



## CITY COUNCIL STAFF REPORT

DATE: JANUARY 20, 2010 CONSENT CALENDAR

SUBJECT: REQUEST BY THE NAKED GRAPE FOR A RESOLUTION OF PUBLIC CONVENIENCE (CASE: 5.1234-PCN) IN ORDER TO SELL BEER AND WINE FOR CONSUMPTION ON OR OFF PREMISES AT 242 NORTH PALM CANYON DRIVE.

CASE: 5.1234 – PCN

FROM: David H. Ready, City Manager

BY: Craig Ewing, AICP, Director of Planning Services

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### SUMMARY

The applicant, Larry Bitoni of The Naked Grape, is requesting that the Council adopt a Resolution of Public Convenience for the sale of beer and wine for consumption on or off site (ABC type 42 license) for the property located at 242 North Palm Canyon Drive.

### RECOMMENDATION:

Adopt Resolution No. \_\_\_\_\_, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, OF PUBLIC CONVENIENCE IN ORDER TO SELL BEER AND WINE FOR ON OR OFF SITE CONSUMPTION FOR THE PROPERTY LOCATED AT 242 NORTH PALM CANYON DRIVE, ZONE CBD, SECTION 15."

### BACKGROUND:

The applicant has applied for a Type 42 license through the Department of Alcoholic Beverage Control (ABC) for a previously approved wine and art bar located at 242 North Palm Canyon Drive. The "Type 42" license authorizes the sale of beer and wine for on- or off-site consumption. This location previously had a Type 42 license approved. The ABC will not issue the license unless the City Council adopts a resolution pursuant to state law, indicating that the premises will provide for the public convenience or necessity.

ITEM NO. 2.F.

**ANALYSIS:**

The applicant is applying for a new liquor license at the location for the sale of beer and wine. The Department of Alcoholic Beverage Control is requiring a resolution from the City Council to approve an "undue concentration" of such licenses. In accordance with Section 23958.4 of the Business and Professions Code which took effect on January 1, 1995, "undue concentration" means a property that is located in a census tract (or division) where the ratio of on-sale retail licenses to the population in that tract (or division) exceeds the ratio of licenses to the population in the subject county. When an undue concentration is determined to exist, the State Department of Alcoholic Beverage Control will not issue a license for the sale of alcohol without a letter or resolution from the City Council which indicates the premises will provide for the public convenience or necessity.

Currently, the State Department of Alcoholic Beverage Control considers the census tract that the proposed license is to be located has an "undue concentration" of liquor licenses. The subject property is located within Census Tract #0446.01. This tract has 85 active on-sale liquor licenses and four pending on-sale liquor licenses (including this one). Six on-sale licenses are authorized for the tract. State law was enacted to allow local government the opportunity to regulate the number and location of such uses. By making a finding of "Public Convenience or Necessity", the City Council may determine that the subject premises will provide for the convenient patronage of the public whereby the convenience does not already exist in the immediate area.

The subject property is in a commercial area. Surrounding uses are as follows:

|       | <b>General Plan</b>       | <b>Zone</b>                     | <b>Existing Land Use</b>  |
|-------|---------------------------|---------------------------------|---------------------------|
| North | Central Business District | CBD (Central Business District) | Parking Area              |
| South | Central Business District | CBD (Central Business District) | Multi-tenanted Commercial |
| East  | Central Business District | CBD (Central Business District) | Parking Area              |
| West  | Central Business District | CBD (Central Business District) | Resort Hotel              |

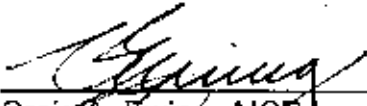
**CONCLUSION:**

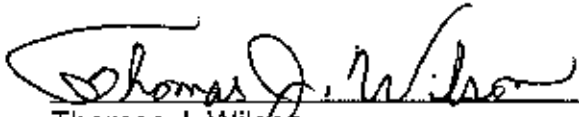
Staff is recommending approval of Case 5.1234-PCN and adoption of a Resolution of Public Convenience for the issuance of a type 42 Liquor License located at the 242 North Palm Canyon Drive.

