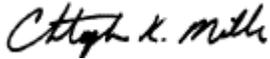


ROSEVILLE
REQUEST FOR COUNCIL ACTION

Date: 09/17/12
Item No.: 13.d

Department Approval



City Manager Approval



Item Description: Continue Discussion on Whether to Amend City Code Chapter 302 Regarding the Number of Allowable Off-Sale Liquor Licenses

BACKGROUND

On July 23, 2012, the City Council held a discussion on whether to amend City Code Chapter 302, regarding the number of allowable off-sale liquor licenses in the City. The discussion was held at the request of Cost Plus World Market who is in the process of re-opening at their location along Fairview and County Road B2. They are seeking to obtain an off-sale license like they had before they closed the store a few years ago. At the conclusion of the discussion, the Council chose to take no action. A Copy of the minutes is attached.

The discussion included various options with regard to increasing the number of allowable licenses. Options included:

- a) Increase the number of allowable licenses on a case-by-case basis.
- b) Increase the number of allowable licenses to 11 or more.
- c) Increase the number of allowable licenses to 11 or more, but further restricting those licenses to areas zoned as 'Regional Business'.

It is suggested that the Council consider Option A with considerable caution. Potential legal challenges could arise if the City applied varying standards to prospective applicants. Option B provides the simplest approach for considering Cost Plus' request and perhaps the greatest amount of flexibility in evaluating future requests. Option C would accommodate Cost Plus' request and provides the greatest amount of assurance that prospective liquor stores would remain furthest from residential areas. However, there are a couple of potential complications under Option C that aren't present with the other options.

By restricting additional liquor stores to Regional Business zoning districts as suggested under Option C, one could argue that the City is creating an inequity in the economic protections afforded to existing liquor stores. Existing stores that are located within or near a Regional Business district will see increased competition while those that lie further away will see less – because prospective liquor stores won't be permitted in other zoning districts.

30 A further complication arises if one of the existing liquor stores residing outside the Regional Business
31 district closes, and a new applicant subsequently requests a license. The City currently has 10 liquor stores
32 whose locations are currently ‘unrestricted’ aside from the normal zoning code requirements. One of these
33 stores is located inside a Regional Business district, while nine are located outside that district designation.
34

35 Let’s assume the Council approves an 11th liquor store under the condition that it locates in a Regional
36 Business district. Now let’s assume one of existing stores outside the Regional Business district closes,
37 bringing the total number of stores back to 10. Can the next applicant locate outside the Regional Business
38 district because it is taking the vacated ‘unrestricted’ license? Or does it have to go into a Regional
39 Business district because any license over 10 is only permitted there?
40

41 If it’s the latter, then once again those within or near Regional Business districts are subjected to greater
42 marketplace competition compared to those that are further away. The disparity would grow each time this
43 sequence of events is repeated.
44

45 Obviously some locations are already inherently more competitive than others. The distinction being made
46 here is that under Option C, the City has artificially created the inequity. It did not arise out of normal
47 ‘unregulated’ market forces. Something existing license holders could be critical of. This inequity does not
48 exist under Options A or B.
49

50 Option C carries a few other challenges as well. It would preclude the City from marketing Twin Lakes to
51 national or local retailers such as Trader Joe’s, or Whole Foods which may want to sell liquor as one of
52 their product lines. In addition, we would create a situation whereby stores like Target (which is zoned
53 Regional Business) could get a liquor license, but their major competitor Walmart (which is not zoned
54 Regional Business) could not. Same goes for Rainbow Foods which already has a license, yet Cub Foods
55 would be prohibited.
56

57 When considering these options, the Council is reminded that off-sale liquor store sites must also conform
58 to both State location requirements. In addition, the current City Code specifies that the issuance of an off-
59 sale liquor license can be denied if the presence of the liquor store would prove to be detrimental to the
60 health, safety and welfare of the citizens including, but not limited to; the effect on market value of
61 neighboring properties, proximity to churches and schools, and effect on traffic and parking.

