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Beer and Wine Permits and Licenses

Process Review

October 18, 2012

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Objectives

- Overview of permitting/licensing process and players
- Outline potential changes in City process
- Review City revenues/expenses associated with licensing
- Discuss density of Beer/Wine retailers

Participants

- Patrick Baker, City Attorney
- David Boyd, Finance Director
- Keith Herrmann, Deputy Finance Director
- Paul Mason, Billing & Collections Manager
- Sue Sandhoff, Financial Operations Manager
- Steve Medlin, Planning Director
- Larry Smith, Deputy Police Chief
- John Massimo, Durham Police Officer
- Ray Richardson, Durham ABC Commission
- Renee Cowick, Assistant Counsel, NC ABC Commission
- Josh Batten, Asst. Special Agent in Charge, NC ALE

Current Process: Overview

- Establishments wishing to sell beer and wine in City of Durham must follow two separate procedures:

  -- Obtain an Alcoholic Beverage Control (ABC) **permit** that authorizes establishment to sell beer and wine

  -- Establishments that hold an ABC permit must also obtain a City beer & wine **license**

Currently we have 520 licensed businesses in the City

Entities & Roles

- ABC Commission
- Alcohol Law-Enforcement Agents (ALE)
- Durham County ABC Officers
- City of Durham Police Department
- City of Durham Finance Department

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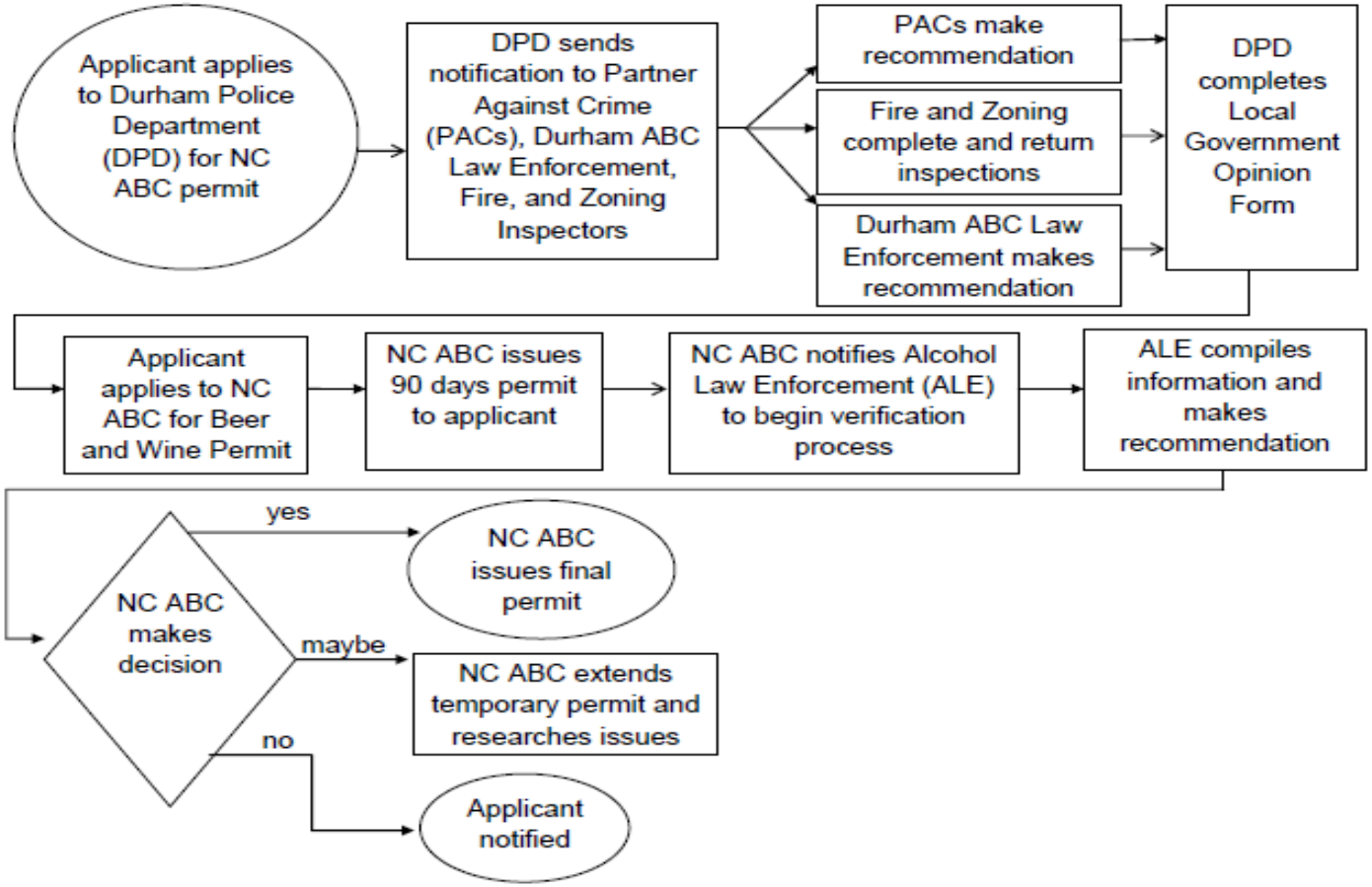
Current Process: NC ABC Permit