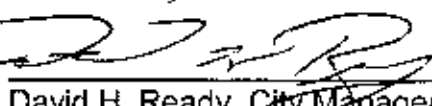
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FISCAL IMPACT:

None.

  
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Craig A. Ewing, AICP,  
Director of Planning Services

  
\_\_\_\_\_  
Thomas J. Wilson,  
Assistant City Manager

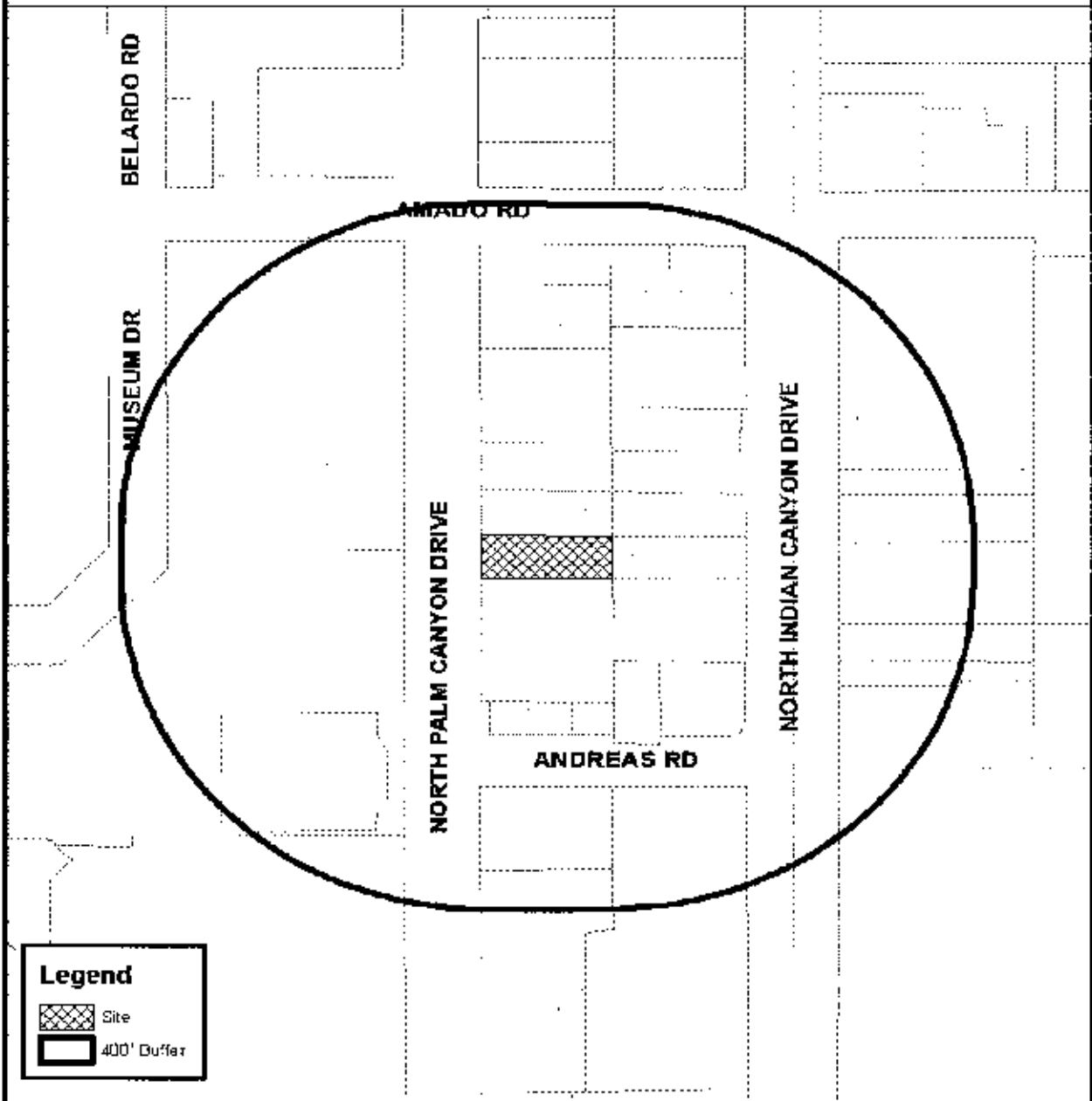
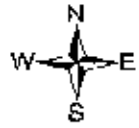
  