62 **POLICY OBJECTIVE**

63 Not applicable.

64 **FINANCIAL IMPACTS**

65 Not applicable.

66 **STAFF RECOMMENDATION**

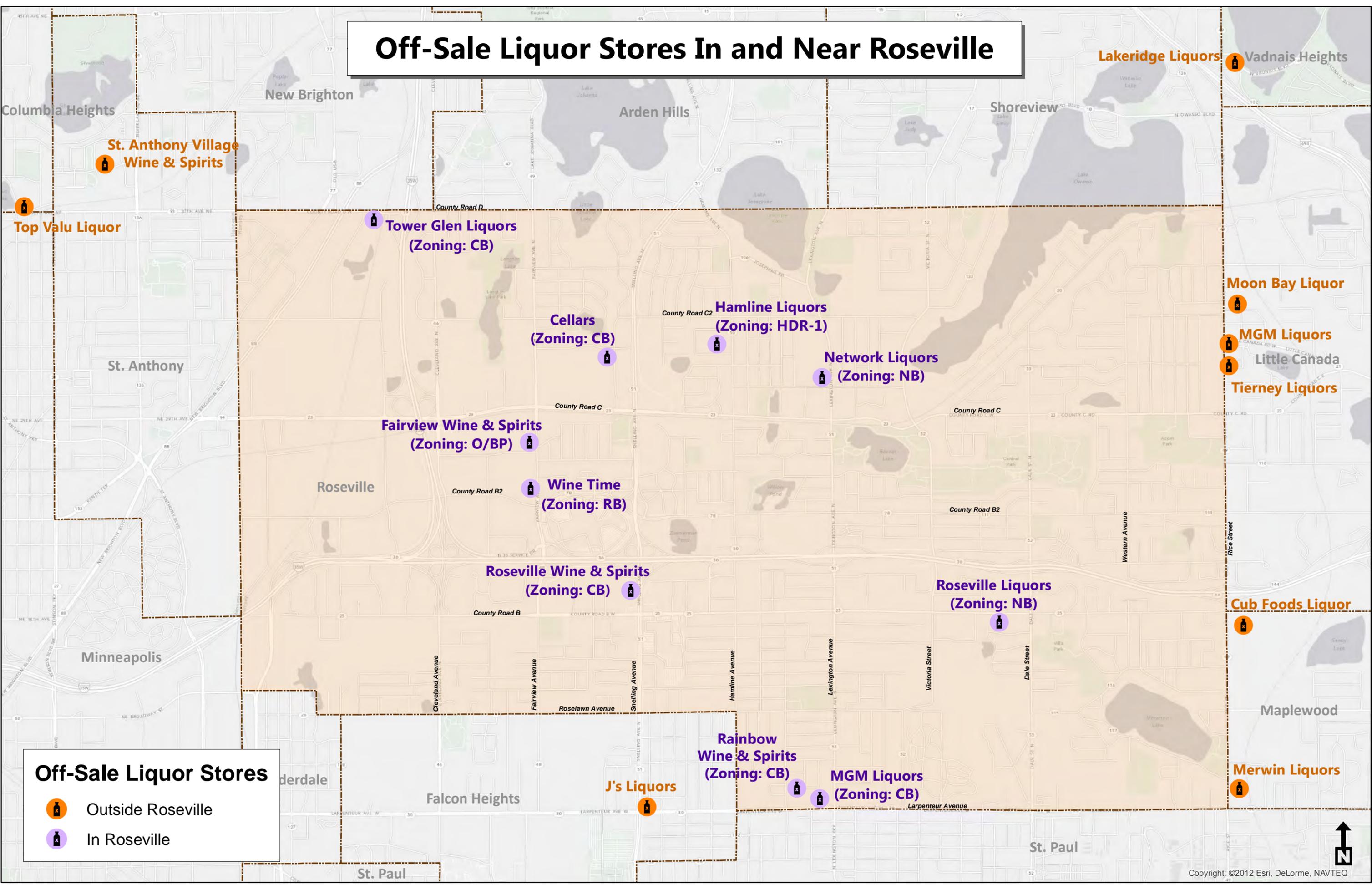
67 Not applicable.