North Carolina Alcohol Beverage Control (NC ABC) Permit Process



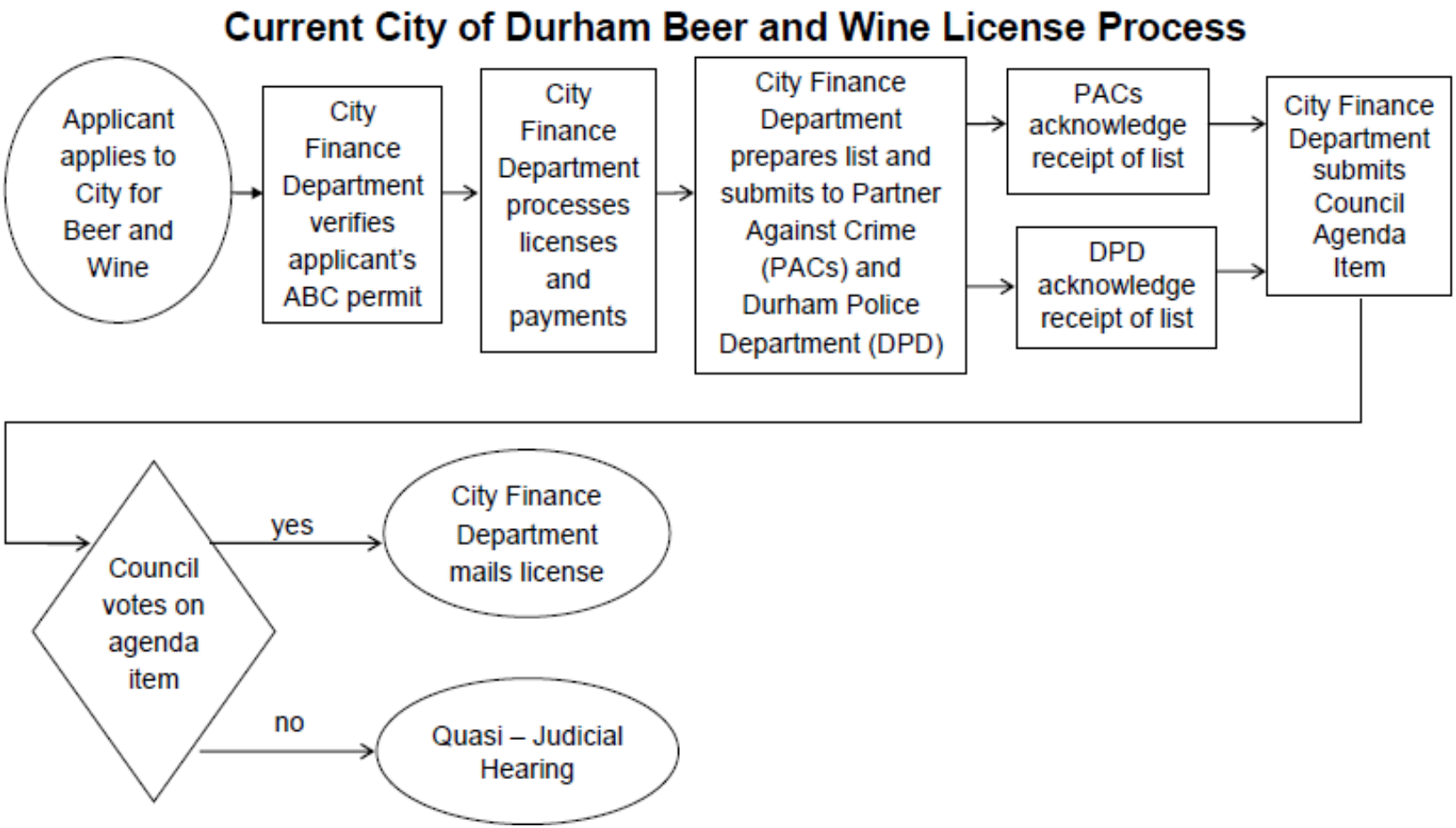
Current Process: ABC Permit

- In addition to complying with all applicable building and fire codes, factors considered by ABC Commission are:
  - Reputation, character, and criminal record of applicant
  - Number of places already holding ABC permits in neighborhood
  - Parking facilities and traffic conditions
  - Kinds of businesses already in neighborhood
  - Whether establishment is located within 50 feet of a church, public school, or church school
  - Zoning laws
  - Recommendation of local governing body
  - Any other evidence that would tend to show whether applicant would comply with ABC laws and whether operation of the business at that location would be detrimental to the neighborhood

Current Process: City License

- Local regulations require that a person holding an ABC permit for sale of beer & wine obtain a City license and pay an annual tax
- Business located inside City of Durham pay both City and County license tax
- Beer & wine licenses expire on April 30th and must be renewed by May 1st of each year

