



## CITY COUNCIL STAFF REPORT

DATE: June 1, 2011

NEW BUSINESS

SUBJECT: REQUEST BY CORK 'N BOTTLE FOR A RESOLUTION OF PUBLIC CONVENIENCE OR NECESSITY (PCN) TO SELL BEER AND WINE FOR CONSUMPTION OFF PREMISES (TYPE 20 ALCOHOLIC BEVERAGE CONTROL LICENSE) AT THE EXISTING RETAIL STORE LOCATED AT 342 NORTH PALM CANYON DRIVE.

CASE: 5.1261 – PCN

FROM: David H. Ready, City Manager

BY: Craig Ewing, AICP, Director of Planning Services

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### SUMMARY

The applicant, Cork 'N Bottle, is requesting the Council to adopt a Resolution of Public Convenience or Necessity (PCN) for the sale of beer and wine for off-site consumption (Alcoholic Beverage Control Type 20 license) at the existing retail store located 342 North Palm Canyon Drive. The store currently sells beer, wine and distilled spirits under a State Alcoholic Beverage Control (ABC) Type 21 license; however, the operator will be downgrading to an ABC Type 20 license to sell only beer and wine.

### 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 OFF SITE CONSUMPTION (TYPE 20 ALCOHOLIC BEVERAGE CONTROL LICENSE) AT A RETAIL STORE LOCATED AT 342 NORTH PALM CANYON DRIVE."

### BACKGROUND:

The applicant has applied for a "Type 20" license through the State of California Department of Alcoholic Beverage Control (ABC) for the existing retail store located at 342 North Palm Canyon Drive. The "Type 20" license authorizes the sale of beer and wine for off-site consumption; minors are allowed on the premises. Because of the "undue concentration" of liquor licenses in this particular census tract, the ABC will not

ITEM NO. 5A

issue the license unless the City Council adopts a resolution pursuant to state law, indicating that granting a “Type 20” alcohol license for the subject premises will provide for the public convenience or necessity.

**ANALYSIS:**

The applicant is applying for a new “Type 20” alcohol license at 342 North Palm Canyon Drive for the sale of beer and wine for off-site consumption. 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 off-sale retail licenses to the population in that tract (or division) exceeds the ratio of off-sale 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, by granting such license.

Currently, the State Department of Alcoholic Beverage Control considers the census tract that the proposed license is to be located as having an “undue concentration” of liquor licenses. The subject property is located within Census Tract #0446.01 (see attached census map). This tract is authorized four (4) off-sale licenses and there are currently fourteen (14) active off-sale liquor licenses. 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.

Surrounding zoning, general plan land use designations and existing uses are denoted in the following table.

**Table 1: Surrounding zones, general plan designations and existing land uses**

	<b>Zone</b>	<b>General Plan</b>	<b>Land Use</b>
North	CBD (Central Business District)	CBD (Central Business District)	Vacant Lot
South	CBD (Central Business District)	CBD (Central Business District)	Commercial / Retail
East	CBD (Central Business District)	CBD (Central Business District)	Vacant Lot
West	CBD (Central Business District)	CBD (Central Business District)	Commercial / Retail

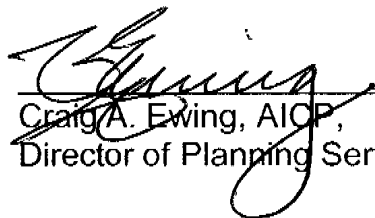


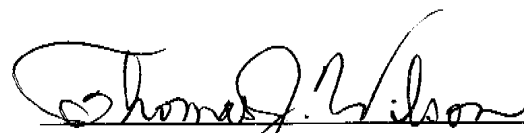
**AERIAL PHOTO SHOWING PROJECT SITE AND SURROUNDING DEVELOPMENT**

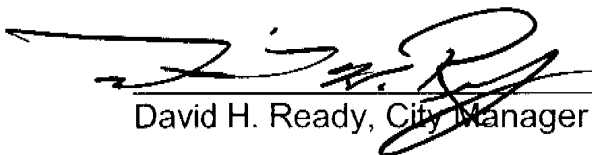
Some of the nearby businesses have various types of licenses for the sale and consumption of alcohol, including Shakerz (Cocktail Lounge) at 301 N. Palm Canyon Drive, Wild for the Vine (Wine Shop) at 390 N. Palm Canyon Drive, Torme's Restaurant at 360 N. Palm Canyon Drive. The nearest school is Katherine Finchy Elementary School which is approximately a mile away at 777 East Tachevah Drive.

FISCAL IMPACT:

No Fiscal Impact.