68 **REQUESTED COUNCIL ACTION**

69 The Council is asked to provide direction regarding the amendment of City Code Chapter 302; and Cost
70 Plus’ request for an off-sale liquor license.
71
72

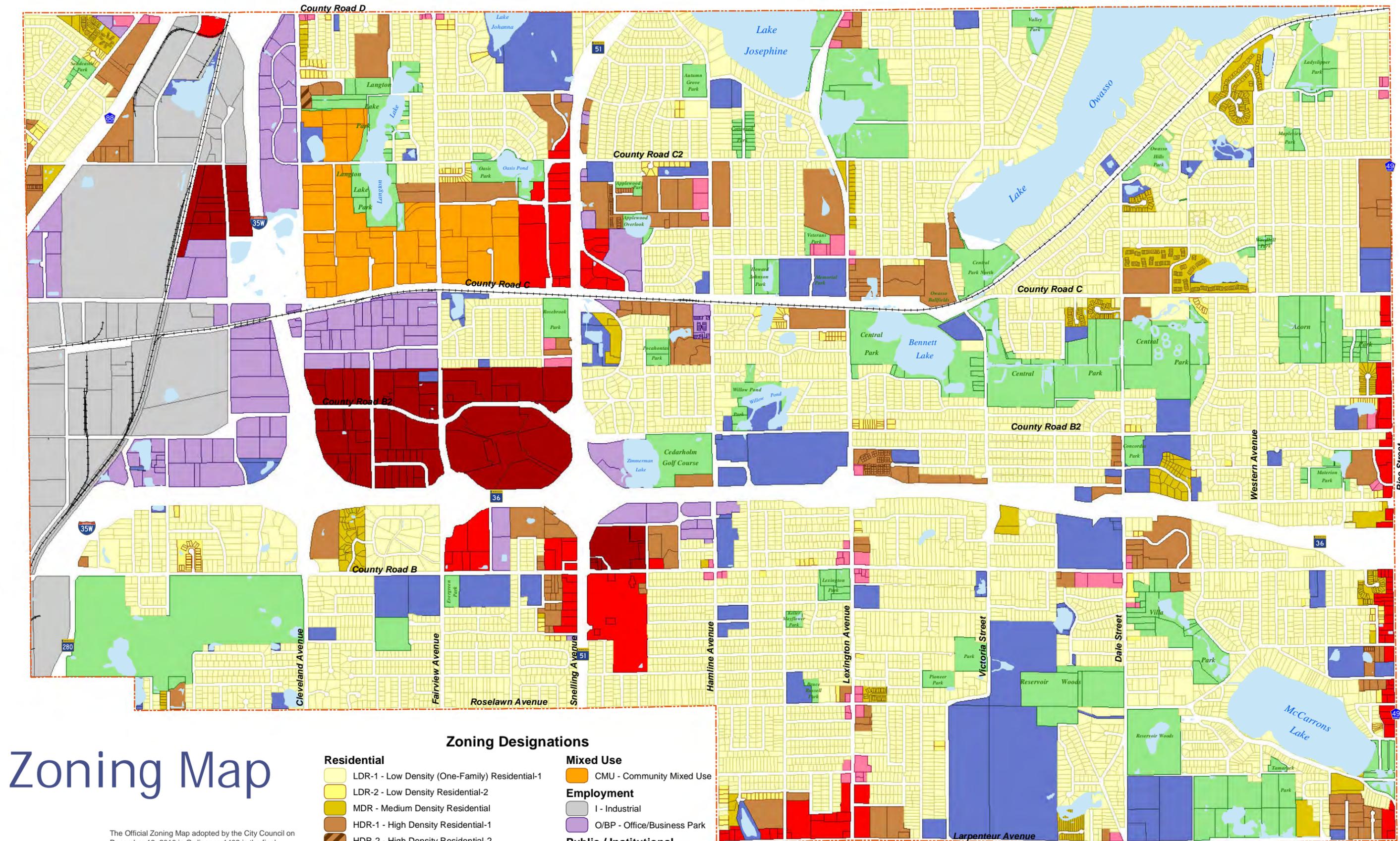
Prepared by: Chris Miller, Finance Director
Attachments: A: Map of Existing Liquor Stores by Zoning Designation
B: Zoning Map
C: Memo from Mayor Roe and Councilmember Johnson's Report on Area Liquor Store Restrictions.
D: Minutes from the July 23, 2012 City Council meeting.