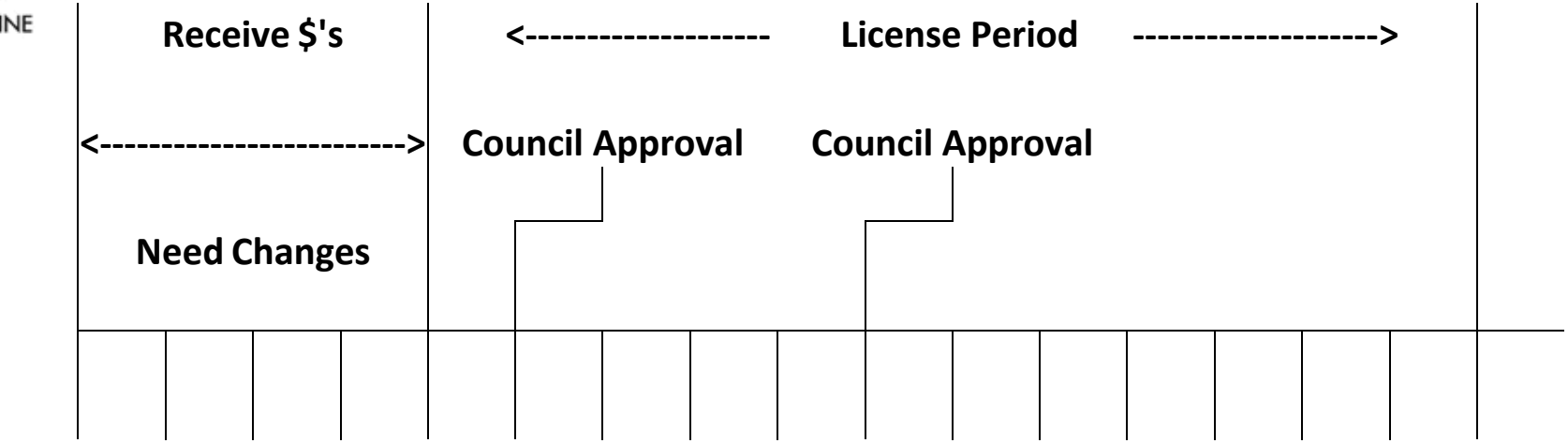
Current City License Process



Current Process: City License

- Local government can refuse to issue a license if it finds applicant has committed any act or allowed any activity in preceding year that would be grounds for suspension or revocation of an ABC permit
- Prior to such action, Council is required to offer applicant a **quasi-judicial hearing** and render a decision in accordance with all of the procedural and substantive standards applicable to such a hearing procedure

Current City Timeline



Changes in City Process

- Administratively issue licenses (new and renewals) unless Police Department and City Attorney recommend otherwise
- Primarily focused on renewals – approval process for new ABC permits working well
- Criteria for refusal to issue City license to be based upon totality of circumstances and upon exhaustion of all other enforcement options
- Refusal to issue City license will result in cancellation of ABC permit by ABC Commission

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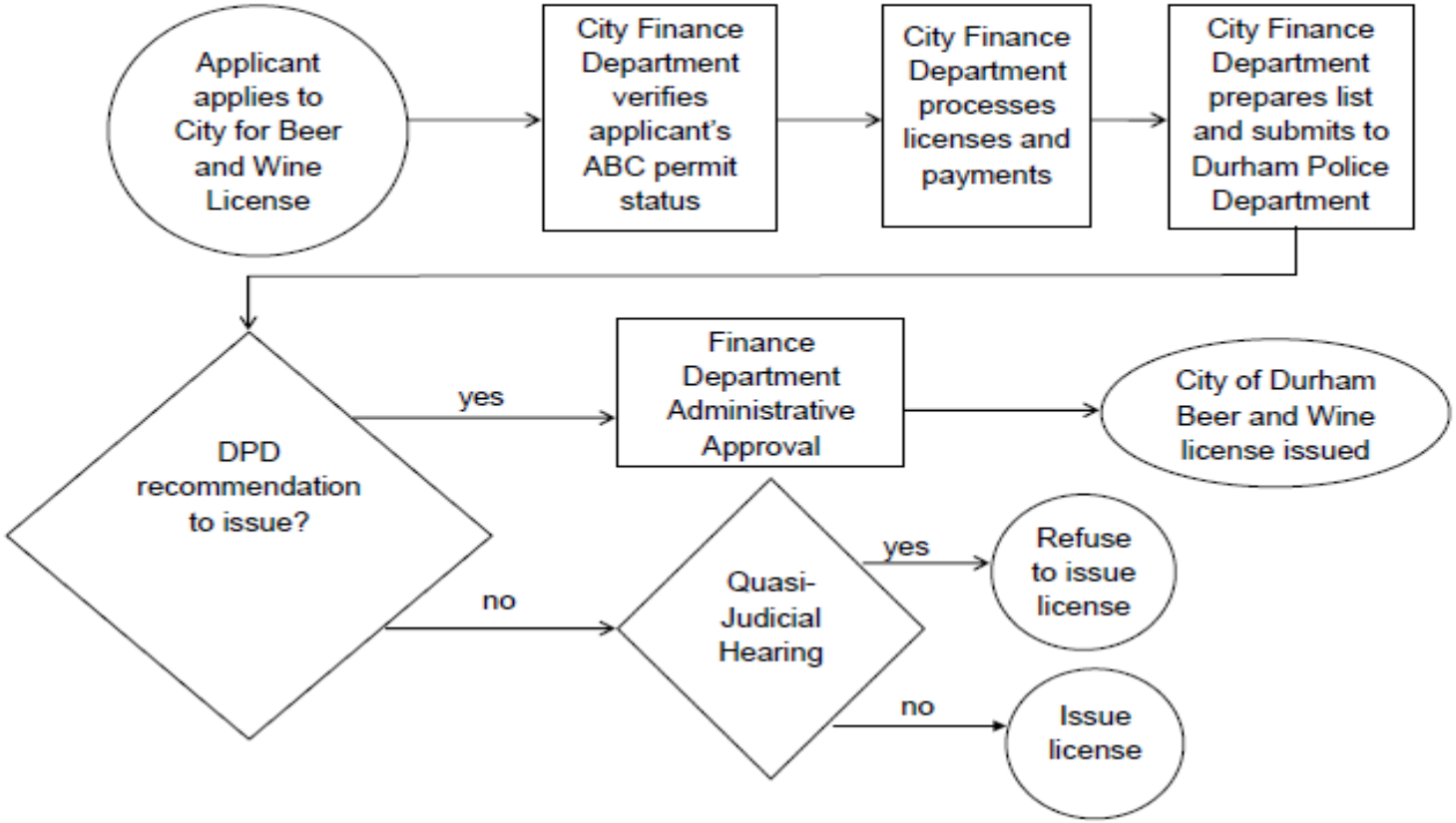
New City License Process

