FINAL REPORT OF THE

SOUTH PLEASANT STREET LAND USE COMMITTEE

TO

THE BOARD OF SELECTMEN

TOWN OF BELMONT

September 18, 1996

I. OVERVIEW AND TRANSMITTAL

This final report of the South Pleasant Street Land Use Committee summarizes all of the Committee's findings and recommendations. It presents our recommendations regarding zoning by-law changes for the area and draws them together with previously communicated recommendations regarding road redevelopment and liquor licensing.

The Committee has met extensively with businesss and planning experts, local owners and lessors, other members of the business community, and Town officials to develop a vision for the area. We would like to particularly thank Richard Betts, Elissa Norris, the other members of the Planning Board, and consultant Phillip Herr for their very helpful and detailed comments on our proposals for zoning by-law changes. Above all, we would like to thank Jeffrey Wheeler for his continuing diligence and creativity in support of the Committee. Any remaining defects in the proposals are our responsibility, and we understand that the Planning Board will formally consider our proposals if and when you request that they do so. We now submit our proposals respectfully for your consideration.

While we have met openly and publicly and have posted the usual notices, our meetings have been attended primarily by local business owners and lessors, not by members of the general public in the Town. Accordingly, particularly with

respect to the liquor licensing proposal, we believe that it would be appropriate to proactively seek broader public input. As always, we stand ready to assist in this process if you wish. We otherwise believe that we have substantially discharged our charter which was to develop "a thorough analysis of this area along with recommendations to strategically plan for its most prudent use."

The recommendations of the Committee are as follows:

- Move forward expeditiously with the rebuilding of Pleasant Street (according to the design approved by the Selectmen in June 1995) -- addressing drainage, curbing, parking, greenery, surface, sidewalk and other problems will make the area much more attractive and viable.

- Consider law changes allowing the issuance of a restaurant liquor license in the area which would attract a restaurant which could in turn anchor attractive development on a modest scale. Any license in the area would have to be subject to careful controls. This recommendation was detailed in our First Report, a copy of which is attached as Exhibit B.

- Implement zoning changes designed to make the area more viable for high-value, lower-traffic uses. The zoning changes are summarized below and detailed in Exhibit A.

The most clearly important and beneficial step is the road rebuilding. The licensing and zoning measures have less predictable results. The judgment of the Committee is that the licensing and zoning measures will help, by encouraging development of much greater value to the Town,

to prevent the South Pleasant Street area from heading in the direction of fast food and convenience retail.

II. VISION -- RECOMMENDATIONS IN CONTEXT

We started with a clean slate and asked the question: What directions are both economically viable and generally desirable for the area? Through our meetings with lessors, owners, members of the business community and experts in real estate and planning issues, we reached two unfortunate conclusions:

(1) Some theoretically desirable directions such as general residential, elderly housing or park development of the area are not economically realistic in the South Pleasant Street area. We do not recommend that the Town take measures to discourage creative residential development of the area. We believe, however, that given the narrow lots, high traffic flow, the proximity to railroad tracks, and the existing base of active businesses involving heavy equipment, residential investment is unlikely.

(2) Some undesirable directions, fast food and convenience retail, are very realistic. They are likely to displace existing uses over time (absent Town action to steer development more positively). The zoning by-law authorizes fast food (by special permit) and convenience retail in the area. There is already a significant traffic flow of commuters and Star Market customers along Pleasant

Street. This traffic flow could make a fast food restaurant or convenience store very profitable. Although most properties on the street have stable tenants, at least one large property is unoccupied. Evolution towards fast food and convenience store uses seems likely.

Fast food and convenience retail are well-known to be high traffic generators themselves. Local owners were also concerned about the litter they tend to generate. Some expressed concern about the obtrusive signage typical of these businesses. Town residents have no shortage of options for fast foods and convenience stores. More would be undesirable.

The challenge for the Town is to make the area more attractive for development which is both desirable and economically viable. By taking appropriate affirmative steps to attract desirable development, the Town can forestall less desirable development. The Committee identified two major alternative directions for development. These directions are not incompatible with each other:

(a) Higher end restaurant/retail: According to Herr & Associates, quality restaurant and specialty retail uses bring a fraction of the traffic that fast food and convenience stores generate. They are also more sightly and generate much less litter. No quality restaurant will make a major investment in the area without a liquor license, or

at least a beer and wine license. Beer, wine and liquor sales are a major component of profitability for quality restaurants; many customers planning to spend money on a fine meal will prefer a restaurant where they have the option of drinking. Allowing a liquor license in the area might well bring a significant quality restaurant to the area. This restaurant could in turn give the area a major push towards higher-end development. The committee favors imposing tight controls, including a ceiling on restaurant size, so that the Town does not end up with an undesirable mega-restaurant.

(b) Office and Good-Neighbor Light Industrial: Office uses vary but are generally among the lower traffic generators. Medical offices generate more traffic than other offices and are comparable to specialty retail. Office uses could provide needed services -- legal, medical, real estate, insurance -- to Belmont residents, or they could simply contribute to the tax base.

Manufacturing generates minimal vehicle traffic. We do not recommend authorizing heavy manufacturing which would generate significant fumes, noise or heavy truck traffic. However, the by-laws currently exclude any type of fabrication which is not for sale on the premises. The Committee's view is that either by modifying an existing category or by adding a new category of allowed use, the

zoning by-laws could permit light and safe fabrication without opening the door to undesirable uses.

Both office and light-industrial uses are inhibited in the area by an inappropriately restrictive zoning by-law. Our proposals detailed below would very modestly loosen the by-law in the area to encourage these uses.

III. THE ZONING PROPOSALS

The Committee's zoning proposals are detailed in Exhibit A. Because South Pleasant Street is the only area in the Town which is zoned "Local Business II", the changes recommended need only affect South Pleasant Street. The Planning Board may determine that some of the changes should be applied more broadly.

In summary the categories of change are as follows:

(1) Special Permit threshold increases; these would allow somewhat larger buildings without special permit approvals. The proposed increases would make the South Pleasant Street area easier to build in than other parts of the Town, but the controls would remain tighter than in many other towns. Herr's reaction was that we should raise the special permit threshold town-wide.

(2) Modest expansion of allowed building dimensions. Modest reductions of setbacks and increases in lot coverage and allowed height seem appropriate given the isolation and the unusual narrow lots in the area.

(3) Modest relaxation of on-lot parking requirements: The changes will bring the parking requirements closer to those in other towns.

(4) Allowance of Light Industrial Use. This would be accomplished either through addition of a new use category or broadening of an existing category.

We also recommend creating a special category for medical office uses. Medical office uses would not be subject to the liberalized rules, because they are very high traffic generators.

The zoning changes are conservative. If the Selectmen feel that they are in an appropriate direction, the next step is to refer them to the Planning Board for their formal review.