Off-Sale Liquor Stores In and Near Roseville



Off-Sale Liquor Stores

-  Outside Roseville
-  In Roseville



Zoning Map

The Official Zoning Map adopted by the City Council on December 13, 2010 in Ordinance 1402 is the final authority with regard to the zoning status of any property. It is on file in the Community Development Department at City Hall.

The zoning designations shown on this map must be interpreted by the Community Development Department. See Water Management Overlay District Map for additional boundaries.

Residential

- LDR-1 - Low Density (One-Family) Residential-1
- LDR-2 - Low Density Residential-2
- MDR - Medium Density Residential
- HDR-1 - High Density Residential-1
- HDR-2 - High Density Residential-2

Commercial

- NB - Neighborhood Business
- CB - Community Business
- RB - Regional Business

Mixed Use

- CMU - Community Mixed Use

Employment

- I - Industrial
- O/BP - Office/Business Park

Public / Institutional

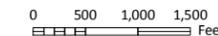
- INST - Institutional
- PR - Park and Recreation



Prepared by:
Community Development Department
Printed: January 2012

Data Sources
* Ramsey County GIS Base Map (1/3/2012)
* City of Roseville Community Development

Disclaimer
This map is neither a legally recorded map nor a survey and is not intended to be used as one. This map is a compilation of records, information and data located in various city, county, state and federal offices and other sources regarding the area shown, and is to be used for reference purposes only. The City does not warrant that the Geographic Information System (GIS) Data used to prepare this map are error free, and the City does not represent that the GIS Data can be used for navigational, tracking or any other purpose requiring exacting measurement of distance or direction or precision in the depiction of geographic features. If errors or discrepancies are found please contact 651-792-7085. The preceding disclaimer is provided pursuant to Minnesota Statutes §466.03, Subd. 21 (2000), and the user of this map acknowledges that the City shall not be liable for any damages, and expressly waives all claims, and agrees to defend, indemnify, and hold harmless the City from any and all claims brought by User, its employees or agents, or third parties which arise out of the user's access or use of data provided.



mapdoc: official_zoning_map.mxd
map: official_zoning_map.pdf



MEMORANDUM

June 13, 2012

To: City Manager Malinen, City Council Members
From: Dan Roe
Subject: Off-Sale Liquor License Quantity

As we on the council have been aware, there is interest in the marketplace to open businesses in Roseville that have as part of their model the sale of off-sale liquor in some form (often wine), such as Trader Joe's or Cost Plus World Market.

The issue raised by potential developers has been the limit of 10 off-sale licenses in Roseville, all of which are currently held by existing establishments, and apparently none of which seem to be in a position to be made available, either due to continued interest in maintaining the license by the current holder or due to the price to obtain the license being too high for a prospective user to justify.

I am well aware that in the past the city council has not been interested in increasing the number of off-sale liquor licenses in Roseville.

However, given the keen interest by some prospective businesses, and given the continued slow economy, as well as Councilmember Johnson's interest in reconsidering the issue, I wanted to broach the subject again with the council from perhaps a bit of a different angle.

It seems that one reason for limiting the number of licenses is to limit the perceived impacts on neighborhoods of having liquor stores nearby.