Proposed New City of Durham Beer and Wine License Process



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City Beer/Wine License Costs

City of Durham License Fees:

- On Premise Beer License $15
- On Premise Wine License $15
- Off Premise Beer License $10
- Off Premise Wine License ..... $ 5
- Combined Wholesale Beer/Wine License $62.50

Beer/Wine License Type

On-Premises Malt Beverage Permit –

An on-premises malt beverage permit authorizes the retail sale of malt beverages for consumption on the premises and the retail sale of malt beverages in the manufacturer's original container for consumption off the premises.

Examples: Restaurants, Hotels, Bars, Private Clubs

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Beer/Wine License Type

Off-Premises Malt Beverage Permit –

An off-premises malt beverage permit authorizes the retail sale of malt beverages in the manufacturer's original container for consumption off the premises.

Examples: Retail Businesses, Convenience Store, Grocery Store, Drug Store, etc.

Beer/Wine License Type

On-Premises Wine Permit –

An on-premises wine permit authorizes the retail sale of wine for consumption on the premises, either alone or mixed with other beverages, and the retail sale of wine in the manufacturer's original container for consumption off the premises.

Examples: Restaurants, Hotels, Bars, Private Clubs, Wineries

Beer/Wine License Type

Off-Premises Wine Permit –

An off-premises wine permit authorizes the retail sale of fortified wine in the manufacturer's original container for consumption off the premises.

Examples: Retail Businesses, Convenience Store, Grocery Store, Drug Store, etc.

Revenues Generated vs. Expenses of Licensing

REVENUES

- City Revenues: $12,129 (FY12)

EXPENSES

- City expenses to issue/enforce are more than City revenues generated
- City Expenses: $12,599 (FY12)

- Key takeaway: City Net Loss of $470 (FY12)

Density Issue

- ABC permitting process does limit proximity to schools/churches

- Amending the Unified Development Ordinance to establish separation standards between businesses holding ABC permits would be legally questionable due to the need to restructure the zoning regulations to be based not only on property use but specific product types

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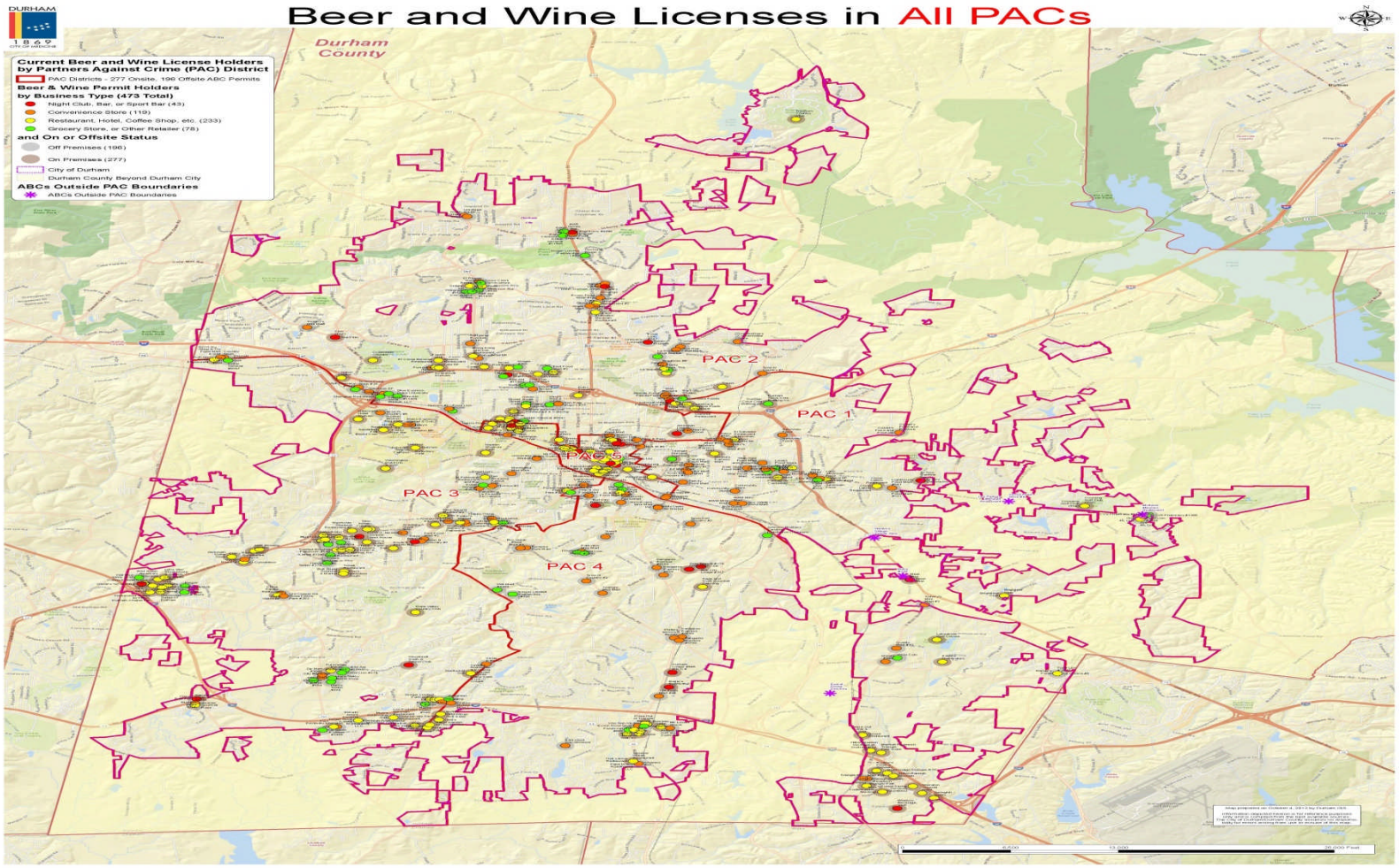
Beer and Wine Licenses All PACs