\_\_\_\_\_  
David H. Ready, City Manager

Attachments:

1. 400' Vicinity Map
2. Letter of Request
3. Draft Resolution



Department of Planning Services  
Vicinity Map



**Legend**

-  Site
-  400' Buffer

**CITY OF PALM SPRINGS**

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| <p><b>CASE NO:</b> 5.1234 - PCN</p>      | <p><b>DESCRIPTION:</b> A request by The Naked Grape for a Resolution of Public Convenience for a Type 42 ABC</p> |
| <p><b>APPLICANT:</b> The Naked Grape</p> | <p>license in order to sell beer &amp; wine and hold wine</p>  |
|  | <p>tastings located at 242 N. Palm Canyon Drive, Zone CBD, Section 15.</p>                                       |

PCN 5.1234

517-091-011

15/4/4 CBO

December 8, 2009

Larry Bitonti  
Dba The Naked Grape  
242 N. Palm Canyon Drive  
Palm Springs, CA. 92262

**RECEIVED**

DEC 08 2009

**PLANNING SERVICES  
DEPARTMENT**

To: The planning department and city council.

Gentlemen and Ladies;

The Palm Springs Wine and Art Bar at this address has terminated its lease.

I wish to reopen the Wine and Art Bar and Gallery as the Naked Grape Wine and Art.

I will be doing the same thing, art sales and wine tastings. The only change will be upgrading the fixtures and the wine.

Would you send me a letter of Public Convenience or Necessity and send one to the ABC.

Thank you for your consideration and help.

*Larry Bitonti*  
Larry Bitonti  
The Naked Grape

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADOPTING A RESOLUTION OF PUBLIC CONVENIENCE IN ORDER TO SELL BEER AND WINE AND HOLD WINE TASTINGS AT 242 NORTH PALM CANYON DRIVE.

WHEREAS, The Naked Grape ("Applicant") has requested the adoption of a Resolution of Public Convenience, Case 5.1234 PCN, in order to sell beer and wine and hold wine tastings at the property located at 242 North Palm Canyon Drive, Zone CBD, Section 15; and

WHEREAS, the applicant has applied with the State of California Alcoholic Beverage Control for a license to sell beer and wine and hold wine tastings: license type 42 (On-Sale Beer and Wine for Public Premises).

WHEREAS, the City Council is being asked to adopt a Resolution of Public Convenience pursuant to the requirements of the Alcoholic Beverage Control Board and applicant; and

WHEREAS, the City Council has carefully reviewed and considered all of the evidence presented in connection with the Resolution of Public Convenience, including but not limited to the staff report; and

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council finds that a Type 42 (On-Sale Beer and Wine for Public Premises) at 242 North Palm Canyon Drive serves the Public Convenience.

ADOPTED THIS 20<sup>th</sup> day of January, 2010.

\_\_\_\_\_  
David H. Ready, City Manager

ATTEST:

\_\_\_\_\_  
James Thompson, City Clerk

CERTIFICATION

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE ) ss.  
CITY OF PALM SPRINGS )

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, hereby certify that Resolution No. \_\_\_\_\_ is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on \_\_\_\_\_, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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James Thompson, City Clerk  
City of Palm Springs, California