



**ATTACHMENT "B"**  
**Minor Use Permit**  
**S.C.C.C. 18.110.040**  
**Proposed Findings**  
**Tender Greens**  
**2532 Augustine Drive**  
**Santa Clara CA 95054**

**(A) That the establishment or operation of the use or building applied for, under the circumstances of the particular case, are essential or desirable to the public convenience or welfare.**

This request herein is for a Minor Use Permit ("MUP") to allow the Applicant, T.Y.P. Restaurant Group ("Tender Greens"), to offer beer and wine pursuant to a type 41 ABC license for on-site consumption at its forthcoming location at 2532 Augustine Drive ("Site"). The restaurant will be 3,460 s.f. including the 610 s.f. patio area, and will provide 74 seats in the 2850 sf interior and an additional 30 seats on the patio. The Applicant is requesting hours of operation from 11:00 a.m. – 9:00 p.m. daily with coterminous hours of beer and wine sales for operational flexibility. The Applicant believes that the hours are modest, and that they are consistent with surrounding uses adjacent to the Site. The total number of employees at this location will be 25, with approximately 12 employees on-premises during any given shift.

The Applicant believes that its request for a Minor Use Permit for the service of beer and wine for on-site consumption along with meals at its forthcoming restaurant is warranted based upon the company's outstanding record of compliance with the California Department of Alcoholic Beverages ("ABC"), the appropriateness of the location for the requested use, and its overall reputation as a well-established, responsible company which can be trusted to manage the requested ABC license appropriately. Moreover, Tender Greens does not have happy hour, has no live music, and operates under a variety of other operational conditions designed to ensure that no problems arise as a result of the service of beer and wine at all of its locations. (Please see attached for alcohol service training and security policies.)

The forthcoming Tender Greens will be located on Augustine Drive, within the 100-acre master-planned community known as Santa Clara Square. The Santa Clara Square Marketplace ("the Marketplace") is the retail and neighborhood-serving commercial portion of the Santa Clara Square community, which will offer up to 1,800 apartment homes, 1.8 million square feet of Class A office space and up to 165,000 square feet of specialty retail. The Marketplace offers a variety of neighborhood-serving commercial and restaurant uses to serve the local Silicon Valley community. It is anchored by Whole Foods Market. Other tenants include COMEBUY Tea, CorePower Yoga, EyeXam Optometry, Fleming's Prime Steakhouse & Wine Bar, Il Fornaio, Lula's Chocolates, Opa!, Puesto, Specialty's Cafe & Bakery, and Sur La Table. As such, the Applicant's forthcoming restaurant's location within the Santa Clara Square, which is a destination containing an assortment of restaurants along with a variety of retail and neighborhood-serving uses, will be appropriate for this kind of use.

The service of beer and wine is typically a very small component of Tender Greens' business. The Applicant's desire for the requested MUP is because its experience at its dozens of other locations in California and elsewhere is that its customers appreciate having the ability to order beer or wine to enjoy with their meals. Tender Greens has an outstanding record of compliance with the California Department

of Alcoholic Beverage Control at all of its locations state-wide—as well as with parallel regulatory agencies in New York and Massachusetts, where Tender Greens is slowly expanding its brand.

The Applicant has found that its restaurants appeal to a sophisticated clientele that appreciates innovative, freshly prepared food with organic and “locavore” ingredients at a very affordable price point in relation to the quality of the cuisine. The request to be able to offer beer and wine with meals pursuant to a type 41 ABC license is because some of Tender Greens’ patrons appreciate the opportunity to enjoy these items with their healthy, freshly prepared meals.

Furthermore, the Applicant believes that the ability to provide these products is an important component to the ongoing success of its restaurants, particularly since other restaurants within the Marketplace will also offer these items. The service of beer and wine at Tender Greens’ Santa Clara Square Marketplace location will be proper in relation to adjacent uses and the development of the community because the requested MUP will enable the Applicant to offer these items to patrons who are interested in them within a responsibly managed restaurant with tasty, affordable, and health-conscious food.

For all of the above reasons, the sale of beer and wine at the forthcoming restaurant, under the circumstances of this particular case, are desirable to the public convenience and welfare.