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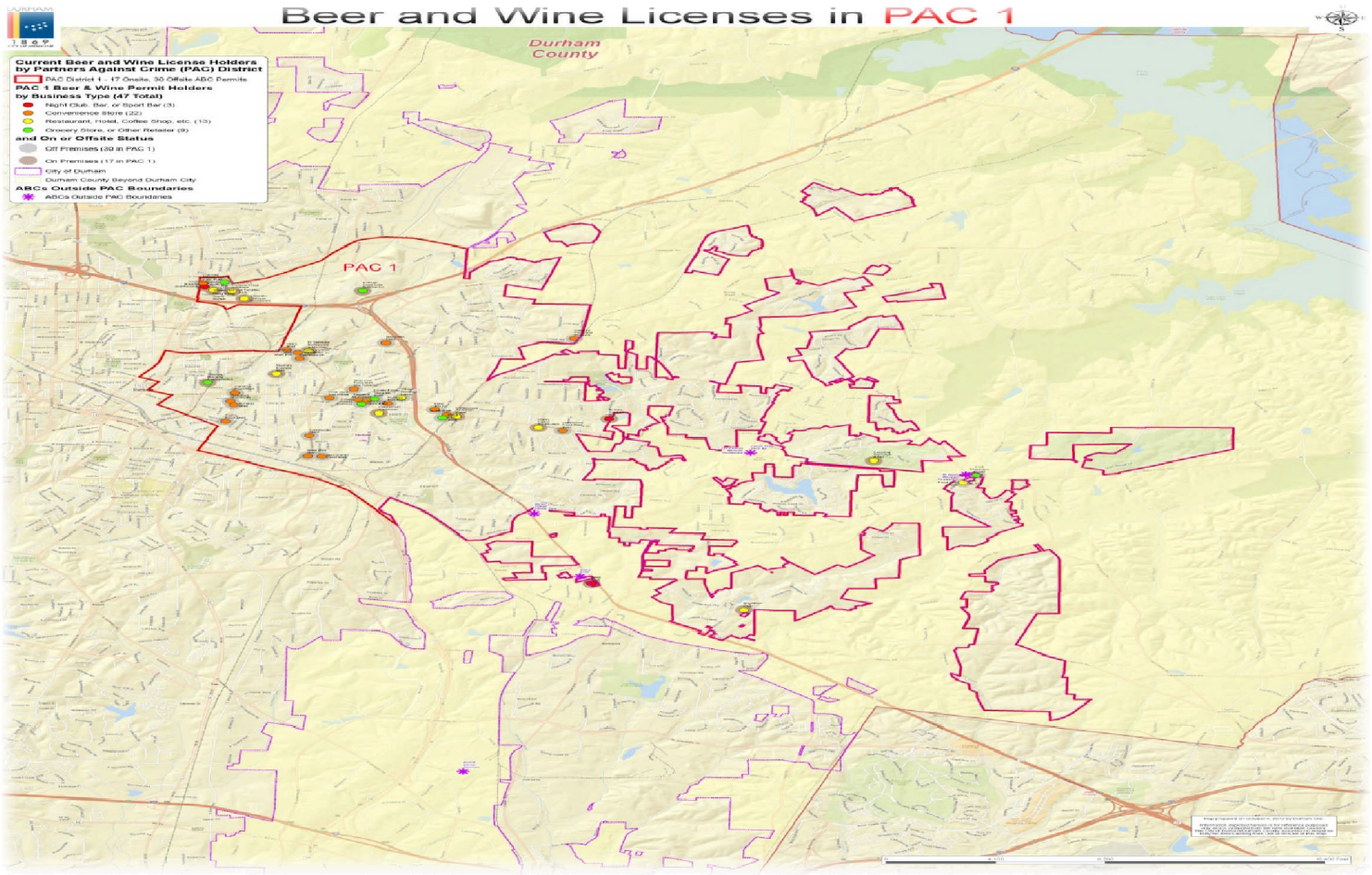
Beer and Wine Licenses in PAC 1