IV. SETTING PRIORITIES

The Committee's view is that the single most important step which the Town can take to improve the South Pleasant Street area is to follow through on the road rebuilding project. The design recommended jointly by this Committee and the Traffic Advisory Committee and approved by the Selectmen in 1995 is a good one. It accomodates the needs of businesses on the South end of the street. It will greatly improve the appearance of both ends of the street. It will make the street much safer for motorists and pedestrians, especially children. It will, in itself, encourage healthier development. Its benefits are clear. The challenges are to obtain the necessary state approvals and funding.

The Committee's liquor licensing recommendations and zoning recommendations reflect the best judgment of the Committee on how to guide the area forward. However, we recognize that their costs and benefits are harder to evaluate.

The zoning proposals are conservative. Our effort was to identify changes which will encourage office and light manufacturing development while assuring that development occurs on a modest scale and preserves green space. The major challenge is technical -- to integrate the changes into the zoning by-law in a way that is clear and fair to all areas of the Town. We assume that the Selectmen will turn to the Planning Board for assistance in this task. We encourage the Selectmen to quickly refer our zoning recommendations to the Planning Board so that they can proceed in this effort.

The liquor licensing proposal has town-wide implications. The Committee recognizes that its charter was local and that the process by which it developed its recommendations considered primarily local concerns. We did receive some strong encouragement from some segments of the business community on the liquor licensing issue. It remains to be seen whether the business community as a whole will perceive benefits from licensing. It also remains to be seen whether the public has confidence in our ability to

control licensing to assure that only quiet and desirable restaurants are licensed. We hope that the Selectmen will proactively solicit public input to determine the level of support for the proposal and move forward if appropriate. As noted above, of course, we stand ready to assist at any stage of this process, including appearances to explain our proposals.

Respectfully submitted,

THE SOUTH PLEASANT STREET LAND USE COMMITTEE

IN SUPPORT	OPPOSED
Will Brownsberger	
James Carifio	
Ralph Cutting	
Carol Hickey	
Paul Maney	
Jane Minasian	
Adam Rahbee	
Ann Sifneos (in support <u>except</u> as to restaurant and liquor licensing recommendations; opposed to these)	

APPENDICES

A. Zoning-By Law Recommendations

B. Liquor Licensing Recommendations (First Report of the Committee)

EXHIBIT A

ZONING BY-LAW RECOMMENDATIONS

The Committee recommends these changes recognizing that any new construction over 1,000 square feet and/or the alteration of 6 or more parking spaces requires **Design and Site Plan Review**.

VIABLE OPTIONS

1. RESTAURANT - SIT-DOWN

Section 3.3:

Existing: Restaurants of any type are allowed by special permit in this Zoning District.

Recommend: Keep as is.

Section 5.1:

Existing: Restaurants are required to provide 1 parking space for every two seats.

Recommend: Amend to 1 parking space for every 2.6 seats.

2. SMALL RETAILERS AND
4. MEDIUM/LARGE SPECIALIZED RETAILERS

Section 3.3:

Existing: Any store is allowed by-right up to 5,000 square feet. Any store over 5,000 square feet but under 40,000 square feet requires a special permit:size. Any store over 40,000 square feet requires Town Meeting approval.

Recommend: Keep as is.

Section 5.1:

Existing: Stores are required to provide 1 parking space for every 250 square feet of ground floor space and 1 parking space for every 400 square feet on all other floors.

Recommend: Change to 1 space for every 250 square feet on the ground level and 500 square feet on all other floors.

3A. AUTOMOTIVE

Section 3.3:

Existing: Automotive is allowed by special permit in this zoning district only and must comply with the provisions of Section 6.7 "Motor Vehicle Service Stations".

3A. **AUTOMOTIVE**

Section 3.3 (Continued):

This section basically establishes design and site plan guidelines for service stations.

Recommend: Keep as is.

Section 5.1:

Existing: Automotive is required to provide 3 parking spaces plus 3 parking spaces per service bay.

Recommend: Change to 2 parking spaces plus 2 spaces per service bay.

3B. **LIGHT MANUFACTURING**

Section 3.3:

Existing: Manufacturing of products of which the major portion is to be sold at retail on the premises is allowed by-right up to 5,000 square feet, by special permit:size if between 5,000 square feet and 40,000 square feet and by Town Meeting approval if over 40,000 square feet. Other manufacturing and warehousing is prohibited in this zoning district. Research and Scientific Development is only allowed if accessory to another use.

Recommend:

1) Allow light, safe manufacturing and warehousing. Currently manufacturing and warehousing is only allowed in the General Business District which is located around Flanders Road. The Planning Board will have to develop a definition of manufacturing to insure that it remains safe.

2) Allow buildings up to 10,000 square feet by-right.

Section 5.1:

Existing: Manufacturing requires 1 parking spaces per 1.5 employees on the largest shift, but capable of expansion to not less than 1 space per 400 square feet gross floor area.

Recommend: Change to 1 parking space per 500 square feet.

5. **OFFICE SPACE**

Section 3.3:

Existing: Office space is allowed by-right up to 5,000 square feet, by special permit:size between 5,000 square feet and 40,000 square feet and Town Meeting approval over 40,000 square feet.

Recommend: Allow buildings up to 10,000 square feet by-right.

5. **OFFICE SPACE** (Continued)

Section 5.1:

Existing: office space requires 1 parking space per 250 square feet on ground floor area and 400 square feet on all other floors.

Recommend: Change to 1 parking space per 350 square feet on the ground floor and 500 square feet on all other floors.

6. **MEDICAL/PROFESSIONAL OFFICES**

Section 3.3:

Existing: Medical/ Professional Office does not exist within the Schedule of Use Regulations.

Recommend: Create a category, "Medical/Professional Office" within the Schedule of Uses to allow medical offices up to 5,000 square feet by-right, over 5,000 square feet but under 40,000 square feet would require a special permit:size. Any medical office over 40,00 square feet would require Town Meeting Approval.

Section 5.1:

Existing: Office space requires 1 parking space per 250 square feet on ground floor area and 400 square feet on all other floors.

Recommend: Keep as 1 parking space per 250 square feet.

PARKING SPACE CREDIT

Existing: Currently credit is not given in the LB II District.

Recommend: Incorporate with Section 5.1.1.d - legal on-street parking may be credited towards meeting these requirements (i.e. parking) if located between the premises side lot lines on the same side of the street.