If that is the case, it seems reasonable to conclude that liquor stores located in a primarily commercial area, such as the Regional Business area around Rosedale, would have much fewer impacts on neighborhoods, since the surrounding businesses in the RB zoned area would essentially provide a "buffer" between the liquor store and the nearest neighborhood.

Therefore, it may be worth considering allowing some small number of additional off-sale liquor licenses, provided that they are located only in the RB zoned area. I would suggest that, if we do that, we still limit the number of licenses in non-RB zoned areas to the current 9. (One of our current 10 license holders is already located in the RB zoned area.) In other words, we could raise the limit to, perhaps 12 or 13 or 14, but require that no more than 9 of those may be for stores in non-RB zoned areas.

In addition, if we are willing to increase the number of licenses in that manner, we may want to consider provisions to prevent "clustering" of liquor stores anywhere in the city, which may be a public safety and neighborhood quality concern, perhaps by setting a minimum spacing requirement of, say, ¼ mile in non-RB zoned areas, and perhaps a closer spacing in RB zoned areas.

I suggest another discussion on this matter as we consider the "tap room" license proposal.

<u>City</u>	<u>Population</u>	<u># of Muni/Private</u>	<u>Comments/Code</u>
Roseville	34,508	10 Private	Maximum of 10 licenses granted at 1 time
Hopkins	17,839	9 Private	Code does not allow both on or off sale No maximum license limit
Richfield	35,724	4 Municipal	Located appropriately through community *7 located on Bloomington border
Brooklyn Center	30,529	2 Municipal	Located appropriately through community
Woodbury	62,787	10 plus private	No Restrictions on License limits
Shoreview	23,250	4 private	1 license for every 5,000 people
Fridley	27,398	2 Municipal	As council sees fit
Columbia Heights	19,632	1 Municipal	Both on/off permitted
Bloomington	84,057	6 private	Only issued to exclusive liquor stores no limit
Moorhead	38,566	7 private	No code found online
Duluth	86,277	22 private	No code found online
Rochester	107,890	16 private	Intoxicating liquor/off sale exclusive Intoxicating liquor/off sale downtown No restrictions

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Mayor Roe opined that he would be more inclined to support this proposal in order to mitigate environmental issues and use of TIF for road and utility costs; while acknowledging that the project could not achieve higher rental rates due to current conditions of the surrounding area.

In addressing attracting young families, Councilmember Pust suggested the need to consider where they would play, since there didn't appear to be a lot of green space on the concept plans presented other than trees. While Langton Lake was across the road and owned by the City, Councilmember Pust questioned whether that was a suitable amenity if the developer proposed it to be family-oriented.

Mr. Osborn expressed appreciation for tonight's feedback.

Mayor Roe thanked Mr. Osborn for his patience in waiting, given tonight's lengthy meeting. Mayor Roe wished Mr. Osborn's team well as they moved forward with further discussions with staff.

b. Consider Amending City Code, Chapter 302 Regarding the Allowable Number of Off-Sale Liquor Licenses

Three bench handouts were provided related to this discussion, *attached hereto and made a part hereof*, consisting of:

- Mayor Roe memorandum to City Manager Malinen memorandum dated June 13, 2012 regarding Off-Sale Liquor License Quantity discussion points.
- Councilmember Johnson's comparison and comments of cities, their population, and number of municipal and/or private facilities; and
- A map showing Off-Sale Liquor Store locations inside Roseville and the immediate area outside Roseville.

Finance Director Chris Miller reviewed how this discussion had been initiated, at the request of various applicants seeking to change City Code allowing them to locate in Roseville, as detailed in the RCA dated July 23, 2012.

Mr. Miller advised that representatives of World Market/Cost Plus were at tonight's meeting and wished to address the City Council.

Barry Feldt, CEO of Cost Plus World Market

Mr. Feldt noted that their organization, headquartered in the bay area of Oregon had an objective to return to the mid-west area and further south and east as a result of the improving economic market.

