our comments /rebuttals were written in RED and Orange.

We felt at the time and still feel today that this staff member is at the root of most of the "confusion" around our project.

This staff member made sure that the email he sent me reached a wide audience of staff members trying to make us look like we were irresponsible.

We believe that the current "confusion"/"convulting" stems from the comments and actions of this staff member.

Gabriela Rodriguez Machuca & Candido "Johnny" Machuca

-----Original Message-----

From: [REDACTED]  
To: [REDACTED] michael.rogers@cityoftracy.org <michael.rogers@cityoftracy.org>  
Sent: Sun, Jan 29, 2023 2:47 am  
Subject: Fwd: 22 E. 9th Street : Machuca/ Johnny's Diner

**To Michael Rogers , City Manager of Tracy,**

**I am submitting my response to You in regards to this email from your Staff member Scott Claar.**

**I will not respond to him for reasons you are aware of.**

**Please ask him the role and purpose for each person he copied on the email he sent.**

**My responses are in RED and ORANGE**

**Gabriela Rodriguez Machuca**

-----Original Message-----

From: Scott Claar <Scott.Claar@cityoftracy.org>  
To: [REDACTED] <[REDACTED]>  
Cc: Plan Check <PlanCheck@cityoftracy.org>; Ana Contreras <Ana.Contreras@TracyPD.com>; Lacy Starling <Lacy.Starling@TracyPD.com>; Bobby Alcantar <Bobby.Alcantar@TracyPD.com>; Kenneth Lipich <kenneth.lipich@cityoftracy.org>; Veronica Child <veronica.child@cityoftracy.org>; Fire.PlanCheck-sjcfire <Fire.PlanCheck@sjcfire.org>; Al Gali <al.gali@cityoftracy.org>  
Sent: Wed, Jan 25, 2023 10:31 am  
Subject: RE: 22 E. 9th Street : Machuca/ Johnny's Diner

Hello Candido Machuca and Gabriela Rodriguez Machuca,

We would like to help you with your project. There are ways to move your project forward and we can assist you with understanding the requirements and process. We should start by having a meeting that brings together all relevant City staff members so that everyone is on the same page and you receive the most complete information.

**Who would be the Staff members that would be relevant to this project?**

We will follow up with you shortly to schedule this meeting. Additionally, we are planning to bring a discussion item to the City Council on March 21<sup>st</sup> to discuss food trucks/trailers and restaurant containers. In the meantime, we encourage you to move forward with your application submittal, as described below. **The discussion item Mobile food ordinance is a very separate issues from repurposing a shipping container and should be discussed separately.**

As I previously explained to you, your proposed restaurant container and associated structures/site improvements require approval of a Development Review Permit prior to

obtaining a building permit and locating the structures on the property. Please see below for a brief history of previous correspondence regarding your proposal, as well as information on how to submit a Development Review Permit application.

This is the first written communication from Scott Claar.

We disagree . He Never in our verbal conversations "explained" or discussed a development review.

( There was 1 zoom/video meeting July 8 w/myself and husband, Michael Nimmon, Scott Claar and the two in person was just my w/my husband and Scott Claar August 29 and Sept. 2 )

\*\*\* The discussion about a TUP never happened with Scott Claar.  
We had gotten a TUP in 2020 and were familiar with the process.

In April 2022 : Candido went to City Hall and met with Kenneth Lipich

1.To discuss /confirm if Parcel # 235-161-02 at 22 E. 9th was a commercial site.

Kenneth verified Yes.

2.He also asked if the parcel was in TCCA boundries or just CBD , he did not know the answer and suggested to ask TCCA.

3. He shared the idea of the project for the site.To park our mobile food truck.

Kenneth said remember the food trailer would need a TUP if it not in light industrial. Candido Acknowledged

and said we are going to request they amend the ordinance however if for some reason that doesn't happen

we have two back up plans : one would be a flea market/open market

To which Kenneth replied: Yes ok that would be allowed .

After this meeting we began looking a shipping container concepts because a shipping container is not a food truck.

And the concept of repurposing shipping containers is environmentally friendly.

\*\*\* This is how we began the discussion of a "food Container"

June 30,2022 : I sent an email to Michael Nimmon sharing our news and our project and ask him for help with next steps.

July 5, 2022: Michael Nimmon responded:

He was excited of the prospect of bringing the food shipping container to Tracy he had seen them in other Cities.

July 7, 2022 7:07 am : Michael Nimmon sent me an email to set up a zoom/video meeting with Development Services

July 7, 2022 2:41 pm : I sent an email to Michael with more detailed notes of our proposed project as well as several photos of other food container projects to use as a visual.

July 8, 2022 : Video Meeting ; ( Michael Nimmon, Scott Claar, Candido, Gabriela)

I presented our ideas and Scott the planner tried several times to dissuade us from our ideas... he suggested that a mobile food truck would best serve going to Amazon and providing service to them. I disagreed.

I was told that if I was in the mobile food business then my business model should be to keep being mobile. I disagreed.

The planner, Scott even made a comment : Oh you are very persistent.

We have done brick n mortar for 32 years and food truck for 2years

Parking the food truck in one permanent spot is no different than being inside a building

We are not a new business, we are an existing business that found a solution to keep our business in Tracy.

Then Scott said :In order for us to give you better feedback he was going to need a visual rendering of the proposed project so he could show to his colleagues because the photos I had submitted weren't good enough visuals.

During this meeting there was no discussion of TUP. NONE.

( we already knew that information and had already begun conversation with Peggy Beeuwsaert)

During this meeting there was no discussion of the mobile food ordinance.

During this meeting there was no mention of development review.

During this meeting there was no mention of Design goals needing to be amended to allow restaurant containers

During this meeting He did mention something about sewer lateral fees...

And I responded : "Oh you mean like the discussion at the Council meeting where the City was trying to charge the Doctor over by the Post Office \$150k, I said I don't think so.

**Brief History ( WE disagree with most of this history under July 8) SEE ABOVE for our NOTES**

- July 8, 2022 – I attended a Microsoft Teams meeting with Michael Nimon (City Economic Development), Gabriela Machuca and Johnny Machuca to discuss the Machuca's proposal to locate a food trailer and a restaurant container on their property at 22 E. 9<sup>th</sup> Street.
  - I explained that a food truck/trailer could only be located on the property at 22 E. 9<sup>th</sup> Street with approval of a Temporary Use Permit (TUP). I explained that the City's Zoning Ordinance states that TUPs are valid for a maximum of 30 days, but for the past few years we have been operating under local emergency orders that have allowed us to grant TUPs for up to 180 days. I also explained that the City's Zoning Ordinance would not allow a food truck/trailer to remain on the property beyond the duration of a TUP. I explained that they could propose an amendment to the City's mobile food vending ordinance to allow food trucks/trailers on a more permanent basis in the Central Business District (CBD) Zone, but I also explained that I didn't know whether City Council would be receptive to such a change, considering that the ordinance had been adopted only a few years ago and that the policy direction at the time was to keep food trucks/trailers out of the commercial zones so they wouldn't compete with brick-and-mortar establishments.
  - I explained that a restaurant container would need to get approval of a Development Review Permit before obtaining a building permit and locating it on the property. I explained that a Development Review Permit is a discretionary approval and I didn't know whether it would be approved. I explained that we might not be able to approve a Development Review Permit for a restaurant container because the architectural design would probably not be consistent with the City's Design Goals & Standards for new commercial development and the architectural character of Downtown. I mentioned that if they wanted to move forward with a proposal, they could provide me with a preliminary concept drawing that we could review and provide comments on

before they submit a formal application and pay fees. I mentioned that the City's Design Goals and Standards might need to be amended in order to allow for restaurant containers and I explained that I didn't know whether there would be support for such an amendment.