SECTION 4.2 DIMENSIONAL REQUIREMENTS

FLOOR AREA RATIO	Existing:	1.05
	Recommend:	Keep as is except by special permit to increase to 1.25 with 50 trips per 1,000 square feet of lot area.
MAXIMUM LOT COVERAGE	Existing:	35%
	Recommend:	45%
FRONT SETBACK	Existing:	10'-0"
	Recommend:	10'-0"
SIDE SETBACK	Existing:	20'-0"
	Recommend:	10'-0"
REAR SETBACK	Existing:	20'-0"
	Recommend:	10'-0"
HEIGHT: FEET	Existing:	32'-0"
	Recommend:	36'-0"
HEIGHT: STORIES	Existing:	2 Stories
	Recommend:	3 Stories

EXHIBIT B

LIQUOR LICENSING RECOMMENDATIONS

FIRST REPORT OF THE

SOUTH PLEASANT STREET LAND USE COMMITTEE

TO

THE BOARD OF SELECTMEN

TOWN OF BELMONT

Approved by Vote of the Committee on

February 6, 1996

I. Executive Summary

This first report from the committee recommends that the Board of Selectmen submit to the Town Meeting a warrant article on the subject of liquor licensing. With subsequent state legislative approval, the warrant article, if passed, would result in two questions being placed on the Spring 1997 town ballot:

> "Shall the board of selectmen be authorized to grant licenses for the sale of beer and wine in restaurants having between 39 and 125 seats, provided that not more than eight such licenses shall be in effect?"
>
> "Shall the board of selectmen be authorized to grant licenses for the sale of all alcoholic beverages in restaurants having between 100 and 225 seats, provided that not more than eight restaurant alcohol licenses of any type shall be in effect?"

A majority of the Committee believes that availability of a restaurant liquor license may dramatically strengthen the South Pleasant Street area by allowing a quality restaurant as a component of future development. Fairness to other business areas requires that restaurant alcohol licenses be equally available to them. The Committee recommends, however, that the Board of Selectmen formally adopt a restrictive licensing policy to assure that any and all licenses granted promote desirable economic development. The Committee's recommendations follow in every essential detail the successful model of the Town of Arlington.

II. Background

A. Charter of the Committee

The Board of Selectmen appointed the South Pleasant Street Land Use Committee as a temporary study committee in 1994. The South Pleasant Street area is the area along Pleasant Street between Belmont Center and Trapelo Road. The Board charged the Committee broadly to develop "a thorough analysis of this area along with recommendations to strategically plan for its most prudent use."

The Committee has been meeting regularly since early 1995. Issues related to the planned reconstruction of Pleasant Street itself consumed the first few meetings of the Committee. Since June 1995, however, the Committee has been exclusively focused on longer term questions of economic development in the area.

B. Input Received by the Committee

The Committee has formally solicited and received input on long term direction issues from the following groups: Owners of property in the area; lessors of property in the area; the business associations of Cushing Square, Belmont Center and Waverly square; individuals with expertise in real estate development issues; the Planning Board of the Town of Belmont. Members of the Committee informally solicited input from representatives of the Town of Belmont

Highway and Water departments and individuals with expertise in environmental regulatory issues.

The eight Committee members have each brought their own expertise and perspectives to the Committee's deliberations. The Committee includes individuals with expertise in transportation planning issues, economic development issues, real estate development and a member of both the Planning Board and the Historical District Committee. It also includes three residents of the Pleasant Street area (two residing directly on Pleasant street).

The Committee has met openly and publicly, posting the usual notices. In addition, the Committee has circulated its meeting notices and minutes by mail to a list of 26 non-members of the committee. The list includes all of the owners and lessors in the business district on the street and all others who have requested to be included.

III. Committee Findings

A. Current Uses

Formally, the area extends from Belmont Center to Trapelo Road. There is a small residential section in the area immediately adjacent to Belmont Center. The McLean-owned west side of Pleasant Street may remain undeveloped for some time as it is very steeply sloped. The Committee has focused its attention on the business district south of the Clark Street bridge and north of Star Market.

That area is zoned Local Business II. It is the only major area of the town so zoned. The distinctive feature of this zoning is that it permits automotive uses. In fact, automotive uses do dominate the area. Some of the automotive businesses are solid. Others are not. One major automotive property is vacant. Other businesses in the area include a heavy construction business, a bottled water business and an animal hospital.

Two key facts about the area emerged:

(1) Most of the owner/tenant businesses in the area feel that it is well suited for their needs. They have no intention of moving in the near term. Accordingly, while one or two major properties may turnover in the next few years, any change in the area is likely to be evolutionary.

(2) The location of the Star Market at the Trapelo Road end of area generates a significant amount of shopper traffic. This shopper traffic offers an opportunity for restaurant, retail and service development along Pleasant Street. At the same time the traffic places a burden on surrounding residential areas.

A key theme which emerged from the Committee's discussions was that new development in the area is desirable for the town, but should be on a dimensionally modest scale.

B. Alternative Uses

The Committee has considered a number of possible land uses in the area. The Committee has viewed them in terms of both their economic viability and their desirability to the

Town. Some economically viable options (for example, Walmart-style general retail) were rejected as probably undesirable to the Town. Some desirable options (for example, residential) were reluctantly rejected as not economically realistic for the area.

The land uses which seemed most strongly to meet both tests included the following:

- Quality restaurant
- Small retail
- Automotive/light manufacturing (status quo)

Among these, quality restaurant use seemed to come up most strongly as both desirable and viable. Viability was, however, entirely contingent on the availability of a restaurant alcohol license.

Land uses which appeared to meet both tests, but less strongly, included:

- Specialized retailing
- Office (including professional office)
- Health care clinics

The Committee felt that all of the above directions could be desirable for the Town provided that they were pursued on a dimensionally modest scale. Appendix A, previously provided to the Board informally, gives more detail on the options that the Committee considered.

It is worth noting that, regardless of what the Town does, land use in the area may change in the retail direction given the retail traffic generated by Star Market. The question is how to make the area most successful in a way consistent with the character of the Town and the needs of surrounding areas.

C. Actions Required

The committee views the Town's role as to facilitate private pursuit of development directions which the Town perceives as desirable. The Town has three major ways in which to facilitate development:

(1) Licensing;

(2) Zoning/permitting;

(3) Organizational initiatives (for example, encouraging cooperative efforts by local merchants).

The Committee has developed ideas in the first two of these areas and may develop ideas in the third. This First Report is focused on the licensing area.

IV. Restaurant Liquor Licenses

A. Motivation

The Committee heard consistently that a quality restaurant would be highly viable in the South Pleasant Street area, provided a liquor license were available. A strong restaurant would draw and anchor higher quality retail and possibly office development in the area. Higher

quality development would result in a stronger tax base with modest additional traffic burden on surrounding areas. The probable alternatives involve a less stable contribution to the tax base and greater traffic burdens on surrounding areas. In the Committee's view, the long term direction for South Pleasant Street may turn on the availability of a restaurant liquor license.

The Committee heard other Belmont business areas express concern that retail development in the South Pleasant Street area could make survival even more difficult for them. The Committee believes that it would be inequitable to allow availability of restaurant liquor licenses only in the South Pleasant Street area. The Committee recommends that all business areas in Belmont be allowed to benefit from the location of a few stable quality restaurants in Belmont.