Mr. Feldt advised that they currently operated 260 stores; and had made commitments to management and employees in communities where they had been

forced to close stores, that they would re-enter those markets and reinstitute their expansion plans and reopen stores when the market improved. Mr. Feldt noted that one of those locations was here in Roseville.

Mr. Feldt noted that their intent was to be able to sell within the entertainment industry with unique beers and wines from around world. In the spirit of full disclosure, Mr. Feldt advised that it was their intent to reopen the Roseville store with or without this license; however, he noted that if they were able to obtain a license, they could generate a higher sales volume, and thus employ more people.

Tom Erlich, President of Tanner Developments, Management/Owner

Mr. Erlich noted their development of this facility in 1984, and their ownership of Rosedale Commons and Rosedale Marketplace, where Cost Plus plan to reopen. Mr. Erlich advised that they had invested \$12 million in those centers, and over the last two (2) years had invested \$2.5 million in renovating them in an attempt to attract new and unique tenants. Mr. Erlich noted that retail tenants have many choices, and it was critical to offer them the ability to provide full product offerings, thus their interest in obtaining this license for Cost Plus World Market. Mr. Erlich noted that it was extremely competitive out there to market space, with over 250 current vacancies of 10,000 square feet or more. When retailers look for space, Mr. Erlich noted that they considered financing and location competitiveness in their perspectives; and advised that his management firm had been approached by multiple retailers on a preliminary basis for their centers in Roseville, however, they had not pursued it since there was no additional license available for that type of food store. Mr. Erlich therefore concluded that it was important from their perspective that City Code be amended to allow the best retailers to enter the community and be able to offer their full product.

Mr. Erlich referenced the comparisons provided by Councilmember Johnson on what is happening in the Twin Cities and different business models being used by retailers, and offering a full merchandise mix. Mr. Erlich noted, that this didn't allow Roseville to be very competitive, noting that tenants are looking for the regional or trade area for Roseville to serve a full merchandise mix, including liquor sales.

Howard Roston, Fredrikson & Byron Law Firm, Legal Counsel

Mr. Roston clarified that they were requesting that the City amend their ordinance or create a separate license category to facilitate these additional retail opportunities. Mr. Roston noted that getting a temperature of the City Council tonight was the first step to determine if they should have further discussion with staff on how to facilitate these additional retail opportunities. Mr. Roston noted several options, whether through an additional liquor license category or

through restrictions on radii as other cities have done. Mr. Roston reiterated that their request of the City Council tonight was simply to determine if the Council was open to pursuing these options. Mr. Roston opined that it made sense from their perspective, however, they needed to know if it made sense from the City's perspective as well before moving forward. Mr. Roston provided a handout on World Market Cost Plus operations, attached hereto and made a part hereof.

Councilmember Johnson noted the various options available, based on his research and discussions while performing that due diligence, and suggested that this provided an edge for their market area. Councilmember Johnson opined that of the City's ten (10) license holders, he considered three as large facilities (e.g. Rainbow, MGM, Wine Cellars) and the remaining seven (7) as having stores with a fairly small footprint and sales volume. Councilmember Johnson opined that he considered World Market to have some grandfathered rights in Roseville; and expressed his appreciation in their willingness to relocate in Roseville. Councilmember Johnson asked their representatives if they considered themselves a large or small seller and the amount of volume their wine and beer sales represented in their overall merchandising total.

Mr. Feldt responded that they considered themselves a small retailer, and their business model was to only sell beer and wine from around the world, and as an enhancement to the foods sold from those areas. Mr. Feldt noted that this was largely related to the holiday seasons; and assured Councilmembers that they prided themselves that none of their international product was made in China, but specialized in bringing artisan products from other states, countries, and the immediate area, and only those alcoholic beverages supported through that business model and mission.