- I also mentioned that if the restaurant container was approved, it would be subject to development impact fees. I explained that a preliminary estimate of the development impact fees to construct a 2,000 square foot building on this site is approximately \$23,250, but that the fees might be less if smaller structures are proposed.
- September 2, 2022 – I met in-person with Johnny Machuca at the Development Services Department front counter to discuss his preliminary conceptual plans for a food trailer and restaurant container. Johnny provided me with rough sketch drawings, including an artistic rendering and site plan that showed a restaurant container (deli/café), food trailer, outdoor picnic tables with shade structure, and restroom unit.
  - I explained that the food trailer could only be allowed with a Temporary Use Permit (TUP). I explained that the City Council would need to approve an amendment to the City Zoning Ordinance in order to allow food trucks/trailers on a permanent basis beyond the life of a TUP. I explained that the City Council might not be supportive of amending the ordinance to allow this. Johnny said that he understood and that he would just operate it with a TUP and remove it if necessary. **The TUP was not discussed**
  - 
  - I explained that the restaurant container could possibly be approved with a Development Review Permit if the architectural design was dressed-up enough to meet the City's Design Goals and Standards for a new commercial building. We discussed the possibility of him using faux wood siding or stucco on the exterior of the metal shipping container. We also discussed the possibility of him adding a roof to the container to further enhance the architectural design. I explained that I did not know whether the restaurant container could be approved and that it would depend on the design quality and whether we could determine that it would be consistent with the City's Design Goals and Standards and the architectural character of Downtown. I explained that in order to submit a Development Review Permit application, he would need to submit detailed plans with his application that were prepared by an architect, engineer, or designer that satisfy the application submittal requirements. **No Scott did not discuss/ mention a Development Review**
  - He mentioned that he would be talking with Dan Schack's office to prepare the necessary plans.
  - **( No You asked if he knew an architect that knows what is expected in Tracy)**
  - 
  - **August 30:** Candido went to City Hall to meet with Scott. He presented him the rendering of the project.
  - **Scott said give me a few days to show this around the office, I will call you.**
  - **Scott didn't call**
  - **September 2, 2022:** Candido returned to City Hall to meet with Scott
  - **These are the talking points of that day:**
  - **Everything looks good we just need a few modifications.**

1. The shipping container should not look like a shipping container
  - o Response : We could do greenery or wood slats.
  - o Scott said : Wood slats
  - o 2. If anything is going on the roof like swamp cooler : we don't want it seen
  - o 3. Question regarding the gazebo: What type of materials
    - o Answer: wood and metal
  - o 4. Suggested by planner the Gates should remain Open all the time
    - o Response: NO the gates will be Closed when we are closed and open when we are opened; its like our front door plus its more secure if they are closed and locked .
  - o 5. Sign : Scott did not like placement of the sign and gave no explanation.
    - o Candido did not pursue the topic of the sign
  - o 6. Scott requested a cleaner version of the rendering: " Clean up the lines"
    - o Candido understood this to mean that the measurements needed to be more accurate.
  - o 7. At some point Scott asked, Do you have an architect who knows what is expected in Tracy?
    - o Response: We outreached to Schack & Co for the rendering and they gave us a lead. We can go back and talk to them.
    - o \*\*\*\*\*Never during this verbal conversation did Scott mention development review.
- o
- September 15, 2022 – The City's Development Services Department approved a Temporary Use Permit (Application No. TUP22-0021) to allow a food trailer with two outdoor picnic tables and a portable toilet at 22 E. 9<sup>th</sup> Street. The Temporary Use Permit was approved for 180 days and has an expiration date of March 14, 2023. **Why is this part of the notes if we had no discussion with Scott about the TUP.**
- **Between June 29, 2022 -July 12, 2022 I had phone conversations and emails with Peggy Beeuwsaert about Bus Lic and TUP.**
- **On July 12 : Peggy emailed me the TUP Application I had requested and she provided the email and details to submit.**
- **( Peggy, Kellie Jones and Kenneth Lipich are the only ones I had interactions with for the TUP)**
- 
- September 16, 2022 – I attended an in-person meeting at City Hall with representatives of Schack & Company, Inc. (including Dan Schack, Scott Schendel, and Dylan Wooten) to discuss the Machuca's proposal of locating a restaurant container on the property at 22 E. 9<sup>th</sup> Street. I explained that the project would require a Development Review Permit for the restaurant container and site improvements. I explained that I did not know whether the restaurant container would be approved and that it would depend on the design quality and whether we could determine that it would be consistent with the City's Design Goals and Standards and the architectural character of Downtown. We discussed potential options for dressing up the architectural design, similar to what was discussed with Johnny on September 2<sup>nd</sup>.
- **This is NOT what Schack & Co. reported back.**
- **We did not attend this meeting on Sept.16 2:00pm meeting because we were Uninvited.**
- **"They" made the decision it was best to meet without**

us. ( And I am not sure who "They" are)

- Sept. 16 , 2022 At 4:00pm : I received an email from Schack & Co :
- " We met with Scott Claar and he pretty much told us the same thing as you.... I'll start on a proposal and get it to you next week." Meaning everything in Orange above.
- Following the meeting with Schack & Company on September 16<sup>th</sup>, I did not hear from anyone about the project until January 12, 2023, when I spoke with Gabriela Machuca on the phone regarding structures on the property without permits.
- Lets be clear I did not call you, You called me on 1/12/2023 5:47 pm it was a 37 minute phone call.
- I let you know you were on speaker you asked if i was with my husband I said No and that I had a friend with me.
- You proceeded to speak.

Notes:

1. The current improvements on the property are not consistent with the approved site plan for the Temporary Use Permit. Multiple structures (i.e. shipping containers) have been added to the property without approval of any permits. The Temporary Use Permit conditions state that the use shall be located and set up as shown on the site plan received on September 12, 2022. Please see attached Temporary Use Permit approval for reference.
2. I have asked Veronica Child in the City's Engineering Division to prepare an estimate of the development impact fees for your project, based on the specific details of your proposal. Veronica will need to know the square footage of all proposed structures and the acreage of the site. We will provide Veronica with the details submitted on your plans and she may follow up with you if she has questions. Veronica can be reached at phone (209) 831-6487 or email [veronica.child@cityoftracy.org](mailto:veronica.child@cityoftracy.org) if you'd like to contact her. Development impacts fees are due at the time of building permit issuance.