B. Statutory Framework

The basic licensing apparatus is defined by statute -- Massachusetts General Laws, Chapter 138, as supplemented by various special laws tailored for particular cities and towns. (Sections of Chapter 138 will be referred to with the '§' sign alone, for example, §2.) The Board of Selectmen would be the local licensing authority in the Town with the sole power to grant licenses. §2. Local licensing authorities have the power to grant alcohol licenses to the

extent authorized by the legislature. Chapter 138 provides in general terms for certain types of authorization based on certain popular votes. §11. In addition, special laws for other towns have also provided for more tailored authorizations, again based on certain, more tailored, popular votes. See Appendices D, E and F for examples of recent special laws for Arlington and Winchester.

Under §12, if so authorized by vote (under either a general or special law), the Board of Selectmen could grant licenses to restaurants, hotels and clubs. (Clubs include charitable organizations and veteran's organizations.) Similarly, under §14, the Board can grant licenses to managers of indoor or outdoor activities and under §15 to package stores.

The Board has broad power to impose such reasonable requirements on licensees as it may see fit. §23. It is specifically authorized to consider the character of neighborhoods in decisions about granting licenses. §12. It specifically has the power to limit consumption to dining rooms within restaurants. §12. It specifically has the power to set licensing and renewal fees, §12, and within certain parameters, hours and days of operation. §§12, 33, 33A.

The Board has the power to enter and inspect establishments, §63, and in particular to deny restaurant

licenses to establishments which are not genuinely functioning as restaurants. §12A. Under §23, the board has the power to revoke any license if the licensee is not complying with the law or with the conditions the Board imposed on the license. §64 defines the procedure. All licenses are annual licenses, §23, and the Board may refuse to renew a license for cause (although renewal is otherwise automatic). §16A. Failure to renew, like other Board decisions, is reviewable by the Alcoholic Beverages Control Commission. §§23,67. A group of taxpayers or voters may appeal a license grant by the Board to the ABCC. §67. However, the ABCC does not have the power to issue new restaurant licenses. §23.

The Board may not grant an application for a license unless there has been a hearing after public notice by publication, direct notice to abutters and direct notices to any schools or churches within 500 feet. §15A. The number of restaurant licenses which the Board may grant is one per one thousand population, §17, or such other limit established by special law.

C. Recommendation

1. Substance

The Committee recommends that restaurant licenses be authorized in two categories(by the process explained in the next section). The Committee recommends that

(1) beer and wine licenses be authorized for restaurants having from 39 to 125 sets; and

(2) all alcohol licenses be authorized for restaurants having from 100 to 200 seats;

(3) provided that the total number of restaurant licenses shall not exceed eight.

The Board of Selectmen would adopt a policy statement along the lines of the Arlington document attached as Appendix C. This policy statement would define in specific narrow terms the conditions under which licenses would be granted and could be retained. These terms would tightly control the use of licenses so that liquor would be only served as an adjunct to dining. For example:

- the restaurant could not have a bar for serving customers;
- no electronic games or similar amusements would be permitted in a licensed restaurant.

The Committee has developed a summary sheet specifying in more detail its views on the proposed content of the Selectmen's policy statement. This is attached as Appendix B.

2. *Process*

The process which the Committee recommends is as follows:

(1) The Board of Selectmen place an article on this April's Town Meeting Warrant authorizing the Board to file a home rule petition for legislative authorization to conduct a vote on the proposed licensing.

(2) If the article passes, the Board files a home rule petition (under Article II, §8) with the

legislature. The petition requests legislation allowing that the following questions be placed on the ballot:

"Shall the board of selectmen be authorized to grant licenses for the sale of beer and wine in restaurants having between 39 and 125 seats, provided that not more than eight such licenses shall be in effect?"

"Shall the board of selectmen be authorized to grant licenses for the sale of all alcoholic beverages in restaurants having between 100 and 225 seats, provided that not more than eight restaurant alcohol licenses of any type shall be in effect?"

The requested legislation will further provide that if the questions pass, the board of selectmen will be so authorized (subject otherwise to the general alcohol licensing law, Chapter 138 of the General Laws).

(3) The Town's legislators assist in causing the legislature to approve the Town's home rule petition.

(4) The governor approves the petition.

(5) At the 1997 Town Election, the questions are considered and approved by the voters.

(6) The Board of Selectmen adopt a policy statement modeled on Appendices B and C.

(7) The Board of Selectmen proceed to issue licenses consist with the popular vote and policy statement which they adopt.

3. *Precedent -- Town of Arlington*

The Town of Arlington has done essentially what we are proposing here using essentially the same process. Arlington had previously authorized all alcohol licenses in restaurants with more than 100 seats, but this had not generated many new restaurants. In the Spring of 1993, by a

5 to 1 margin (131 to 24), the Arlington Town meeting approved an article providing for beer and wine restaurant licenses with no seat restriction. On December 6, 1993, the State Legislature approved the Town's home rule petition acting through a special law, Chapter 276 of the Acts of 1993. Appendix D. Pursuant to this special law, the Town was allowed to place on the ballot the question "Shall the board of selectmen be authorized to grant licenses for the sale of beer and wine in restaurants?". In the Spring 1994, Town Election, this measure was approved by popular vote (5640Y, 2390N, 522A). Subsequent to this vote, the Arlington Board of Selectmen promulgated the detailed policy statement attached as Appendix C.

The licenses issued pursuant to this policy have helped stabilize existing restaurants in Arlington and have, in addition, attracted two high quality new restaurants, (Flora's and the Asiana Grill), which have in turn, it appears, already attracted spin-off businesses. Given the Arlington Board's clear policy statement, inappropriate licensees have generally not even bothered to apply.

The Town of Winchester has also recently expanded its alcohol licensing authority through special laws. See Appendices E and F.

4. *Social Club Licenses*

It is widely known that many social organizations in the town store and serve alcohol. These organizations may not lawfully store and serve alcohol without licenses from the Board of Selectmen (issued by the same process as restaurant licenses). The Board of Selectmen presently has no authority to issue licenses to these organizations. The Board may wish to remedy this legal problem for these organizations by suggesting through the same process outlined above the following question:

> Shall the board of selectmen be authorized to grant licenses for the sale of alcoholic beverages in clubs (charitable organizations and veteran's organizations)?

In the alternative, sentiment in the Town Meeting may indicate that a less tailored, more broadly worded ballot question would be appropriate , such as:

> Shall the board of selectmen be authorized to grant licenses for the sale of alcohol for on-premises consumption, provided that no more than eight such licenses shall be issued to restaurants and that no tavern or package store licenses shall be granted?

A question in this form would replace all of the proposed questions with a single question.

V. Next Steps

If the Board of Selectmen approves the Committee's recommendations, the next action step is for the Board to place the appropriate article on the Town Warrant.

Our Committee stands ready to play whatever role the Board would like it to play in the process of obtaining input regarding this issue and moving through the necessary legal steps. In particular, the Committee is willing to gather input prior to Town Meeting through a public hearing on the subject.