  
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Craig A. Ewing, AICP,  
Director of Planning Services

  
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Thomas J. Wilson,  
Assistant City Manager

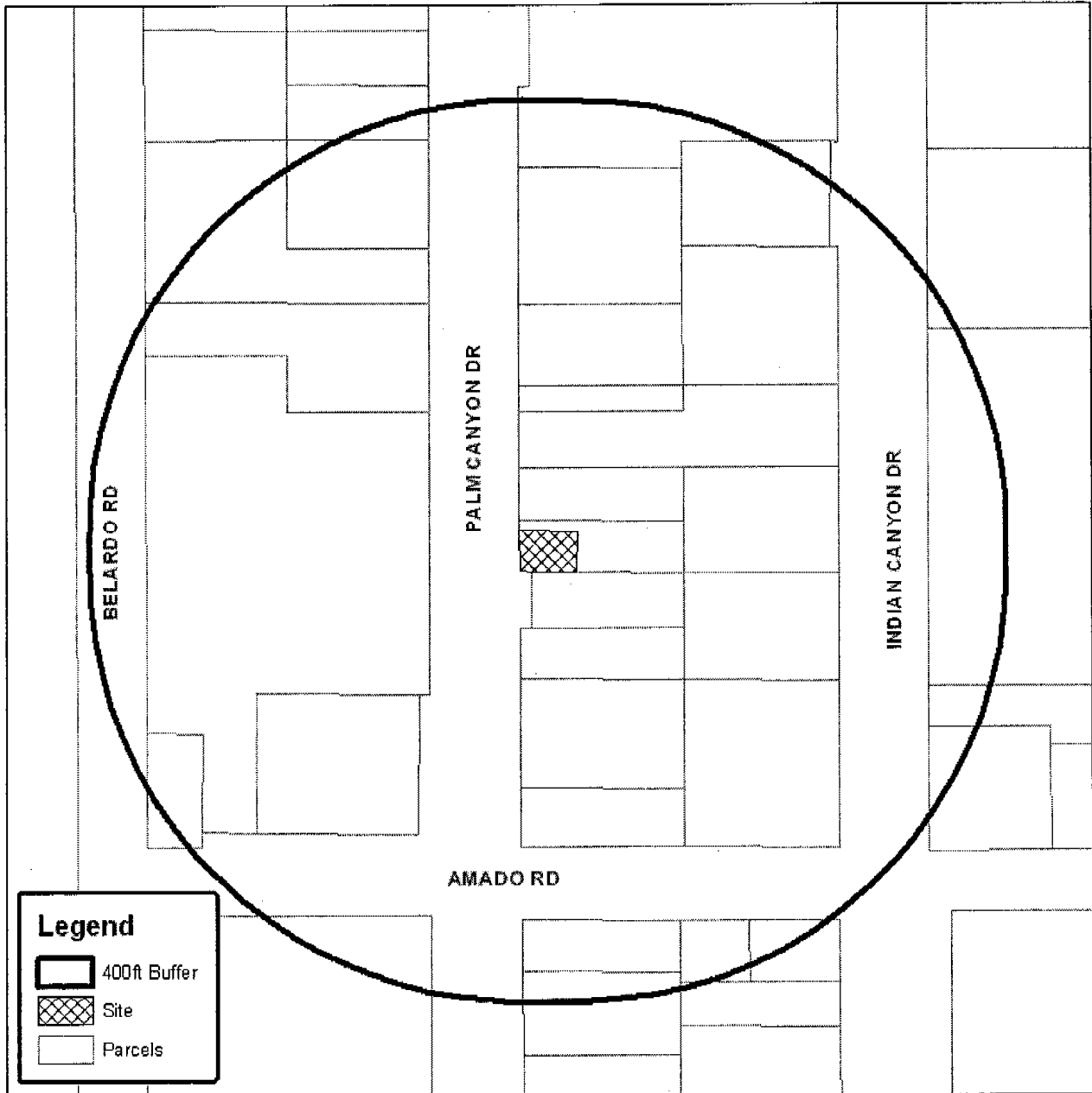
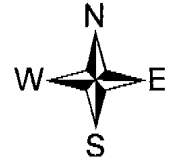
  
\_\_\_\_\_  
David H. Ready, City Manager

Attachments:

1. 400' Vicinity Map
2. Draft Resolution
3. Letter of Request from Applicant
4. Census Tract Map



# Department of Planning Services Vicinity Map



## CITY OF PALM SPRINGS

**CASE NO.:** 5.1261 PCN

**APPLICANT:** Cork 'N Bottle

**DESCRIPTION:** A request by Cork 'N Bottle for a Resolution of Public Convenience or Necessity for a Type 20 ABC license in order to sell beer and wine for off-premise consumption at the existing located at 342 N. Palm Canyon Drive, Zone CBD, Section 15.

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 OFF SITE CONSUMPTION (TYPE 20 STATE ALCOHOLIC BEVERAGE CONTROL LICENSE) AT A STORE LOCATED AT 342 NORTH PALM CANYON DRIVE.

WHEREAS, Cork 'N Bottle ("Applicant") has requested the adoption of a Resolution of Public Convenience or Necessity (Planning Case No. 5.1261 PCN) for a Type 20 alcohol license to sell beer and wine for off-site consumption at a store located at 342 North Palm Canyon Drive, APN 513-081-017, Zone CBD, Section 15/T4/R4; and

WHEREAS, the Applicant proposes to sell beer and wine for off-site consumption as part of a convenience store; and

WHEREAS, the applicant has made an application to the State of California Alcoholic Beverage Control Board for a Type 20 license to sell beer and wine for consumption off-premises at 342 North Palm Canyon Drive; and

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

WHEREAS, on June 1, 2011, the City Council carefully reviewed and considered all of the evidence presented in connection with the request for a Resolution of Public Convenience or Necessity, including but not limited to the staff report and all written and oral testimony.