Development Review Permit Application – General Submittal Requirements and Instructions

Attached is a copy of our General Submittal Requirements and Instructions for submitting a Development Review Permit application, which contains detailed information about the submittal process and what documents are required. **Electronic submittal is required.** Once you are ready, please send your submittal documents to [PlanningAdmin@CityofTracy.org](mailto:PlanningAdmin@CityofTracy.org). Our email file size limit is 25 megabytes. If you anticipate your submittal may exceed this limit, we can send you a link the City's FTP site so that you can upload your documents there.

The amount of the Development Review Permit application fees are as follows:

FEE DESCRIPTION	AMOUNT
Development Review Permit (Class B)	3,605.00
Environmental Assessment	130.00
TOTAL	\$3,735.00 *

\* Please note that the fees listed above do not include fees for review of the application by the South San Joaquin County Fire Authority. Please visit the South San Joaquin County



Fire Authority's website to view the [Fee Schedule](#). You may also contact the Fire Authority at (209) 831-6707 or [Fire.PlanCheck@SJCfire.org](mailto:Fire.PlanCheck@SJCfire.org) for additional information. The Fire Authority's fees are not charged at the time of initial application submittal but, rather, after the review process is underway.

The Development Review Permit and Environmental Assessment fees listed above will not get assessed until the City confirms we have all of the documents needed for review; at that point, we will provide you with fee payment instructions and an application number to reference in your fee payment. After the fees are paid, the City's review will be initiated. Please do not attempt to pay the fees until you are provided with an application number to reference in your fee payment.

For general information about the Development Review process, you can visit our Development Review Permit page: [Development Review | City of Tracy, CA](#)

Please let me know if you have any questions.

Thank you,

Scott Claar  
Senior Planner  
Development Services Department  
City of Tracy  
(209) 831-6429

**From:** Plan Check <[PlanCheck@cityoftracy.org](mailto:PlanCheck@cityoftracy.org)>  
**Sent:** Monday, January 23, 2023 12:11 PM  
**To:** [REDACTED] <[REDACTED]>  
**Cc:** Michael Rogers <[michael.rogers@cityoftracy.org](mailto:michael.rogers@cityoftracy.org)>; Bobby Alcantar <[Bobby.Alcantar@TracyPD.com](mailto:Bobby.Alcantar@TracyPD.com)>; Fire.PlanCheck-sjcfire <[Fire.PlanCheck@sjcfire.org](mailto:Fire.PlanCheck@sjcfire.org)>; Scott Claar <[Scott.Claar@cityoftracy.org](mailto:Scott.Claar@cityoftracy.org)>; Kenneth Lipich <[kenneth.lipich@cityoftracy.org](mailto:kenneth.lipich@cityoftracy.org)>  
**Subject:** RE: 22 E. 9th Street : Machuca/ Johnny's Diner

Good Afternoon,

We received your email requesting a permit for the placement of 2 Connex boxes and associated utilities.

Unfortunately, we are unable to accept your submittal as proposed. Since this is a Commercial property, detailed plans will need to be drawn up by a licensed design professional. The plans will need to include all details associated with the project: site details, foundation for the containers (boxes), accessibility, electrical, mechanical and plumbing.

I am attaching our Electronical Submittal Requirements to this email which will detail out how the plans and documents must be formatted and submitted. In addition, for your convenience, I am also attaching all other documents that will be required with your submittal.

Please be advised that this proposed project will require a Development Review. This means that by submitting this project, prior to the Development Review being approved, this will be considered an at-risk permit. This can result in additional reviews and fees due if further changes are required once the Development Review is approved. Scott and Kenny will discuss the process with you pertaining to the Development Review.

If you have any questions, please feel free to email us back or call us at 209/831-6400.

Thank you,

**Meagan Washburn**

Bldg Permit Technician II  
City of Tracy – Development Services  
Building Safety Division  
209/831-6400  
[plancheck@cityoftracy.org](mailto:plancheck@cityoftracy.org)

**From:** [REDACTED] <[REDACTED]>  
**Sent:** Sunday, January 22, 2023 9:53 PM  
**To:** Plan Check <[PlanCheck@cityoftracy.org](mailto:PlanCheck@cityoftracy.org)>; Fire.PlanCheck-sjcfire <[Fire.PlanCheck@sjcfire.org](mailto:Fire.PlanCheck@sjcfire.org)>  
**Cc:** Michael Rogers <[michael.rogers@cityoftracy.org](mailto:michael.rogers@cityoftracy.org)>; Bobby Alcantar <[Bobby.Alcantar@TracyPD.com](mailto:Bobby.Alcantar@TracyPD.com)>; [REDACTED]  
**Subject:** 22 E. 9th Street : Machuca/ Johnny's Diner

Good Morning City of Tracy:

In response to voicemail from 1/17/2023 (time 3:21 pm) and follow up email on Friday 1/20/2023 from Code Enforcement B. Alcantar

We are submitting paperwork that was indicated.  
Total of 9 Pages

We have included two sets of Property Owner Package: one dated 6/22/2022 and second one dated 1/21/2023.

We also included a site plan that SJ Fire Indicated would be required.

We have copied City Manager ; Michael Rogers as well as SSJC Fire.

I have included SJ Fire because In August 2022 when processing TUP there was a long delay that was blamed on Fire Department **which was not true:**

SJ Fire had not been forwarded all appropriate documents that HAD been submitted.

Candido Machuca & Gabriela Rodriguez Machuca

22 E. 9th Street

September 15, 2022

Gabriela Rodriguez Machuca  
2734 Diablo View Dr.  
Manteca, CA 95537

SUBJECT: Temporary Use Permit – Food Truck  
22 E. 9<sup>th</sup> St.  
Application No. TUP22-0021

Dear Gabriela:

Thank you for your submittal of the above noted application. The Development Services Director has approved your application as described on the Site Plan submitted on September 12, 2022 (attached), subject to your compliance with the following conditions:

1. Application No. TUP22-0021 has been approved for the period beginning on September 15, 2022, and ending on March 14, 2023, during regular operating hours.
2. The use shall be located and set up as shown on the Site Plan received on September 12, 2022, except as modified by these conditions of approval.
3. The event, its setup, and its take down operations shall not impact adjoining properties by the excessive creation of dust, noise, light, odors, or any other objectionable characteristics.
4. The proposed use shall not obstruct circulation, loading spaces, or any drive aisles, except as shown on the approved Site Plan as the area designated for food truck.
5. No obstruction is permitted within the public right-of-way, which includes the public sidewalk, landscaping and trees, street lights, and utility poles.
6. The site, neighboring properties, and the public right-of-way shall be kept clear of garbage and debris.
7. No off-site advertising signage is permitted, nor shall any signs or banners associated with this event be placed on any public right-of-way without an encroachment permit. On-site temporary signage is permitted provided that it does not block pedestrian or vehicular circulation areas, is kept out of landscape planters, and complies with the Tracy Municipal Code requirements for temporary signs.
8. There shall be no additional exterior lighting or amplified sound permitted.