Respectfully submitted,

THE SOUTH PLEASANT STREET LAND USE COMMITTEE

IN SUPPORT	OPPOSED
Will Brownsberger	Anne Sifneos
Jim Carifio	
Ralph Cutting	
Carol Hickey	
Paul Maney	
Jane Minasian	
Adam Rahbee	

APPENDICES

A. Alternative Directions Chart

B. Alcohol Licensing Proposal Chart

C. Arlington Board of Selectmen Policy Statement

D. Arlington Special Law (restaurants)-- Chapter 276 of the Acts of 1993

E. Winchester Special Law (three restaurants) -- Chapter 908 of the Acts of 1977

F. Winchester Special Law (one package store) -- Chapter 228 of the Acts of 1984

ALTERNATIVE DIRECTIONS FOR SOUTH PLEASANT STREET

Alternative Directions	Economic Considerations	Town Considerations	Action Required
VIABLE OPTIONS			
Restaurant -- sit-down	Highly viable if liquor license; not viable otherwise.	Raises liquor license issue. Strong tax base contribution. Possible abutter concerns.	Liquor license issue, possible zoning changes.
Small retailers (strip mall)	Viable. Not too different from current uses. Builds on Star Market traffic.	May damage other town business districts.	Possible zoning changes.
Automotive/Light Manufacturing	Clearly Viable -- Status Quo. Challenge of finding the right company for larger sites. Question of renovating sites.	For new manufacturing, will depend on company. May not alter status quo significantly, or may raise traffic and other issues.	Possible zoning changes.
POSSIBLY VIABLE OPTIONS			
Medium/large specialized retailers	Viable if scale is modest. Location may not be optimal given larger market area required for some retail categories.	Likely traffic concerns.	Possible zoning changes.
Office space (including professional services)	Question of demand for additional general office space. Competition with Alewife area. Perhaps most viable as small/professional -- health care?	May be good for surrounding business districts. Probably not bad from a traffic standpoint.	Zoning changes.
Health care clinic	Good visibility location. Adequate space probably available.	Probably positive; modest traffic. Possible lack of tax contribution depending on ownership	Zoning changes

DISCUSSION PURPOSES ONLY -- NO ENDORSEMENT OF ANY DIRECTION, REVISED 11/04/95

ALTERNATIVE DIRECTIONS FOR SOUTH PLEASANT STREET

NON-VIABLE OR UNDESIRABLE OPTIONS			
New Commuter Rail Stop	Questions of Belmont need. Lack of likely pedestrian demand.	Automotive traffic from surrounding towns.	Major initiative involving state cooperation.
Town facilities (police or fire	Possible net expense -- cost of renovation may exceed gain generated by difference between acquisition cost of facility and sale of old.	Probably moot given recent investments in other facilities.	Significant town initiative, probably requiring expenditure of capital funds. Beyond scope of committee.
Residential development (including elderly or nursing)	Site not attractive for residential development -- high /heavy traffic; poor pedestrian access.	Desirable. Elderly housing would meet perceived need.	Zoning changes.
Restaurant -- fast food	Highly viable.	Character and traffic issues. Strong tax base contribution. Possible butter concerns.	Possible zoning changes.
Medium/large general retailers x(e.g., Walmart)	Viable if scale is modest.	Will damage other town business districts. Also, likely traffic and possibly character issues. Strong tax base contribution.	Possible zoning changes.

DISCUSSION PURPOSES ONLY -- NO ENDORSEMENT OF ANY DIRECTION, REVISED 11/04/95

ALCOHOL LICENSING -- DRAFT PROPOSAL

I. Basic Parameters

A. ***Beer and wine licenses only to restaurants having over 39 to 125 seats***

B. ***All alcohol licenses only to restaurants with 100 to 200(?) seats***

C. ***Not more than ten restaurant licenses authorized. (Additional licenses for existing private social organizations.)***

D. ***Restaurant licenses issued only to true restaurants offering only dining -- no bars, no on-premises amusement facilities.***

II. Application Stage Controls

A. ***Suitable facility and owner***

1. *Applicant must possess victualers license of adequate size.*
2. *Applicant must specify floor plan and location of any service bars in detail; may not be later changed without permission.*
3. *Applicant must disclose ownership, direct and indirect; license is not transferable.*
4. *Applicant must demonstrate adequate restrooms*

B. ***Policy Guidelines for Selectmen Decisions***

1. *For all alcohol licenses*
   - a) *Quality restaurant*
   - b) *Strengthen commercial tax base*
   - c) *Provide convenient and attractive parking*
   - d) *Improve the variety of shops*
2. *For beer and wine licenses*
   - a) *generally enhance dining experiences*
   - b) *generally enhance economic development*
   - c) *compatible with neighborhood, etc.*

ALCOHOL LICENSING -- DRAFT PROPOSAL

III. Operating Controls

A. *Annual license review*

1. *Must report share of sales from alcohol*
2. *Must comply with all rules and regulations*
3. *Must continue to further policy goals of initial licensure*

B. *Hours Limitations*

1. *Hours of legal sale: Opening 11AM Monday through Saturday and noon on Sunday; closing as specified in common victualer's license, in no event later than midnight.*
2. *Hours of legal sale further limited to hours when food is actually being served.*

C. *Regular Inspection*

D. *Managers other than the licensee*

1. *Must be approved by the licensing authorities*
2. *Names must be on file with selectman*
3. *Must be on premises at all operating hours*
4. *Must maintain decorum and cooperate with town authorities -- police, fire, etc.*

E. *Operating Rules*

1. *Beverages may only be consumed on premises*
2. *No bar for serving customers*
3. *No alcoholic beverage served to anyone not dining*
4. *For beer and wine licenses, no service unless already seated.*
5. *No pitchers (?)*
6. *No electronic games, TVs, lottery games, etc.*

OFFICE OF THE BOARD OF SELECTMEN
TOWN OF ARLINGTON
MASSACHUSETTS 02174

TELEPHONE (617) 646-1000
EXT. 4060

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VICE-CHAIRMAN
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KEVIN F. GREELEY

TOWN OF ARLINGTON
BOARD OF SELECTMEN
ALCOHOL RESTAURANT LICENSES
POLICIES, RULES, AND REGULATIONS

POLICY STATEMENT

The issuance of an All Alcohol Restaurant License or a Wine and Malt Beverage Only license is an accommodating and incidental part of a Common Victualer's primary and principal business endeavor of serving food to the public in a restaurant.

An All Alcohol Restaurant (AAR) License will not be issued to any applicant unless such applicant is the licensee named in a Common Victualer's License and operates a quality restaurant having a minimum of 99 seating capacity. A Wine and Malt Beverage License will not be issued to any applicant unless such applicant is the licensee named in a Common Victualer's License and operates a quality restaurant having a minimum of 19 seating capacity.