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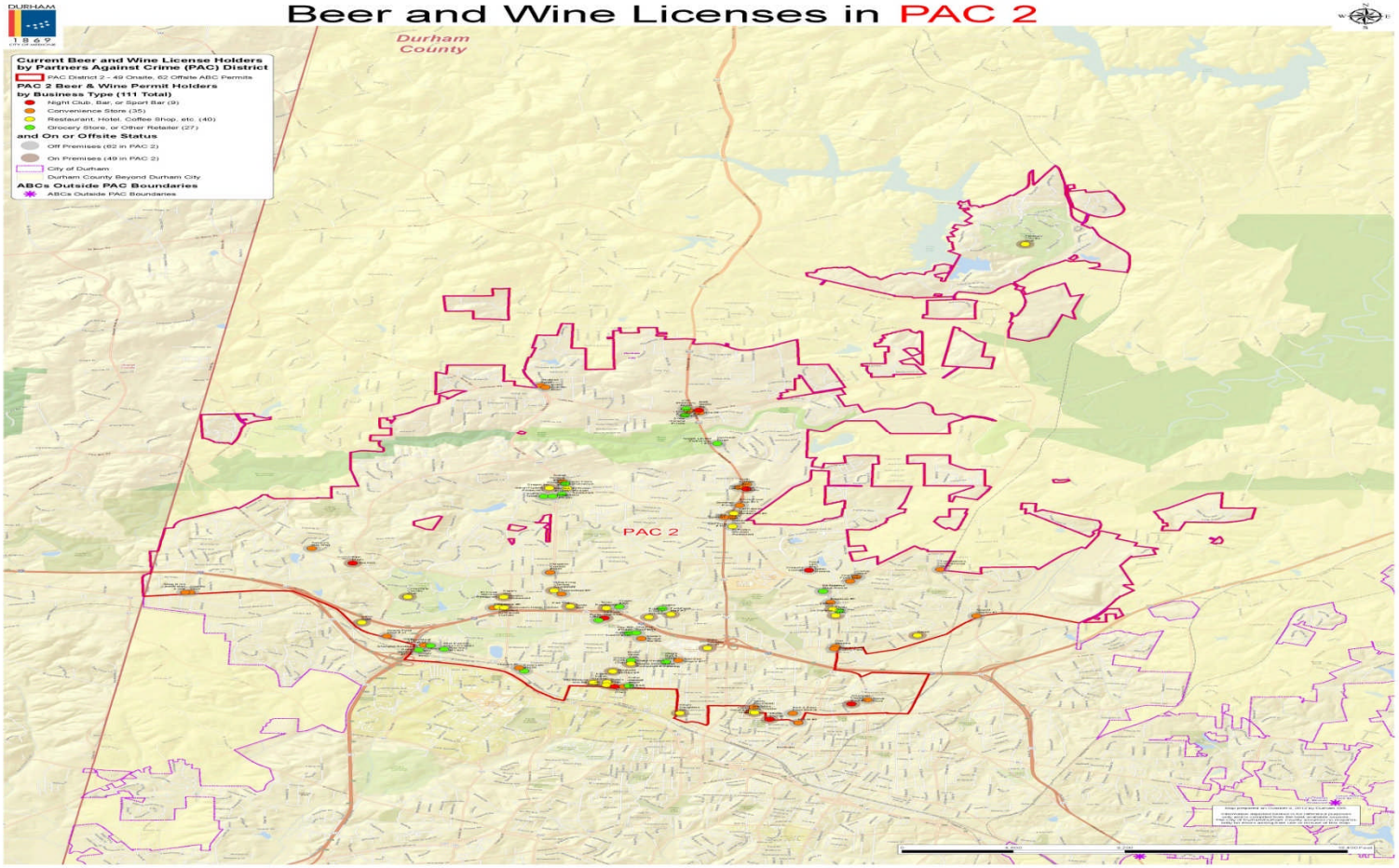
Beer and Wine Licenses in PAC 2