Mr. Feldt thanked Councilmember Johnson for welcoming them back into the community, opining that there was nothing more painful for a business owner than to close stores and lay off people. Mr. Feldt reiterated their commitment to return to health, and expressed their pleasure in returning to those markets. Mr. Feldt noted that the Roseville store had significant volume in the past, one of the largest small specialty stores in the region. Mr. Feldt noted that it was common for them to incubate or generate entrepreneurial businesses until they became large enough or had enough of a presence to spin off on their own.

Mayor Roe questioned whether World Market had attempted to purchase one of the existing ten (10) licenses.

Ms. Ann Maranti, Cost Plus

Ms. Maranti advised that they had attempted to contact existing license holders, using a list provided by staff. However, to-date, Ms. Maranti advised that they

had been unsuccessful in convincing any of them to release their licenses, whether through unwillingness to return phone calls or talk. Ms. Maranti advised that they had not yet given up on that endeavor.

Councilmember Pust welcomed the firm back into the community, and while not sure about Councilmember Johnson's concept of being grandfathered into the community, she did note the ongoing talk in Roseville about supporting its business community. Councilmember Pust opined that this provided a good example of putting that talk into action; with this discussion bring public the rationale for considering amending the number of licenses allowed in the community. Councilmember Pust offered her willingness to revisit this issue.

Mayor Roe concurred, expressing his willingness to revisit the issue as well. Mayor Roe referenced his memorandum and asked that some discussion on those issues occur, to understand the rationale for having limits, any concerns within the community and how to address those concerns, and other areas touched upon in his memorandum.

Councilmember Johnson questioned whether another option would be to only issue a wine and beer license, with City Manager Malinen responding that this was not an option, as the State only has one liquor license category in this instance, and unable to further restrict state law categories.

Councilmember Pust opined that by limiting licenses, it provides someone obtaining a license and not using it for a period of time to allow them an economic advantage or value.

Discussion ensued on the map and Councilmember Johnson's comparison, and big box retail settings versus municipal liquor store enterprises.

Councilmember Pust opined that when the limit was originally adopted decades ago, the intent in limiting them may have been based on social concerns about drinking versus today's climate of brew pubs and the recent economic considerations held by the City Council in encouraging these small businesses.

Councilmember Willmus stated that he truthfully didn't know where he stood on this issue; and if forced to make a decision tonight, would not support increasing the number of allowable licenses. Councilmember Willmus noted that this didn't mean that he couldn't be convinced one way or the other, and expressed his appreciation for World Market returning to Roseville; but was unable to provide strong guidance one way or the other without doing further research.

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City Manager Malinen referenced an e-mail sent by Mr. Erlich (no copy available) suggesting areas to ponder; including linking to zoning around regional commercial areas or tied to ancillary sales based on square footage. City Manager Malinen referenced the map, noting that it indicated another ten (10) license holders outside the City boundaries, but within the immediate trade area, suggesting that a larger market is out there, but property owners and businesses in Roseville couldn't participate in that market due to current license limitations.

In reviewing the map, Councilmember Willmus observed that there was almost one (1) store in each of the City's commercial centers right now, and adding another could put those stores on top of each other, opining that this may not be advantageous either.

Mr. Feldt assured Councilmembers that their organization was not cannibalistic in the market place, with 85-90% of their clientele made up of women and children. Mr. Feldt did not feel that they would be any threat to existing liquor retailers or diminish their markets, since their sales were more specific and related to other food sales.

Mayor Roe suggested that there appeared to be interest on the Council of revising this issue; however, he noted that the devil was in the details.

City Manager Malinen noted that it was helpful to have the alternative approaches provided in Mr. Erlich's e-mail; and offered to provide a copy to the City Council again.

16. Adjourn

Willmus moved, Johnson seconded, adjournment of the meeting at approximately 11:50 p.m.

Roll Call

Ayes: Pust; Johnson; Willmus; and Roe.

Nays: None.

Daniel J. Roe, Mayor

ATTEST:

William J. Malinen, City Manager