9. The applicant shall comply with the attached requirements of the South San Joaquin County Fire Authority, dated September 12<sup>th</sup>, 2022.
10. The applicant shall comply with the attached requirement of the City of Tracy Building Division, dated August 15<sup>th</sup>, 2022.
11. The applicant shall comply with all requirements of the Tracy Municipal Code and any applicable State codes to the satisfaction of the City of Tracy, its officers and agents.
12. The applicant shall comply with all requirements of the County of San Joaquin Environmental Health Department including:
  - a. A restroom must be available within 200 feet distance with warm water, soap and paper towels for the employees of the food truck.
13. All food and drink service shall comply with all applicable requirements for operation set forth in State and San Joaquin County public health orders related to COVID-19.
14. Upon termination of the approved temporary use of the property, the applicant shall remove all structures, materials, and equipment related to the use, and restore the property to its original condition.

In the event you are not satisfied with the decision of the Development Services Director, you may file an appeal to the Planning Commission within ten (10) days from the date of this letter. There is a \$326 non-refundable appeal application fee due upon submittal. This appeal must be filed in writing with the Secretary of the Planning Commission.

If you have any questions, please do not hesitate to contact me at (209) 831-6443 or [kenneth.lipich@cityoftracy.org](mailto:kenneth.lipich@cityoftracy.org).

Best regards,



Kenny Lipich  
Assistant Planner

Attachments

Public Comment Received 06/27/23  
RE: Item 1.3. Development Review  
Permit (23-0003) Johnny's Diner  
September 12, 2022  
221 E 9TH STREET  
City of Tracy  
Development Services



## South San Joaquin County Fire Authority

Community Risk Reduction Division

835 Central Avenue  
Tracy, CA 95376  
PH: (209) 831-6707  
FAX: (209) 831-6703  
[fire.plancheck@sjcfire.org](mailto:fire.plancheck@sjcfire.org)

Date: 9/12/2022

Project #: TUP 22-0021

Project Description: Johnny's Diner Food Truck

Project Address: 22 E Ninth St

Jurisdiction: City of Tracy

Applicant: Gabriela Rodriguez Machuca

Contact Info: (510) 978-1657 [REDACTED]

### At this time, project is conditionally approved subject to satisfying the following requirements:

1. Occupancy shall be determined by the code by the plan's designer
2. 2A:10BC type fire extinguishers shall be located at each attraction or 75 ft of travel from any point in the seating space. If food concession trailers are on site they shall have a 2A:10BC and a Type K fire extinguisher located within the trailer if grease-laden vapors are produced.
3. Concession trailers equipped with a UL300 Fire suppression system will have had to of had the system serviced with the last 6 months.
4. Tents, canopies and temporary membrane structures having an area in excess of 400 Sq. Feet are required to have an inspection and organizer shall obtain an operational permit through the fire department. Please refer to the attached outdoor assembly packet.
5. At no time shall the exit path be blocked.
6. The site plan shall be set up per the submitted drawings
7. A fire inspection must take place and invoice paid prior to inspection.

Feel free to contact our offices, should you have any questions.

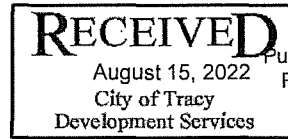
Thank you,

Pauline Keener

Fire Inspector

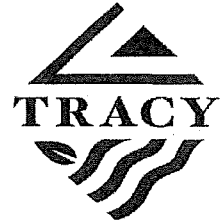
(209) 831-6707 main line

Pauline.Keener@sjcfire.org



Public Comment -- Received 06/27/23  
RE: Item 1.B - Development Review  
Permit (D23-0003) Johnny's Diner  
AT 22 E. 9TH STREET

**CITY OF TRACY**  
**Development Services**  
**333 Civic Center Plaza • Tracy • CA • 95376**  
**(209) 831-6400 • www.cityoftracy.org**



Date: August 15, 2022  
Project Number: TUP22-0021  
Project Name: Food Trailer and Related Furniture/Equipment -Johnny's Diner  
Project Address: 22 E NINTH ST  
Event Dates: Monday-Sunday 8 a.m. to 10 p.m.  
To: Kenny Lipich

**1<sup>ST</sup> SUBMITTAL – TEMPORARY USE PERMIT APPLICATION**

**At this time, the project is approved with conditions. The plan review conditions for this project are listed below.**

This plan review is based upon the 2019 CBC, 2019 CRC, 2019 CPC, 2019 CMC, 2019 CEC, 2019 CFC, 2019 CEnC, 2019 CA Green Building Standards Code, and applicable City of Tracy Municipal Ordinances.

When addressing the comments of revised plans, submit a written response to each comment. Using complete and clear responses will expedite the re-check and approval of the project. Identify the revisions in the revision box with a corresponding date and type of correction.

If any changes have been made to the plan documents unrelated to those items identified in the comment lists, please list the changes on a separate sheet and include in your submittal documentation.

Sheet #	Notes
	<b>All of the items below must be provided for each of the above-mentioned event dates.</b>
	<p><b>Accessibility.</b> Temporary as defined in California Building Code (CBC) Ch. 2, is a <b><u>“facility”</u></b> intended for use at one location for not more than one year.” A <b><u>“facility”</u></b> as defined in CBC Ch.2 is “all or any portions of pedestrian routes located on a site.” <b>Per CBC 11B-201.3</b>, temporary facilities are required to meet the requirements found in <b>CBC 11B</b>. <b><u>Therefore, please provide all of the following amenities during the food trailer hours:</u></b></p> <ol style="list-style-type: none"> <li><b>1. Accessible Path of Travel-</b> According to the California Building Code (<b>CBC</b>) <b>11B-206.2</b>, Provide an accessible route inside the area that connects the food truck, bathrooms, accessible parking stalls, dining area, areas around any storm drains or openings greater than ½” and accessible tables. The path of travel shall be stable, firm, and slip resistant as per <b>CBC 11B-302.1</b> and with a maximum cross slope of 2% in all directions.</li> <li><b>2. Restrooms.</b> A minimum of two male and two female restrooms and a minimum of one of the restrooms shall be accessible. CPC 422.1 Also, a minimum of two lavatories with a minimum of one being accessible.</li> </ol>

3. **Accessible Dining Surfaces.** Where tables are provided for the consumption of food or drink, at least 5 percent of the seating spaces and standing spaces at the dining surfaces shall comply with **CBC 11B-902**. Which requires the accessible dining surface to have a clear floor space of 48" x 30" with maximum cross slope of 2% in any direction and be positioned with a forward approach, provided with the proper knee clearances (image #1 below) and toe clearances (images #2 below), and the height of the dining surface shall be 28" minimum to 34" maximum above finish ground.