**(B) That said use will not be detrimental to (1) The health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use; (2) Property or improvements in the neighborhood of such proposed use; or (3) The general welfare of the City;**

The Applicant’s forthcoming restaurant with the proposed service of beer and wine will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood; nor property or improvements in the neighborhood; nor the general welfare of the City of Santa Clara. On the contrary, the Applicant believes it will make a positive contribution to the Marketplace and surrounding community. This is based upon the character of the location, which is appropriate for this type of use, along with the fact that Tender Greens has established itself as a good operator at its many locations, the restaurant with the proposed use will be consistent and compatible with the surrounding area and will not be a detriment.

The Applicant anticipates beer and wine sales to comprise only a very small percentage of gross sales at the restaurant. This has been borne out by its experience at other locations. Further, the Applicant recognizes an obligation to be a respectful operator within the community and welcomes input from the Planning Department and the Police Department. Ultimately, the reputation of the company depends in part on its ability to ensure that all of its locations operate in a manner which is not detrimental to the character of the development of the neighborhoods in which its restaurants are located. Tender Greens has established procedures in place in all of its restaurants to ensure the responsible management of these products. The restaurant will be comprised of 104 seats total in an approximately 3,460 s.f. space (74 seats inside, and 30 seats on the outdoor patio area) and is requesting hours of operation from 11:00 a.m. – 9:00 p.m. daily with conterminous service of beer and wine pursuant to a type 41 ABC license. The Applicant believes that the hours are modest, and that they are consistent with surrounding uses within and adjacent to the Site.

In terms of the characteristics of the restaurant chain, Tender Greens owns and operates several dozen restaurants throughout California along with a handful in Boston and New York, and is rapidly expanding

its brand. Tender Greens attributes its tremendous growth rate since it opened its first location in Culver City in 2006 on its vision for its restaurants. The Applicant has found that its restaurants appeal to a sophisticated clientele that appreciates innovative, freshly prepared food with organic and “locavore” ingredients at a very affordable price point in relation to the quality of the cuisine. The request to be able to offer beer and wine with meals pursuant to a type 41 ABC license is because some of Tender Greens’ patrons appreciate the opportunity to enjoy these items with their healthy, freshly prepared meals.

The Applicant’s ability to offer its customers beer and wine to enjoy with their meals is an important part of its business model. There is a demand for such products, and the ability to obtain them in a well-designed, responsibly managed environment at the price point at which Tender Greens offers meal service is beneficial to the community. Because the ability to serve these items is an important element of each restaurant’s success, and because Tender Greens’ restaurants have a positive impact on their surroundings, the request for a Minor Use Permit to enable the sale of beer and wine at the restaurant will be a service that is beneficial to the community.

The Applicant is an unusually forward-thinking restaurant group. First and foremost, there is the food itself – “foodie”-quality food in terms of the creativity, preparation, and ingredients, but at an extremely accessible price point, particularly in light of the quality offered. Then there is the focus on organic, “locavore,” and sustainable ingredients. Last but not least, the restaurant group is justly proud of its Sustainable Life Project, a six-month paid internship program for youth that were formerly in foster care and are interested in the culinary arts. The company launched this initiative in 2009 and it is going strong to this day. While these aspects of the company do not per se relate to alcohol, they do illustrate the thoughtfulness and innovation that infuse every part of their operations, and their commitment to being a force for good wherever their restaurants are located.

For all of the above reasons, the restaurant will not be detrimental to the health, safety, peace, morals, comfort, nor general welfare of persons residing or working in the neighborhood, nor property or improvements in the neighborhood, nor the general welfare of the City of Santa Clara. Rather, the Applicant strives to ensure that all of its restaurants have a positive impact on the communities in which they are located.

**(C) That said use will not impair the integrity and character of the zoning district.**

The request is for a Minor Use Permit to allow the Applicant, Tender Greens, to serve beer and wine for on-site consumption at its forthcoming restaurant, to be located in the Santa Clara Square Marketplace. The subject property is designated as Regional Mixed Use under the applicable portion of the General Plan and zoned ML – Light Industrial. The approval of the requested Minor Use Permit will not detrimentally affect the integrity and character of the zone in which it is located as the requested use is a permitted by the City of Santa Clara zoning code with conditional use review. Moreover, the Site’s location, the design and physical orientation of the restaurant, and the responsible operational and management practices of the restaurant will ensure that the Applicant’s ability to serve beer and wine at this location will not be a detriment to the surrounding area and will not impair the integrity and character of the zone.