SECTION ONE - GENERAL RULES AND REGULATIONS

Subject to further limitations fixed, modified, or amended by the Board of Selectmen acting as the duly constituted licensing Board of the Town of Arlington with respect to alcohol beverage licenses, the General Laws of Massachusetts and the Regulations of the Alcoholic Beverage Commission, the following rules and regulations will be in full force and effect for both All Alcohol Restaurant and Wine and Malt Beverage Licenses.

Any license issued by the Arlington Board of Selectmen under the above authority shall be processed in accord with the procedures listed herein and shall be subject to the rules and regulations for such licenses attached to these instructions. The Board of Selectmen may adopt further rules and regulations and all such changes shall apply to existing license holders from the date of the adoption. The Board of Selectmen may attach such conditions and restrictions to each such license as it deems to be in the public interest.

Local Laws, Codes
All such licenses shall also be issued contingent upon the continued compliance with all appropriate State and Municipal licenses and permits which may pertain to the operation of premises including but not limited to the State Building Code and Common Victualer License requirements.

Compliance by Property Owner
Property occupied by the licensee, whether owned or leased by the licensee, shall conform with all Town Bylaws and codes. Failure to comply with said Bylaws or codes shall be sufficient cause for revocation or suspension of said license by the Board of Selectmen.

Seating Capacity
In determining whether a facility meets the minimum seating capacity as set forth in Chapter 138, Section 11, Sub-Division E, the Board of Selectmen shall apply the standards set forth in the State Building Code, 780 Code of Massachusetts Regulations , Article 6.

FILING OF APPLICATION
All license application forms, including but not limited to: the Alcohol Beverage Control Commission general application, Form C for Financing, Form A, Criminal Record Release Form, and the Department of Revenue Release Form, must be complete before being processed by the Board of Selectmen. Complete application material must be provided for each individual whose name appears on the application. An application shall be considered "complete" and therefore accepted by the Town when it has been filed in accord with these procedural instructions and all forms required have been fully completed and executed.

Filing Fee
A $100.00 filing fee must be paid prior to acceptance of the application by the Town. This filing fee is not refundable, regardless of the outcome of the application process.

Building and Site Plan
In addition to the above forms, each application must contain the following information shown on a plan drawn to scale by An architect or an engineer.

- The net floor area and dimensions of the existing room or rooms requested to be licensed including dining rooms,function rooms and rooms in which alcoholic beverages are to be stored.
- The location of any proposed service bars.
- The area in which seats or booths are to be securely fastened to the floor.
- The area in which there is to be moveable or unsecured seats and tables.
- Entrances, windows, stairs and exits.

- All rooms not being requested to be licensed if said rooms are on the same floor as those rooms to be licensed shall be identified as to their function such as a kitchen, coatroom, lobby, etc.

OWNERSHIP AND INTEREST

Every application for a license or permit made by a corporation shall state the full names and home addresses of the President, Treasurer, Clerk and Secretary, Directors, Investors, Developers, Managers or any other person or corporation with financial interest. The license shall be signed by an officer duly authorized by a vote of its Board of Directors or other similar Board. A copy of such of vote certified by the Clerk or Secretary of the corporation; together with a copy of the certificate of organization, shall accompany the application. A copy of the vote appointing its Manager (s) or other principal representative shall also accompany the application.

No corporation, organized under the laws of the Commonwealth or of any other State or foreign country shall be given a license to sell in any manner any alcoholic beverage unless such corporation shall have first appointed, by vote of its board of director or other similar board, as manager or other principal representative, a citizen of the United States, and shall have vested in him by properly authorized and executed written delegation as full authority and control of the premises described in the license of such corporation and of the conduct of all business therein relative to alcoholic beverages as the licensee itself could in any way have and exercise if it were a natural person resident in the Commonwealth, nor unless such manager or representative is, with respect to his character, satisfactory to the licensing authorities.

No change in the stock ownership of a corporation shall be made after the license has been granted or renewed without the approval of the Licensing Board. The license is not transferrable or assignable.

Financial Information

The licensee shall furnish six month financial status reports indicating the percentage of gross sales for food and the percentage of gross sales for alcoholic beverages. This report shall be submitted no later than four weeks following the close of the six-month financial period. The license holder shall provide, annually, a Certificate of Condition and a Certificate of Good Standing, as required by Secretary of State for the Commonwealth of Massachusetts, to the Board of Selectmen.

Duration of License

All licenses once issued are valid until December 31, of each year and must be renewed prior to that date. It shall be the responsibility of the licensee to file a renewal application at least 45 days prior to expiration of the existing license.

Renewals

Renewals applications shall require updating of all previously filed statements and plans where appropriate. Failure to renew prior to expiration shall result in a loss of license and any subsequent license request must then be treated as a completely new application.

Hours
The hours during which sales of alcoholic beverages may be made by any licensee shall be from 11:00 A.M. to 12:00 midnight Monday through Saturday and from 12:00 noon to 12:00 midnight night on Sundays. The hours during which the sales of alcoholic beverages may be made are further limited to the hours of operation as designated on the common victualer's license, and furthermore when the dining room is open and full food service is available.

All beverage/glasses/bottles or other containers must be removed from tables and service bar area one-half hour after closing time as designated. Patrons must be off premises one hour after closing time as designated. Licensed operators and employees must be off premises one hour after closing as designated.

Service Bars
The location of service bars shall not be changed unless approved by the Board of Selectmen and unless An amended plan is submitted to the Board showing the proposed change.

Inspections
The licensed premises shall be subject, at all times, to inspection by members of the Board of Selectmen, the Town Manager, Department of Community Safety, Board of Health or their representatives, or any other department of official of the own so directed by the Selectmen.

All establishments shall have suitable appliances, devices or machines which shall be capable of maintaining water temperature at 180 degrees at all times, so that cups, glasses or other utensils shall be thoroughly and properly cleanse and sterilize, unless otherwise specified by the Arlington Board of Health.

Supervision-Presence
The manager or representative of the licensee shall, at all times during which alcoholic beverages are being sold pursuant to the license of such corporation, be present in the licensed premises and shall be available to the licensing authorities during all such times unless some other person similarly qualified, authorized and satisfactory to the licensing authorities and whose authority to act in place of such manager or principal representative shall first have been certified to the licensing authorities in the manner aforesaid, is present in the premises and is acting in the place of such manager or principal representative. The full name, residential address, business and home telephone numbers of said manager or representative must be on file in the Selectmen's office. Failure to have such information on file and current shall alone be sufficient cause for revocation or suspension of such license.

Order and Decorum
The manager or representative shall at all times maintain order and decorum in the premises and in the immediately surrounding area of the premises and shall cooperate in all ways with Town officials including but not limited to representatives from the Building Department, Board of Health and Fire and Police Departments in ensuring safe and orderly facilities. Premises must be kept clean, neat and sanitary at all times. Outside areas of the premises will likewise be kept in orderly and neat condition.

ment shall adopt rules and regulations which will provide that a certain percentage of the money received by the imposition of such rate, fare, toll or charge shall be set aside annually and subsequently used to reduce or adjust the regular business and residential rates and the department shall promulgate schedules setting forth such percentages. For the purposes of this section, directory assistance service or directory assistance call shall mean information given to a customer of a telecommunications company to provide such customer with a telephone number. Each business customer will be entitled without charge to one directory covering any area within the commonwealth.