Image #1 Knee Clearance

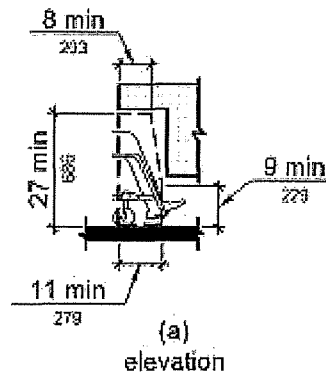
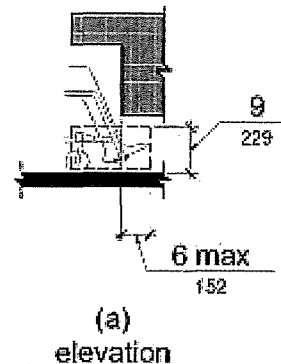


Image #2 Toe Clearance



4. All gates shall swing in the direction of travel, provided with panic hardware operable parts shall meet the requirements of CBC 11B-404.2.9, CBC 1010.1.2.1 & CBC 1010.1.10
5. Flexible electrical cords or cables shall be listed for damp and wet locations, listed for hard use and shall be sunlight resistant as per article 400. The electrical cords shall also be arranged to minimize the tripping hazard and shall be permitted to be covered by non-conductive matting, provided the matting does not create a greater tripping hazard than the uncovered cables. Electrical cords shall also be properly supported where suspended
6. Applicant shall maintain required accessible parking stalls as per CBC Table 11B-208.2.
7. The service window shall meet reach ranges per CBC 11B-308 if the payment method is fixed.
8. When intended to operate for longer than 180 days plan sand supporting documents shall be submitted for building permit per Title 24 requirements

**Notes:**

Generators 10KVA or greater require separate permits. Please submit a permit application for the 250 kw generators.



Plans Reviewed By:  
Jesse Canright  
(209) 831-6412  
[jesse.canright@cityoftracy.org](mailto:jesse.canright@cityoftracy.org)

cc: permit file

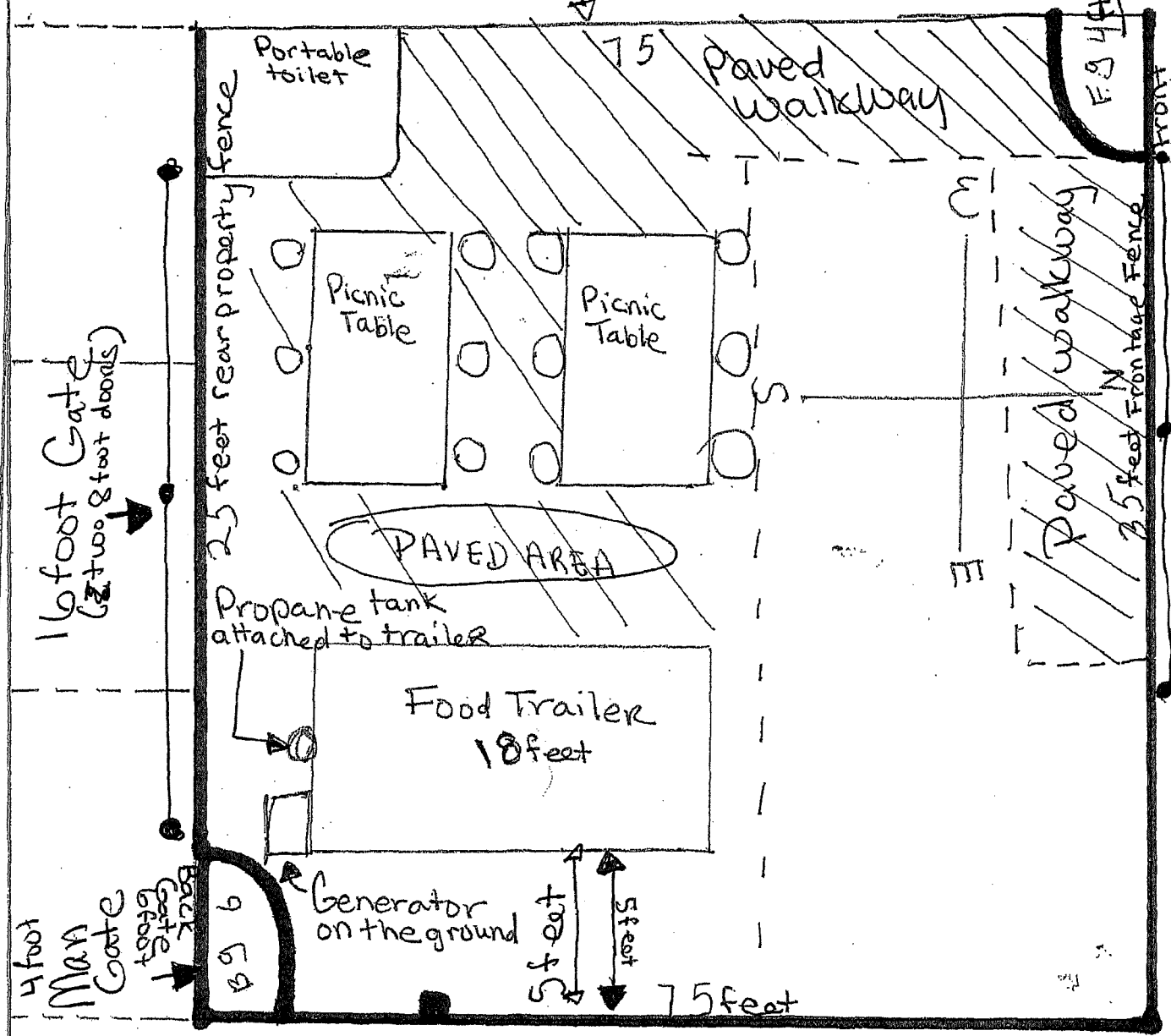
Commercial Building  
Back wall

RECEIVED  
September 12, 2022  
City of Tracy  
Development Services

Received 06/27/23  
Development Review  
0003) Johnny's Diner  
AT 22 SOUTH STREET

Len

Garner Alley



Man Gate  
4 feet

12 foot Gate  
opens inward  
(2 (6 foot) doors)

