



## CITY COUNCIL STAFF REPORT

DATE: DECEMBER 3, 2008 CONSENT CALENDAR

SUBJECT: REQUEST BY MEHUL SHAH OF SHRIJI ENTERPRISES, INC. FOR A RESOLUTION OF PUBLIC CONVENIENCE (CASE: 5.1213-PCN) IN ORDER TO ALLOW WINE TASTING AT THE EXISTING FAME TOBACCONIST STORE LOCATED AT 155 SOUTH PALM CANYON DRIVE, SUITE A-3.

CASE: 5.1213 – PCN

FROM: David H. Ready, City Manager

BY: Craig Ewing, AICP, Director of Planning Services

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### SUMMARY

The applicant, Mehul Shah, is requesting that the Council adopt a Resolution of Public Convenience for the on-site sale and consumption of beer and wine for his existing store known as Fame Tobacconist located within the Mercado Plaza at the 155 South Palm Canyon Drive, Suite A-3.

### 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 AT 155 SOUTH PALM CANYON DRIVE, SUITE A-3, ZONE C-B-D, SECTION 15."

### PRIOR ACTIONS:

On June 7, 2006, the City Council adopted a resolution of public convenience to allow the retail sale of wine at the subject site.

On October 22, 2008, the Planning Commission reviewed and approved a Conditional Use Permit application to allow wine tasting at the subject site.

ITEM NO. 8.9.

**BACKGROUND:**

The applicant has applied for a Type 42 license through the Department of Alcoholic Beverage Control (ABC). The "Type 42" license (On Sale Beer & Wine – Public Premises) authorizes the sale of beer and wine for on-site consumption. 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.

**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 City of Palm Springs as having an "undue concentration" of liquor licenses – that is, more liquor licenses per capita in Palm Springs than throughout Riverside County. The subject property is located within Census Tract #0446.01. This tract has eighty-nine active on-sale beer and wine licenses and four licenses pending. Six on-sale beer and wine 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>Land Use</b>
North	CBD (Central Business District)	CBD (Central Business District)	Downtown Commercial Shops
South	CBD (Central Business District)	CBD (Central Business District)	Downtown Commercial Shops
East	CBD (Central Business District)	CBD (Central Business District)	Downtown Commercial Shops
West	CBD (Central Business District)	CBD (Central Business District)	Hotel

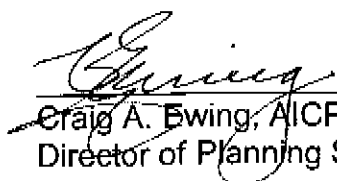
The existing smoke shop and wine store has approximately 1,580 square feet of floor area within the Mercado Plaza. The square footage of the proposed use will not change that of the existing store. The front area includes existing general retail and accounts for approximately 570 square feet. The back half includes the existing humidor, display area and office / bathroom space and accounts for approximately 950 square feet. The proposed tasting area will be limited to the humidor area only as approved by the Conditional Use Permit.

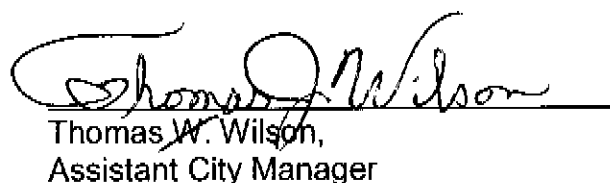
CONCLUSION:

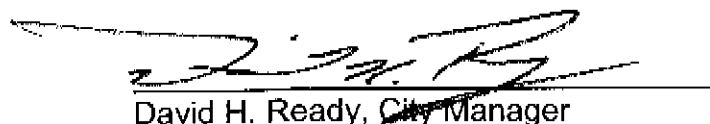
Staff is recommending approval of Case 5.1213 – PCN and adoption of a Resolution of Public Convenience to allow issuance of a Type 42 (On Sale Beer & Wine – Public Premises) ABC License for Fame Tobacconist located at 155 South Palm Canyon Drive, Suite A-3.

FISCAL IMPACT:

None.

  
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Craig A. Ewing, AICP,  
Director of Planning Services