Approved July 13, 1984.

Chap. 227. AN ACT AUTHORIZING THE BOLTON PUBLIC SAFETY COMMUNICATIONS CENTER TO SELL ANSWERING SERVICE.

Be it enacted, etc., as follows:

Notwithstanding any general or special law to the contrary, the public safety communication center in the town of Bolton is hereby authorized to sell answering service to businesses located in said town.

Approved July 13, 1984.

Chap. 228. AN ACT RELATIVE TO THE ISSUANCE BY THE TOWN OF WINCHESTER OF A LICENSE FOR THE SALE OF ALCOHOLIC BEVERAGES.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section seventeen of chapter one hundred and thirty-eight of the General Laws or any other general or special law to the contrary, the state secretary shall cause to be placed on the official ballot to be used in the town of Winchester at the biennial state election in the year nineteen hundred and eighty-four, and thereafter at each of the three successive biennial state elections, the following question:-

Shall up to one license be granted in this town for the sale at retail therein of all alcoholic beverages in packages, so called, not to be drunk on the premises?

YES.	
NO.	

If a majority of the votes cast in answer to said question at any of the said biennial state elections is in the affirmative, said town shall be taken to have authorized, for the two calendar years next succeeding each such election, the issuance of a

license for the sale in said town of all alcoholic beverages, but only in packages, so called, not to be drunk on the premises where sold; provided, however, that if a majority of the votes cast in said town in answer to said question at the biennial state election in the year nineteen hundred and ninety is in the affirmative, said town shall be taken to have authorized the issuance of such license without any specific limitation as to the duration of such authority. Said authority and license shall be subject, however, to all the other provisions of said chapter one hundred and thirty-eight.

Approved July 13, 1984.

Chap. 229. AN ACT RELATIVE TO THE TOWN CLERK OF SAUGUS.

Be it enacted, etc., as follows:

Section 22 of chapter 17 of the acts of 1947, as amended by section 4 of chapter 104 of the acts of 1979, is hereby further amended by striking out the fourth sentence.

Approved July 13, 1984.

EMERGENCY LETTER - July 16, 1984 @ 9:28 A.M.

Chap. 230. AN ACT PROHIBITING BANKS FROM IMPOSING FEES AGAINST THE SAVINGS ACCOUNTS OF PERSONS OVER SIXTY-FIVE OR UNDER EIGHTEEN YEARS OF AGE.

Be it enacted, etc., as follows:

Paragraph 1 of section 2 of chapter 167D of the General Laws, as appearing in section 2 of chapter 590 of the acts of 1983, is hereby amended by inserting after the word "bank", in line 5, the words:- ; provided, however, that no bank shall impose any fee, charge or other assessment against the savings account or checking account of any persons sixty-five years of age or older of eighteen years of age or younger; and provided, further, that a reasonable charge, as determined by the commissioner, may be assessed against any such account of any persons sixty-five years of age or older or eighteen years of age or younger when payment has been refused because of insufficent funds on any check drawn on such account.

Approved July 13, 1984.

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Approved December 30, 1977.

AND DIRECTING THE DEPARTMENT
CLASSIFY A CERTAIN NUMBER OF
MARLBOROUGH, INC. FOR LEVEL II

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taining sixty chronic disease beds and ancillary services at the estimated capital expenditure of four million dollars.

(This Bill, returned by the Governor, to the House of Representatives, the branch in which it originated, with his objections thereto, was passed by the House of Representatives, January 3, 1978, and, in concurrence, by the Senate, January 3, 1978, the objections of the Governor notwithstanding, in the manner prescribed by the Constitution; and thereby has "the force of a law".)

Chap. 908. AN ACT RELATIVE TO THE GRANTING OF LICENSES FOR THE SALE OF ALL ALCOHOLIC BEVERAGES BY CERTAIN RESTAURANTS IN THE TOWN OF WINCHESTER.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any limitations imposed by section eleven A of chapter one hundred and thirty-eight of the General Laws, as to the time and manner of voting upon the questions therein set forth, and to section seventeen of said chapter as to the number thereof, the selectmen of the town of Winchester shall cause to be placed on the official ballot used for the election of officers in the town of Winchester at the annual town meeting to be held in the year nineteen hundred and seventy-eight the following question:-

Shall not more than three licenses be granted to this town for the sale therein of all alcoholic beverages by restaurants having a seating capacity of not less than one hundred persons?

YES	
NO	

If a majority of the votes cast in said town in answer to said question is in the affirmative, said town shall be taken to have authorized, until the end of calendar year nineteen hundred and eighty the sale in said town of all alcoholic beverages to be drunk on the premises of restaurants having a seating capacity of not less than one hundred persons. Said three licenses shall be subject, however, to all the other provisions of said chapter one hundred and thirty-eight.

SECTION 2. The board of selectmen is authorized to and shall include a summary of the aforesaid question including a statement of their position on the ballot with said question.

SECTION 3. The state secretary shall cause to be placed on the official ballot to be used in the town of Winchester at the biennial state election in nineteen hundred and eighty, and at each biennial state election thereafter until the voters of said town shall have voted in the affirmative three consecutive times or in the negative three consecutive times, the following subdivision to the question which he is required under the provisions of section eleven of chapter one hundred and thirty-eight of the General Laws to place on the official ballot in cities and towns at such elections:-

F. Shall not more than three licenses be granted in this town for the sale therein of all alcoholic beverages by restaurants having a seating capacity of not less than one hundred persons?

YES	
NO	

If a majority of the votes cast in said town in answer to subdivision F is in the affirmative, said town shall be taken to authorize, for the two calendar years next succeeding, the sale in said town of all alcoholic beverages to be drunk on the premises of restaurants having a seating capacity of not less than one hundred persons. Said three licenses shall be subject, however, to all other provisions of said chapter one hundred and thirty-eight.

SECTION 4. This act shall take effect upon its passage.

Approved January 3, 1978.

Chap. 909. AN ACT RELATIVE TO THE ADMISSION CHARGES AT BATTLESHIP COVE IN THE CITY OF FALL RIVER.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to direct the department of education to immediately provide for free admission to certain events and exhibits for school groups, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

Chapter 387 of the acts of 1973 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The department of education, in the name and on behalf of the commonwealth, is hereby authorized and directed to contract with the U.S.S. Massachusetts Memorial Committee, Incorporated for the purpose of furnishing free admission to all

SECTION 3. The supreme judicial court shall have original jurisdiction of any petition for a writ of mandamus relative either to the establishment of eight executive councillor districts, or to the establishment of forty senatorial districts under section one. Every such petition shall be filed in court within ten days after the effective date of this act.