Tender Greens will be located on the ground floor of the Santa Clara Square Marketplace on the northerly side of the Marketplace along Augustine Drive, within the 100-acre master-planned community known as Santa Clara Square. Direct access to the Site can be obtained via the I-101 Bayshore Freeway and the

Bowers Avenue exit. The Marketplace is the retail and neighborhood-serving commercial portion of the Santa Clara Square community, which will offer up to 1,800 apartment homes, 1.8 million square feet of Class A office space and up to 165,000 square feet of specialty retail. The Marketplace offers a variety of neighborhood-serving commercial and restaurant uses to serve the Silicon Valley community. It is anchored by Whole Foods Market. Other tenants include COMEBUY Tea, CorePower Yoga, EyeXam Optometry, Fleming's Prime Steakhouse & Wine Bar, Il Fornaio, Lula's Chocolates, Opa!, Puesto, Specialty's Cafe & Bakery, and Sur La Table. As such, the Applicant's forthcoming restaurant's location within the Santa Clara Square, which is a destination containing an assortment of restaurants along with a variety of retail and neighborhood-serving uses, will be appropriate for this kind of use.

The Applicant believes that its restaurants have a positive impact on the neighborhoods in which they are located because of the company's progressive corporate philosophy, the attractive physical design of its restaurants, its sophisticated customer base, and the health-conscious food it serves. In terms of the impact of the proposed use on the surrounding built environment, the Applicant is currently undergoing interior tenant improvements and updating the façade to ensure its consistency with the surrounding environment. The design and construction of each Tender Greens restaurant is unique and tailored to be aesthetically consistent with the neighborhoods and centers in which it locates its restaurants.

Although beer and wine service is being requested, the sale of beer and wine accounts for only a small fraction of each restaurant's gross sales. The desire to obtain the requested MUP is that, in the Applicant's experience, its customers appreciate the option to consume beer and wine with their healthy entrees. The Applicant believes that its proposed hours of operation, 11:00 a.m. to 9:00 p.m., are modest, consistent with the character of the neighborhood, and compatible with or less extensive than those of the other commercial and restaurant uses in the vicinity. The Applicant has also established itself as a reputable and successful company by virtue of its attention to detail and quality with respect to all aspects of its business. Indeed, Tender Greens' responsible management practices and training of all employees involved with the sale and handling of beer and wine is critical to the company's continued success. As a result, the Applicant has an outstanding record of compliance with the California Alcoholic Beverage Control agency and other parallel agencies as it expands into other states.

For the reasons stated above, the Applicant believes that approval of the requested MUP to serve beer and wine pursuant to a type 41 ABC license at its restaurant will not detrimentally affect the integrity and character of the zone in which it is located.

**(D) That said use is in keeping with the purposes and intent of this title.**

The request is for a Minor Use Permit to allow the Applicant, Tender Greens, to serve beer and wine for on-site consumption at its forthcoming restaurant located in the Santa Clara Square master planned community. The subject property is designated as Regional Mixed Use under the General Plan and zoned ML – Light Industrial and the requested use is permitted in this zone, subject to approval.

The request herein is to allow the service and sale of beer and wine pursuant to a type 41 ABC license all within a 3,460 s.f. restaurant space that will be comprised of 104 seats total (74 seats inside, and 30 seats on the 610 s.f. outdoor patio area).

As noted above, Tender Greens will be located along Augustine Drive, within the 100-acre master-planned community known as Santa Clara Square. The Applicant's forthcoming restaurant's location in the

commercial portion of the Marketplace, which is a destination containing an assortment of restaurants along with a variety of retail and neighborhood-serving uses, will be appropriate for this kind of use.

The desire to obtain the requested MUP is that, in the Applicant's experience, its customers from time to time appreciate the option to enjoy a glass of wine or a beer with their healthy, innovative, freshly prepared meals. Moreover, the sale of beer and wine accounts for only a small fraction of each restaurant's gross sales. Tender Greens is a reputable company, and is not the type of use typically associated with problem consumption of alcoholic beverage products. The Applicant has also established itself as a reputable and successful company by virtue of its attention to detail and quality with respect to all aspects of its business. In addition, Tender Greens has a business model that incorporates attention to training its employees in the proper handling of beer and wine products to ensure the safe and appropriate handling of such products. The Applicant has an outstanding record of compliance with the California Alcoholic Beverage Control agency and other parallel agencies wherever its restaurants are located due to its responsible management practices and training of all employees involved with the sale and handling of beer and wine.

For the reasons stated above, the proposed use is conditionally permitted as per the City of Santa Clara Zoning Code Pursuant to §18.110.040 and further complies with the intent of all applicable provisions of said chapter.