Residential Home

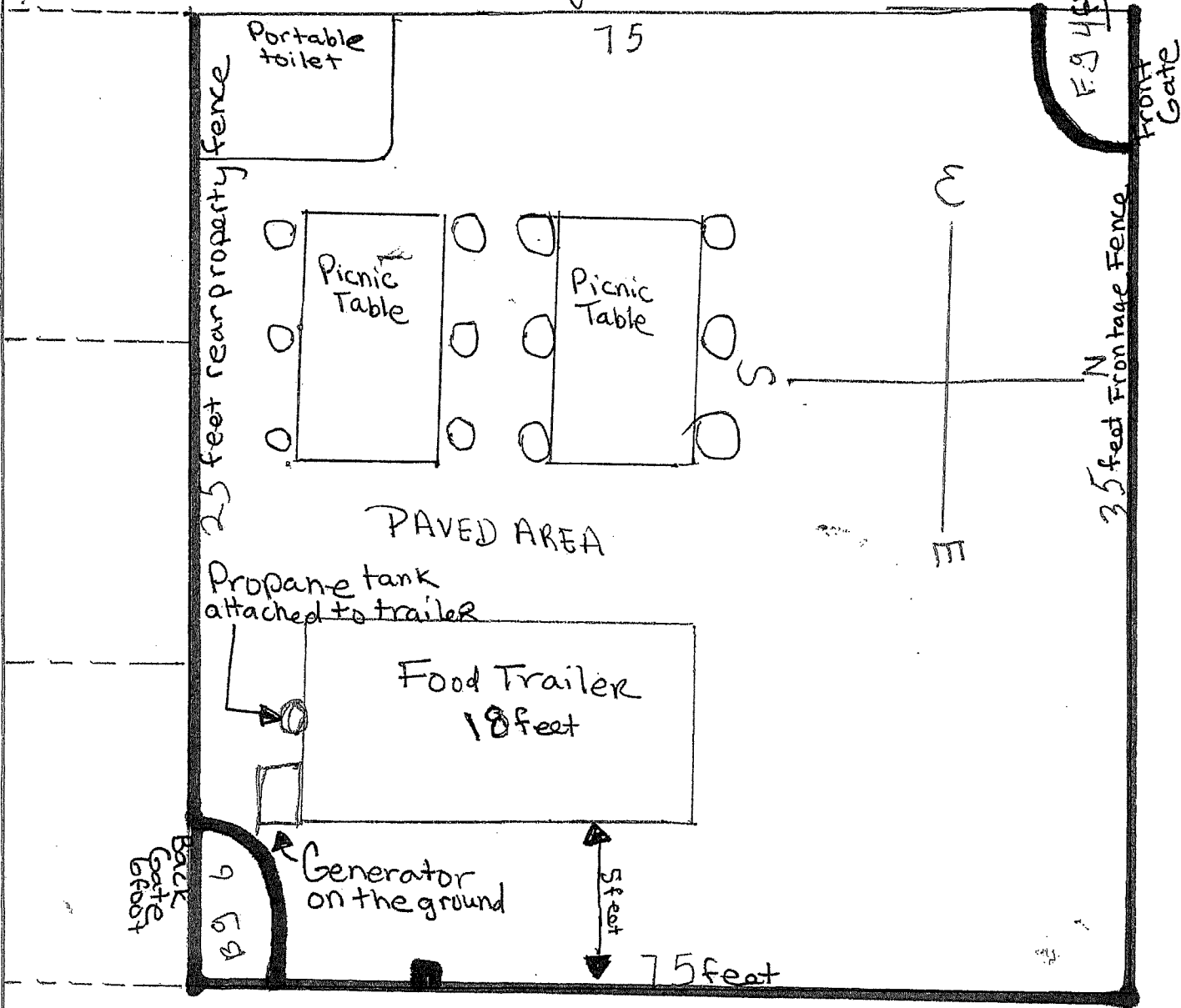
Len

Central A

Public Comment -- Received 06/27/23  
RE: Item 1.B - Development Review  
Permit (D23-0003) Johnny's Diner  
At 22 E. 9TH STREET

Commercial Building  
Back wall

Garner Alley



9th Street

D Street

CITY OF TRACY

RECEIVED  
CITY CLERK'S OFFICE

REQUEST FOR HEARING ON ADMINISTRATIVE CITATION

COPY

In accordance with Section 1.28.070 of the Tracy Municipal Code, any recipient of an administrative citation may contest its issuance by completing this form and delivering it to the City Clerk's Office for the City of Tracy located at 333 Civic Center Plaza, Tracy, California within thirty (30) days of the administrative citation being issued, together with an advance deposit of the full fine amount. Personal checks or money orders must be made payable to the CITY OF TRACY.

Citation Number: N/A

Date of Citation: \_\_\_\_\_

Name of Citation Recipient: \_\_\_\_\_

Company Name: Gabriel Rodriguez Machi  
(If applicable) Candido Machuca Jr

Amount of Fine: \$ \_\_\_\_\_

If you intend to request a hearing to contest the issuance of an administrative citation but are financially unable to make the advance deposit, you may file a request for an Advance Deposit Hardship Waiver. This Form is available at the City of Tracy Finance Department and must be filed with that Department within ten (10) days of the date of the administrative citation to qualify for the waiver. Details regarding the criteria for obtaining the waiver are set forth on that form.

PLEASE MARK THE APPROPRIATE RESPONSES BELOW

I WILL APPEAR at the appointed time for the Administrative Hearing to present my case to the Hearing Officer.

I WILL APPEAR BY TELEPHONE at the appointed time for the Administrative Hearing and the telephone number that the Hearing Officer can reach me at is ( ) \_\_\_\_\_ - \_\_\_\_\_.

The basis for my appeal is as follows (please attach additional pages if necessary):

\* See attached Typed Statement  
We are currently in discussions with Development Services.  
Violation 1 & 2 did not happen as written  
We disagree on some of the information under Brief History  
Case # CD23-0014

Citation Recipient Signature: Gabriel R. Machuca Date: 3/31/2023

STAFF USE ONLY  
Received by: MLopez Date of Receipt: 3/31/2023 Fine Paid: \$ N/A Date Paid: \_\_\_\_\_  
Advance Deposit Hardship Waiver Filed:  Yes  No If Yes, Date of Receipt of Application: N/A

1042

Public Comment -- Received 06/27/23  
RE: Item 1.B - Development Review  
Permit (D23-0003) Johnny's Diner  
AT 22 E. 9TH STREET

To: City of Tracy Board of Appeals via City Clerk's Office  
333 Civic Center Plaza, Tracy Ca.  
From: Gabriela R and Candido Machuca Jr.  
Case #: CD23-0014  
Address of Violation : 22 E. 9th Street, Tracy, Ca. 95376

March 31, 2023

RECEIVED  
CITY CLERK'S OFFICE

2023 MAR 31 PM 4:00

CITY OF TRACY  
TRACY, CA

This written notice serves as our appeal to Notice and Order violations cited on page 3.

We are currently in discussions with the Development Services Department and have submitted a project and it is under development review and has been assigned Kenneth Lipich as the planner. We communicated with him on 3/28/2023 this week for an update and timelines, he informed us that we just need to wait.

In regards to violation 1: There was never any illegal dumping of grease. We have continued to dump grease in the proper receptacle bin located at the rear of 2213 and 2211 N. Tracy Blvd. Presently we now have a grease receptacle at our new commissary at 88 W. 10th Street.

In regards to violation 2: We have always maintained our health permit. The inspection mentioned on 1/23/2023 was a routine annual food truck inspection that was set up by us with our regular health inspector, but we were told due to illness her supervisor came out to the site. Our health permit only came into question because a City Staff member gave the County health department inaccurate information regarding requiring land use approval for a commissary.

In regards to violations 3,4,5 : We currently have submitted paperwork/project and it is under review.

Brief history: We had conversations in August and September of 2022 with City Staff regarding shipping /connex containers All verbal. We had some conflicting information.