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

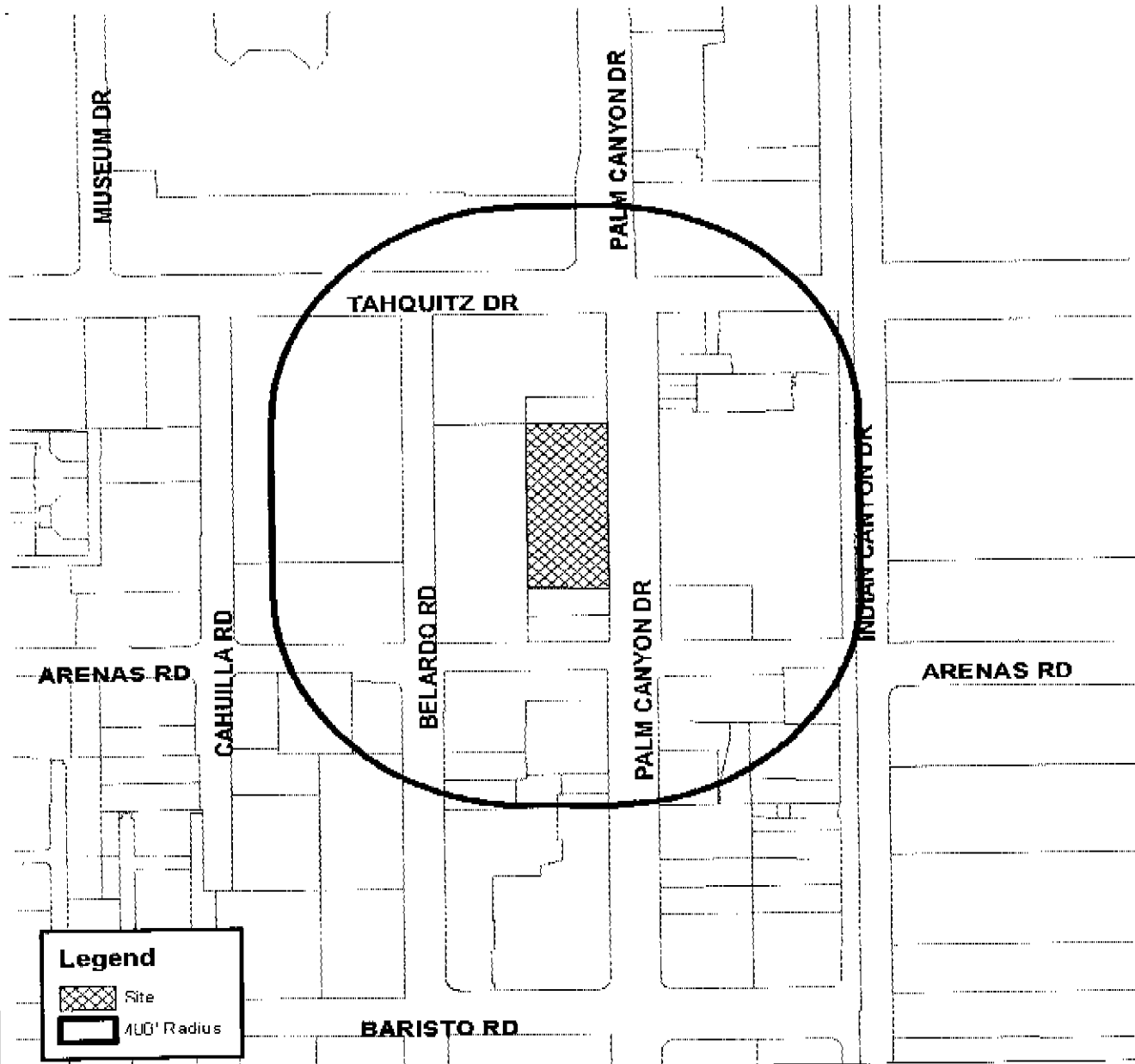
  
\_\_\_\_\_  
David H. Ready, City Manager

Attachments:

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



# Department of Planning Services Vicinity Map



**Legend**

-  Site
-  400' Radius

## CITY OF PALM SPRINGS

<p><b>CASE NO:</b> 5.1213 PCN</p> <p><b>APPLICANT:</b> Mel Shah Fame Tobacconist</p>	<p><b>DESCRIPTION:</b> To consider an application by Mehul Shah for a resolution of public convenience or necessity in order to sell beer and wine at Fame Tobacconist located within the Mercado Plaza at 155 South Palm Canyon Drive.</p>
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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 AT 155 SOUTH PALM CANYON DRIVE, SUITE A-3, ZONE C-B-D, SECTION 15.

WHEREAS, Mehul Shah, ("Applicant") has requested the adoption of a Resolution of Public Convenience (Case No. 5.1213 – PCN) in order to sell beer and wine for on-site consumption from Fame Tobacconist located at 155 South; 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 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

WHEREAS, the applicant has applied with the State of California Alcoholic Beverage Control for a license to sell beer and wine under a Type 42 (On Sale Beer & Wine – Public Premises) ABC liquor license.

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

SECTION 1. The City Council finds that a Type 42 liquor license (On Sale Beer & Wine – Public Premises) at 155 South Palm Canyon Drive, Suite A-3, serves the Public Convenience.

ADOPTED THIS 3rd day of December, 2008.

\_\_\_\_\_  
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

Thursday November 19, 2008

To  
The City Council  
City of Palm Springs

Attention: **Mr. David Newell**, Planning Department

Subject: **PCN permit for Wine Tasting in Down Town Palm Springs.**

Respected Council Members,  
We are a retailer of fine cigars and wine operating in down town Palm Springs since July 2001. Our retail store offers high quality of premium cigars and wide variety of specialty wines from all over.

An opportunity has come by our way to have our patrons and visitors of Palm Springs to taste a sample wine before they can buy a case, six bottles or twelve bottles.

**Wine tasting will be ancillary to the sale of "closed" bottles.**

At **present**, our retail store Fame Tobacconist has **license type 20** (off-sale beer and wine permit) issued by department of **Alcoholic Beverage Control**. To taste wine in our retail store we would **require license type 42 (on-premise consumption wine)**.

Your all approval of **Public Convenience and Necessity permit** will be highly appreciated.

Sincerely,  
Mehul B Shah  
Shriji Enterprises Inc.,  
DBA: Fame Tobacconist  
155 S. Palm Canyon Dr.  
Ste A 3  
Palm Springs CA 92262  
[fame@dsr.com](mailto:fame@dsr.com)

S. 1213 PCN  
RECEIVED

NOV 20 2008  
PLANNING SERVICES  
DEPARTMENT