

*Memorandum*

~~council agenda 11-18-08~~  
Item 11.8

12.2.08  
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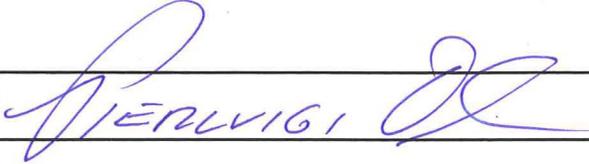
**TO: San Jose Mayor & City Council**

**FROM: Councilmember  
Pierluigi Oliverio**

**SUBJECT: Tomato Thyme Patio/Parking**

**DATE: November 17, 2008**

Approved



Date

11-17-08

**RECOMMENDATION**

The City Council support the addition of an exterior patio for the business known as Tomato Thyme and adopt the development standards that are included in the Planning Departments memo and packet which is based on the Planning Commissions' recommendation in addition to the following additional conditions.

- 1). **Maximum square footage allowed for all tenants:** 5, 295 gross square feet (4, 500 net square feet). This includes all permanent storage areas except small prefabricated, freestanding storage sheds.
- 2). **Parking ratio:**
  - a). *Restaurant-Interior areas.* 1:225 (one parking space for 225 square feet of net floor area). This includes all interior areas as noted in item #1 above.
  - b). *Exterior dining patio areas:* 1:2.5 (one parking space for every 2.5 seats). The exterior dining patio may only be used upon the approval of a Planned Development Permit for an off-site parking arrangement (including shared parking, easements, covenant of easement, or parking contracts) that provides for required parking for the patio seating as noted above.

**BACKGROUND**

Tomato Thyme, a popular restaurant in Willow Glen wishes to add a patio to its exterior. The Planning Department is supportive of the addition of a patio as long as Tomato Thyme provides the parking necessary for the expansion. Due to the current parking agreement Tomato Thyme has with the other property owners within the shopping center, parking for their interior seating is accommodated. In May of 2009, the current parking agreement expires, therefore, it will be imperative that Tomato Thyme re-enter this agreement to meet their interior seating parking requirement.

For the past two years, the owners of Tomato Thyme and their lobbyists have shared that they have tried to obtain parking agreements with other private property owners within the shopping center to meet the requirements of their desire to add an exterior patio. However, they have been unable to obtain parking agreements with the other property owners. As a result, Tomato Thyme is asking the City to create an exception for their expansion by not requiring them to provide parking for the addition of a patio. I do not feel comfortable creating an exception to the parking requirement which could have negative affects for other areas in the City.

Although when one theoretically looks at the parking available within this shopping center, there appears to be an abundance of parking, however, the fact of the matter is that every parking space is actually privately owned

by the various property owners within the shopping center. Therefore, if every property owner within the center wanted to put up signage declaring their parking spaces as "their own" they have the right to do that. For example, if all the property owners within the shopping center decided to *not* share their parking the way they currently do, then the over abundance of cars brought in by Tomato Thyme's addition (or any other business that was given an exception to the parking requirement) would be forced onto the street and other areas nearby.

The addition of a patio to Tomato Thyme's exterior would be beneficial and I wholeheartedly support this venture. Tomato Thyme is a gathering spot that is enjoyed by many people. An addition of a patio would only compliment the restaurant and add to the ambiance of the shopping center. Therefore, I encourage my colleagues to support the addition of a patio as my recommendation reads above.

However, when it comes to providing parking, Tomato Thyme must make a stronger effort to provide parking for the additional people it wishes to entertain. There is a shopping center right next to the shopping area where Tomato Thyme is located which has parking available. I encourage Tomato Thyme to seek out those property owners as well as revisiting the property owners in the shopping center Tomato Thyme now resides, to create the shared parking agreement needed for their patio expansion.