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

SECTION 1. The City Council finds that a Type 20 liquor license (beer and wine) at 342 North Palm Canyon Drive, serves the Public Convenience.

ADOPTED THIS 1<sup>st</sup> DAY OF JUNE, 2011.

\_\_\_\_\_  
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:

\_\_\_\_\_  
James Thompson, City Clerk  
City of Palm Springs, California

The  
**CORK N BOTTLE**  
Liquor Store

April 5, 2011

To: Mr. Craig Ewing  
Planning Director  
City Of Palm Springs  
3200 Tahquitz Canyon Way.

**Subject: Request to the City Council for a Resolution of Public Convenience or Necessity**

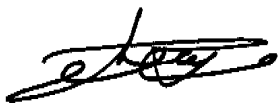
Kindly we are looking for a Request to the City Council for a Resolution of Public Convenience or Necessity for the Alcoholic Beverage Control (ABC) for type 20 off-sale beer and wine license "for our store, "The Cork n Bottle" at 342 North Palm Canyon Drive.

Note that we have sold our Type 21 license for additional cash flow to keep business running in this tough times. and have applied for the Type 20 license that is the subject of this request.

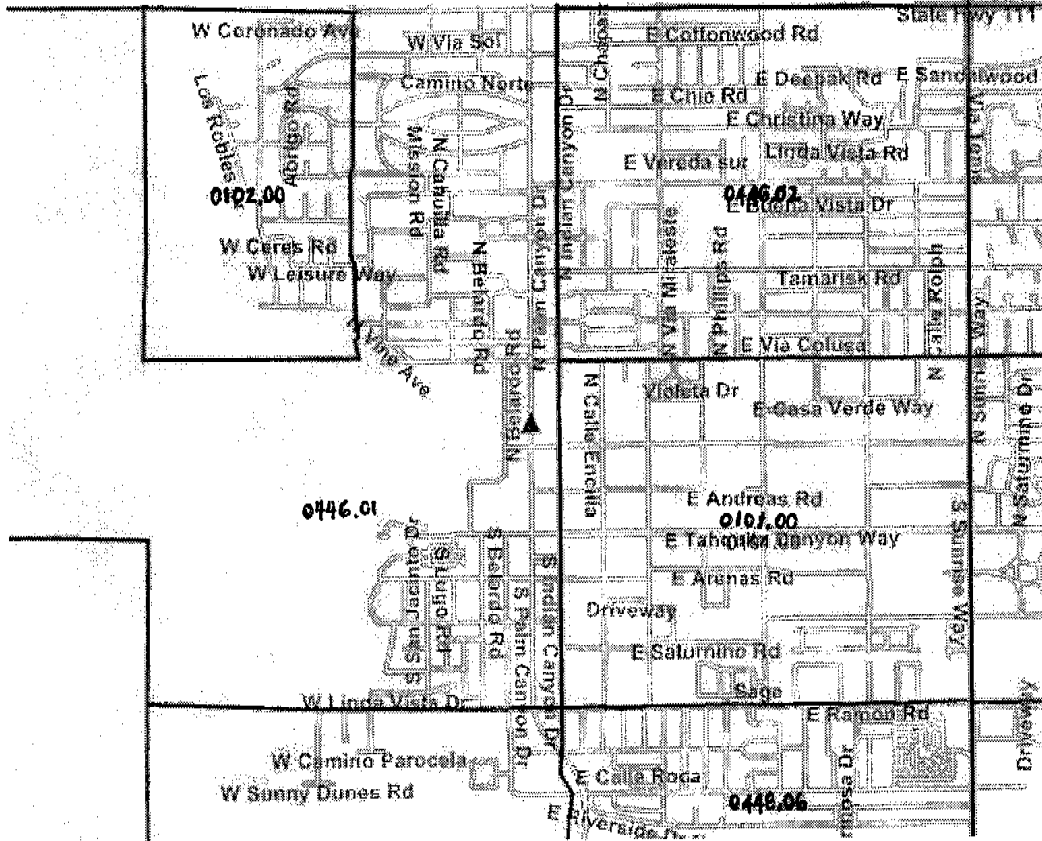
Attached is my application fee. Please notify me as soon as this request is ready to be scheduled with the City Council. Thank you

Best regards

Cork N Bottle



Moustapha Khalil  
Cell: 760-774-8464  
mo3434@hotmail.com



2010 Information	
Street Address	342 N PALM CANYON DR
City Name	PALM SPGS
State Abbr	CA
Zip Code	92262
MSA/MD Code	40140
State Code	06
County Code	065
Tract Code	0446.01

Legend

- Highway
- Tract
- Street