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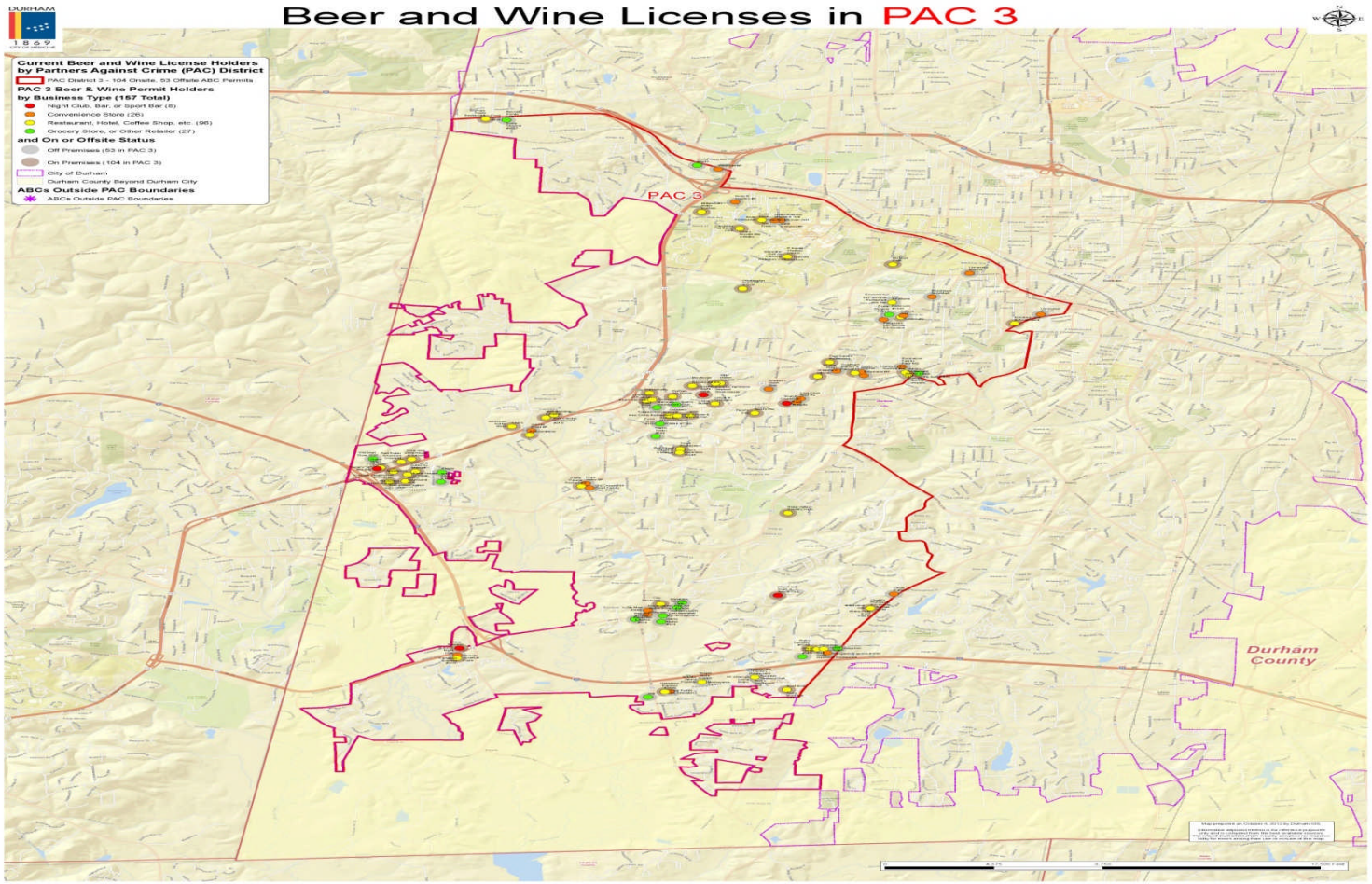
Beer and Wine Licenses in PAC 3