On October 18, 2022 We spoke to the then Development Director Kris Balaji: We submitted questions, concerns and complaints to him. He was looking for answers and looking into our concerns and we were awaiting his response. Unbeknownst to us that he had taken an unexpected leave of absence ; that is why there was a lapse in time.

\*\*\*Prior to speaking to Mr. Balaji we had already had a conversation, asked questions and shared some of our concerns with a City Council Member (I never said the Mayor) regarding the process listed on the City Website and some inaccurate/misleading information.

\*\*\* Prior to January 12, 2023 we had already had communications/concerns shared with the City Manager.

January 13, 2023 We had an hour long phone conversation with the City Manager. We were informed by the City Manager that the harassing communications would be stopped pending discussions yet the communications continued.

On January 30, 2023 we had an in person conversation with City Manager Michale Rogers at which time he assured us our concerns/questions were being taken seriously and we would work towards solutions.

On January 30,2023 :The City Manager informed us that he would be deferring our situation to his Assistant City Manager Ms. Midori Lichtwardt then there was a few weeks delay on the City's part in having a sit down/in person meeting.

On February 7,2023: Ms Laura Smith Executive Assistant to Ms. Midori Lichtwardt emailed us to set up an in person meeting for February 15, 2023 at 4:00pm.

On February 15,2023 : During this meeting we were introduced to the new Development Director Jalyen French. And we discussed some options about moving forward with a pre-meeting for development review in order to better understand requirements in order to submit paperwork for a Development Review.

On March 3,2023 : We sent an email request to Mr French to set a meeting time.

On March 7,2023 1:00pm: Mr Jaylen French met with us in person for a pre-development review.

On March 16,2023: We submitted project to plan check

On March 19,2023: We Re-submitted project to plan check with additional items requested

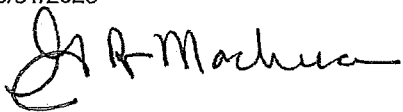
On March 21, 2023: Project Application was accepted and issued Application # D23-0003

On March 21, 2023 5:47pm : We were informed that the application will now be handled by Planner Kenneth Lipich and expect initial comments within 30 days.

\*\*\*\*Please note while our project/plans are in review that will address violations 3,4,5 in the Notice and Order

Our concerns /questions and complaints regarding this review process as well as the initial TUP have yet to be addressed.

Respectfully Submitted,  
Gabriela Rodríguez Machuca & Candido Machuca Jr.  
3/31/2023



3/30/23, 4:18 PM

Thank you for the information Re: 22 E. 9th Street : Machuca/ Johnny's Diner

Public Comment -- Received 06/27/23  
RE: Item 1.B - Development Review  
Permit (D23-0003) Johnny's Diner  
AT 22 E. 9TH STREET

**From:** gmachuca [REDACTED]  
**To:** Ana.Contreras@TracyPD.com, Bobby.Alcantar@TracyPD.com,  
**Cc:** Jaylen.French@cityoftracy.org, Lacy.Starling@TracyPD.com, Miguel.Contreras@TracyPD.com,  
**Subject:** Thank you for the information Re: 22 E. 9th Street : Machuca/ Johnny's Diner  
**Date:** Thu, Mar 9, 2023 4:27 pm

**Attachments:**

Thank you for the information.

Gaby

-----Original Message-----

**From:** Ana Contreras <Ana.Contreras@TracyPD.com>  
**To:** gmachuca [REDACTED] Bobby Alcantar <Bobby.Alcantar@TracyPD.com>  
**Cc:** Jaylen French <Jaylen.French@cityoftracy.org>; Lacy Starling <Lacy.Starling@TracyPD.com>; Miguel Contreras <Miguel.Contreras@TracyPD.com>  
**Sent:** Thu, Mar 9, 2023 12:32 pm  
**Subject:** RE: 22 E. 9th Street : Machuca/ Johnny's Diner

Good morning, Mrs. Machuca,

Thank you for your email dated Wednesday, March 8, 2023, regarding an appeal of the Notice to Abate or Show Cause mailed on Friday, March 3, 2023, for your property located at 22 E. Ninth Street. We appreciate the opportunity to answer your questions.

Attached to your email is a copy of the Health Permit issued by the San Joaquin County Environmental Health Department for your mobile food business. The Permit, issued on March 7, 2023, satisfies one of the conditions of approval associated with the Temporary Use Permit issued on September 15, 2022 (expires on March 14, 2023). The violation regarding the unapproved structures on the property still conflict with the approved site plan; however, I understand this matter is under discussion with the City's Development Services Department for resolution.

Your request for appeal of the Notice and Order can be submitted in writing to the City Clerk's Office located on the second floor of City Hall at 333 Civic Center Plaza, Tracy. There is no official form to file, therefore a written letter addressed to the City Clerk is sufficient to begin the appeal process. Please ensure your letter contains your name, address of the violation and the case number (CD23-0014). Once the appeal is filed, additional enforcement action will be placed on hold pending the outcome of your appeal.

Feel free to contact me if you need any additional information, clarification, or assistance in filing your appeal. We are happy to help.

Sincerely,

Ana Contreras  
Community Preservation Manager



Tracy City Hall  
333 Civic Center Plaza, First Floor  
Tracy, CA 95376  
Phone (209) 831-6416  
Fax (209) 831-6439  
[ana.contreras@tracypd.com](mailto:ana.contreras@tracypd.com)  
[www.ci.tracy.ca.us](http://www.ci.tracy.ca.us)

**From:** gmachuca [REDACTED]  
**Sent:** Wednesday, March 8, 2023 10:31 AM  
**To:** Bobby Alcantar <Bobby.Alcantar@TracyPD.com>

<https://mail.aol.com/webmail-std/en-us/PrintMessage>

CITY OF TRACY PLANNING COMMISSION  
PUBLIC HEARING

The City of Tracy Planning Commission will conduct a Public Hearing on **Wednesday, May 24, 2023, at 7:00 p.m.** or as soon after as possible, in the Tracy City Council Chambers, 333 Civic Center Plaza, Tracy, to consider the following:

**D23-0003: A New Outdoor Eatery Consisting of Two Shipping Containers at Approximately 240 sq. ft. and 160 sq. ft. and a 152 sq. ft. Mobile Food Trailer at 22 E. 9<sup>th</sup> Street – Applicant and Owner are Candido and Gabriela Machuca.** Public hearing to consider 1) Approving a Development Review Permit (D23-0003) to allow a new outdoor eatery consisting of two shipping containers at approximately 240 sq. ft. and 160 sq. ft. and a 152 sq. ft. mobile food trailer at 22 E. 9<sup>th</sup> Street; and 2) Determining that this project is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines section 15303, which pertains to construction of limited number of new, small facilities or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2,500 sq. ft. in floor area, no further environmental assessment is necessary. *The Project Planner is Kenny Lipich, Associate Planner, (209) 831-6443, kenneth.lipich@cityoftracy.org.*

The City of Tracy will allow for remote participation at the upcoming Planning Commission meeting on May 24, 2023.

All interested persons may submit statements in writing via email to [publiccomment@cityoftracy.org](mailto:publiccomment@cityoftracy.org) **before the start of the Commission meeting at 7:00 p.m.** Please identify this item in the subject line of your email; or submit statements orally by visiting the City's WebEx Event at <https://cityoftracyevents.webex.com> and using the following Event Number: **2552 387 5749** and Event Password: **Planning**; or via phone by dialing (408)418-9388, Access code: 2552 387 5749, during the public comment portion of this item.

Should you decide to challenge the decision of the Planning Commission, you may be limited to those issues that were raised for consideration at the hearing.

Information concerning this matter may be obtained at the Department of Development Services, 333 Civic Center Plaza, or at 209-831-6400.

JAYLEN FRENCH  
Director, Development Services

Publish May 12, 2023



CITY OF TRACY PLANNING COMMISSION  
PUBLIC HEARING

The City of Tracy City Council will conduct a Public Hearing on **Wednesday, June 28, 2023, at 7:00 p.m.** or as soon after as possible, in the Tracy City Council Chambers, 333 Civic Center Plaza, Tracy, to consider the following:

**D23-0003: A New Outdoor Eating and Drinking Establishment Consisting of Three Structures at 22 E. 9<sup>th</sup> Street – Applicant and Owner are Candido and Gabriela Machuca.** Public hearing to consider 1) Approving a Development Review Permit (D23-0003) to allow a new outdoor eating and drinking establishment consisting of three structures at 22 E. 9<sup>th</sup> Street, including requisite Conditions of Approval necessary to cure existing deficiencies and make such structures Code-compliant; and 2) Determining that this project is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines section 15303, which pertains to construction of limited number of new, small facilities or similar structures not involving the use of significant amounts of hazardous substances, and not exceeding 2,500 sq. ft. in floor area. *The Project Planner is Kenny Lipich, Associate Planner, (209) 831-6443, kenneth.lipich@cityoftracy.org.*

The City of Tracy will allow for remote participation at the upcoming Planning Commission meeting on June 28, 2023.

All interested persons may submit statements in writing via email to [publiccomment@cityoftracy.org](mailto:publiccomment@cityoftracy.org) **before the start of the Commission meeting at 7:00 p.m.** Please identify this item in the subject line of your email; or submit statements orally by visiting the City's WebEx Event at <https://cityoftracyevents.webex.com> and using the following Event Number: **2555 236 7823** and Event Password: **Planning**; or via phone by dialing (408) 418-9388, Access code: 2555 236 7823, during the public comment portion of this item.

Should you decide to challenge the decision of the Planning Commission, you may be limited to those issues that were raised for consideration at the hearing.

Information concerning this matter may be obtained at the Department of Development Services, 333 Civic Center Plaza, at (209) 831-6400.

BILL DEAN  
Assistant Director, Development Services Department

**From:** [REDACTED]  
**To:** [Public Comment](#)  
**Subject:** Johnny's Outdoor Eatery  
**Date:** Wednesday, June 28, 2023 1:28:57 PM

---

Caution: This is an external email. Please take care when clicking links or opening attachments.

To whom it may concern:

I am writing to ask the planning commission to approve the relocation of Johnny's Diner to an outdoor eatery on the plot of land that they bought.

Please vote YES for Johnny's diner to be located in downtown.

I am hopeful that the city and planning commission will vote in a manner that reflects what the community and public want.

Sincerely,  
Jesse Souza

Sent from my iPhone

Public Comment -- Received 06/28/23  
RE: Item 1.B - Development Review  
Permit (D23-0003) Johnny's Diner  
AT 22 E. 9TH STREET

**From:** [REDACTED]  
**To:** [Public Comment](#)  
**Subject:** Johnny's Outdoor Eatery  
**Date:** Wednesday, June 28, 2023 3:10:16 PM

---

**Caution:** This is an external email. Please take care when clicking links or opening attachments.

Please vote yes! Good food! Good people!

Sent from Yahoo Mail on Android

Public Comment -- Received 06/28/23  
RE: Item 1.B - Development Review  
Permit (D23-0003) Johnny's Diner  
AT 22 E. 9TH STREET

**From:** [Angie Durrant](#)  
**To:** [Public Comment](#)  
**Subject:** Johnny's Outdoor Eatery  
**Date:** Wednesday, June 28, 2023 3:44:14 PM

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**Caution:** This is an external email. Please take care when clicking links or opening attachments.

We'd like you to vote yes for this establishment!

Thanks for your support!

Angie Durrant

Public Comment -- Received 06/28/23  
RE: Item 1.B - Development Review  
Permit (D23-0003) Johnny's Diner  
AT 22 E. 9TH STREET

**From:** [Daniel Atkins](#)  
**To:** [Public Comment](#)  
**Subject:** Subject: Johnny's Outdoor Eatery  
**Date:** Wednesday, June 28, 2023 4:05:22 PM

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**Caution:** This is an external email. Please take care when clicking links or opening attachments.

Sent from [Mail](#) for Windows

We have enjoyed Johnnys' Hamburger eatery on Tracy Blvd. for YEARS. Our first pick for eating a delicious Casual meal, straight out of "Happy Day's" Tv Show. The new area is perfect for people enjoying our downtown and "Down Home" enough that everyone will LOVE Whatever is on the Menu. We have lived in Tracy for going on 30 years next year and this is the kind of eatery that is a perfect addition to Central Avenue. We already have too many Chain food restaurants and need to support our very own 50's type diner. Please vote YES to this excellent eatery! You won't be let down.

Thank you,  
The Atkins Family

**From:** [Hill, Randal](#)  
**To:** [Public Comment](#)  
**Subject:** Johnny's Outdoor Eatery  
**Date:** Wednesday, June 28, 2023 4:50:30 PM

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**Caution:** This is an external email. Please take care when clicking links or opening attachments.

To whom it may concern

I am writing regarding Johnny's Outdoor Eatery.

As a resident of Tracy since 1999 I have been a customer at Johnny's at his multiple locations and strongly urge the city to allow his new outdoor eatery in downtown to proceed. My family eats downtown at least once a week. We go to the farmer's market every weekend and frequent many of the other downtown businesses. I continue to be amazed at how much our downtown is growing into a place to be proud of and Johnny's is a great addition. I've had the chance to eat at Johnny's new outdoor eatery and it was such a wonderful experience. With so many food trucks seemingly permanently parked around town that look junky, Johnny's has done it right. It is the perfect set up for an outdoor eatery.

As for Johnny and his family, they are a staple in Tracy and are always welcoming with a big smile. They treat you like family from your first visit. I was disappointed when they closed their diner during Covid. Tracy needs an establishment and a family like Johnny's. I don't know why the city is choosing to make it difficult for them, but it needs to stop. Local, family-owned businesses are the heartbeat of any city. I urge the council to do what it takes to keep Johnny's Outdoor Eatery in town.

Thank you,  
Brian Hill