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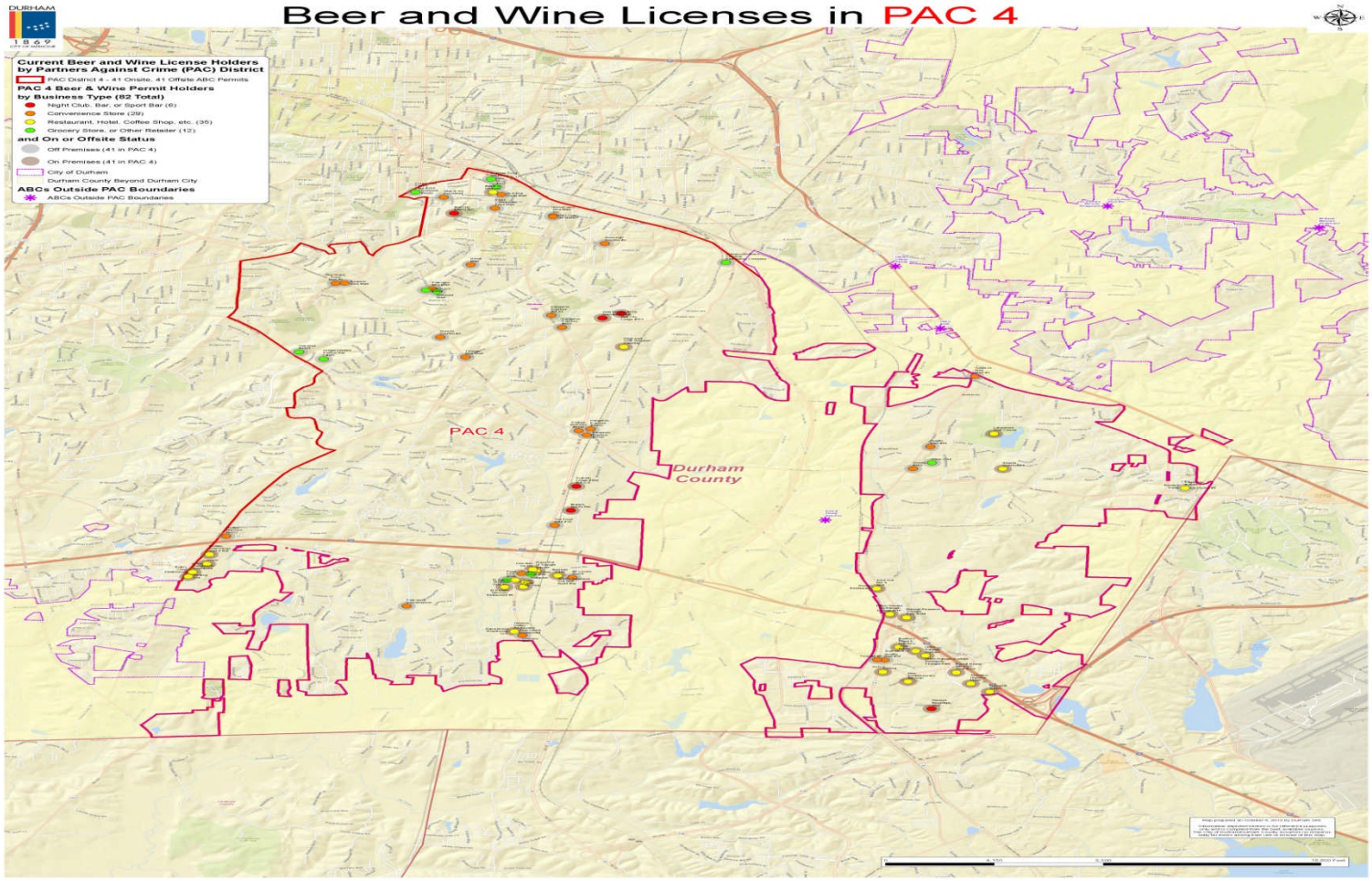
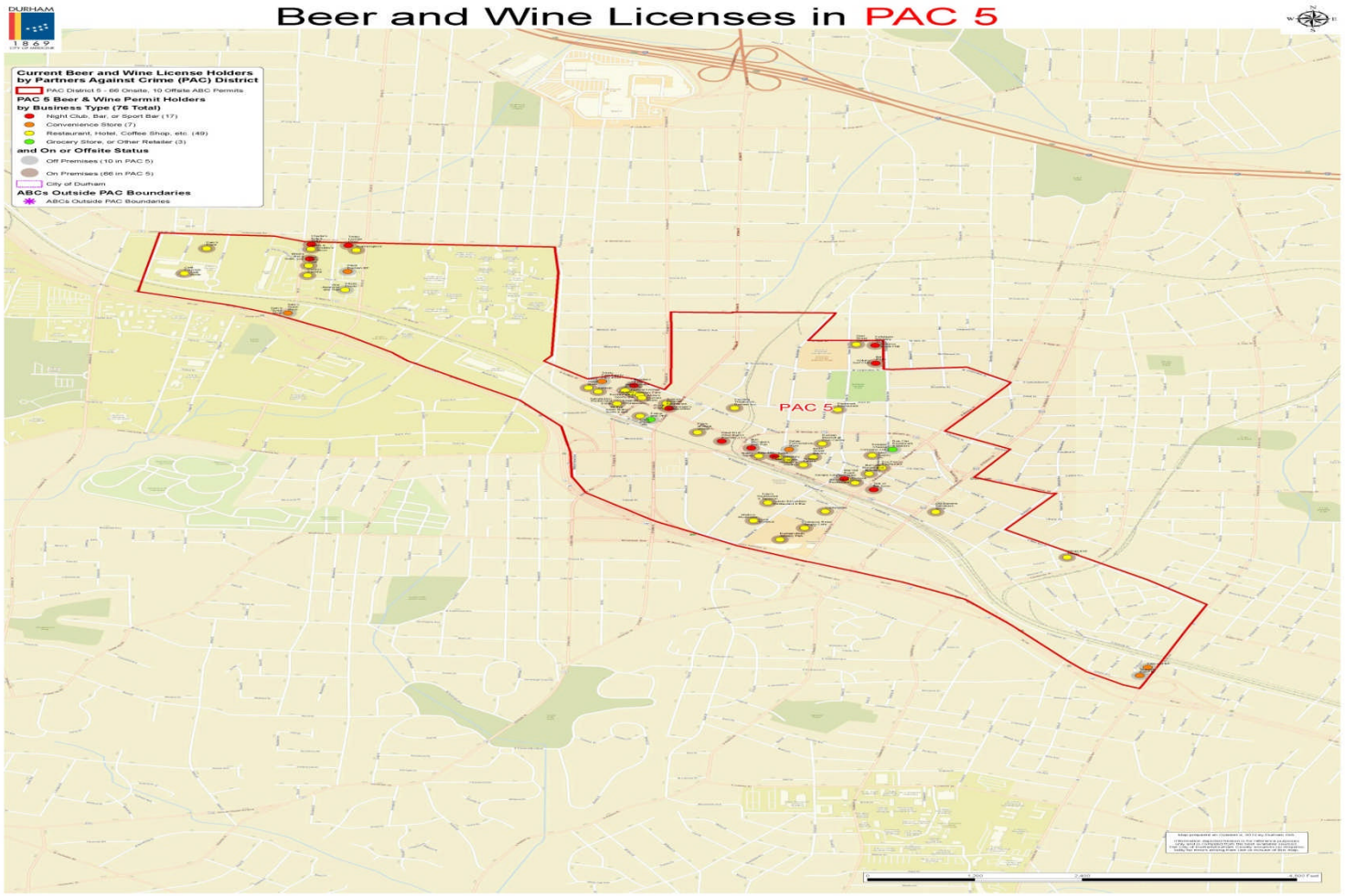
Beer and Wine Licenses in PAC 4



Beer and Wine Licenses in PAC 5