The foregoing was laid before the Governor on the twenty-second day of November, 1993 and after ten days had the force of law as prescribed by the Constitution as it was not returned by him with his objections thereto within that time.

Chapter 275. AN ACT FURTHER REGULATING THE TAKING OF BLOOD SAMPLES IN CERTAIN MOTOR VEHICLE ACCIDENTS.

Be it enacted, etc., as follows:

Chapter 38 of the General Laws is hereby amended by inserting after section 4 the following section:-

Section 4A. If, after making inquiry pursuant to section four, the medical examiner is of the opinion that death may have resulted from injuries sustained in a motor vehicle accident, and that the death occurred within four hours of such accident, that the deceased was the operator and sole occupant of the motor vehicle, and that no other individuals were involved in the accident, the medical examiner shall submit to the state police laboratory a sample of blood from the deceased in an amount sufficient for chemical analysis if it is obtainable at an autopsy. If such chemical analysis indicates the presence of a controlled substance or alcohol, such sample shall be preserved for no less than one hundred and twenty days from the date the sample is taken to permit an independent analysis. Such independent analysis shall be done upon the written request and at the expense of the next of kin of the decedent. No independent analysis of blood performed after sixty days pursuant to this section shall be admissible as evidence of the level of alcohol or controlled substance in any legal proceeding. The medical examiner shall not be civilly or criminally liable for any action taken in compliance with this section.

Approved December 6, 1993.

Chapter 276. AN ACT RELATIVE TO THE GRANTING OF LICENSES FOR THE SALE OF BEER AND WINE BY CERTAIN RESTAURANTS IN THE TOWN OF ARLINGTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any limitations imposed by section eleven A and section seventeen of chapter one hundred and thirty-eight of the General Laws, or any other special or general law to the contrary, including, but not limited to chapter eight hundred and

eighty-seven of the acts of nineteen hundred and seventy-seven, the board of selectmen of the town of Arlington shall cause to be placed on the official ballot used in said town of Arlington by registered voters of said town of Arlington at the annual town meeting to be held in the year nineteen hundred and ninety-four, the following question:

"Shall the board of selectmen be authorized to grant licenses for the sale of beer and wine in restaurants?"

Yes _____

No _____

If a majority of the votes cast in said town in answer to said question is in the affirmative, the town shall be taken to have authorized the sale in said town of beer and wine to be drunk on the premises in restaurants. Said licenses shall be subject, however, to all the other provisions of said chapter one hundred and thirty-eight.

SECTION 2. This act shall take effect upon its passage.

Approved December 6, 1993.

Chapter 277. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE CITY OF SOMERVILLE AS THE ALDERMAN WILLIAM J. JOYCE MEMORIAL BRIDGE.

Be it enacted, etc., as follows:

The bridge containing the Boston and Maine railroad tracks that run over Medford street in the city of Somerville shall be designated and known as the Alderman William J. Joyce Memorial Bridge, in honor of Alderman William J. Joyce's many years of service in public office in said city of Somerville. A suitable marker bearing said designation shall be attached thereto by the Massachusetts Bay Transportation Authority in compliance with the standards of said authority.

Emergncy Letter: December 8, 1993 @ 10:41 A.M. Approved December 7, 1993.

Chapter 278. AN ACT REQUIRING THE USE OF HELMETS FOR BICYCLE RIDERS AND THEIR PASSENGERS WHO ARE UNDER THE AGE OF TWELVE.

Be it enacted, etc., as follows:

SECTION 1. The second paragraph of section 11B of chapter 85 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out clause (2) and inserting in place thereof the following clause:-

Purchase and Consumption on Premises
No patron will be permitted to bring into the licensed restaurants any alcoholic beverage for consumption on the premises. All beverages held for sale shall be consumed on the premises.

Notification of Abutters
The applicant will be required to comply with the appropriate provision of M.G.L. c.138 including, but not limited to sections 15A and 16c relative to notification of abutters, churches and schools within the distance prescribed by law. Strict compliance with the notification provision of these laws shall be adhered to, and shall be the sole responsibility of the applicant. The Board reserves the right to order further notice requirements at its discretion

Restroom Facilities
No premises may be licensed unless toilet facilities are generally available to the patrons of the restaurants. Toilet facilities will be determined to be "generally available" by the Building Inspector in accordance with State and Federal Law.

Exercise of License
The applicant agrees that if granted a license hereunder, he shall commence the construction or alteration of the licensed premises within 45 days and be in full operation within four months from the date of the license unless a longer period is authorized by the Board. Thereafter said licensee shall continuously operate the licensed premises in accordance with the terms and conditions of this license. The closing of the licensed premises for any reason for a period of seven consecutive days or more, or for any 10 days during the calendar year without prior approval or the Board of Selectmen shall be deemed to be an abandonment of the license and sufficient grounds for revocation.

Violation of Rules and Regulations
Any license issued under these rules and regulations may be suspended or revoked by the Board of Selectmen when any of the rules or regulations are violated. Suspension or revocation shall be initiated by the Board by written notification to the license holder. The Board shall hold a Public Hearing upon such suspension or revocation. The hearing shall be commenced within two weeks of the notice of intent to suspend or revoke said license.

All applications shall be made under the penalties of perjury and any false statement contained in any application shall be a cause or ground for refusing to grant the license or permit or for suspending, canceling or revoking a license or permit already granted.

SECTION TWO - ALL ALCOHOL RESTAURANT LICENCES

The following rules and regulations apply to All Alcohol Restaurant Licenses. They do not apply to Wine and Malt Beverage Licenses.

POLICY STATEMENT

It is the express purpose and intent of the Board of Selectmen acting as the Town licensing board to limit the issuance of All Alcohol Restaurant Licenses and place considerable emphasis on favorable acceptance of applicants who present proposals contributing significantly to the overall Town development plan that has the following objectives:

1. Bring a quality restaurant with function rooms to the Town that provides fine food and service with quality atmosphere.

2. Strengthen Commercial Tax Base.

3. Provide more convenient and attractive parking.

4. Improve the variety of shops in Arlington.

License Fee

The annual license fee for an All Alcohol Restaurant License is $3,000. The payment must be made by certified check at the time the license is issued. The license fee may be prorated for applications filed after January 1, by vote of the Board, but in no event will the same be less than $1,500. The Board reserves the right to adjust the license fee from year to year, and may choose to reduce the annual licensing fee by $400.00 for those applicants who have successfully completed a certified server training program.

Service Areas

Service of food is required in all areas where alcoholic beverages are to be served, however, notwithstanding the foregoing, alcoholic beverages may be served in a designated area for those waiting to be seated for dining. No individual shall be served alcoholic beverages in this area until he or she has given his or her name (or the name of their party) to that individual designated by the owner of the premises charged with the task of establishing an order of seating in the dining area. The owner of the premises shall take appropriate measures to ensure that no one is served in the waiting area whose intention it is not to dine.

SECTION THREE - WINE AND MALT BEVERAGE ONLY LICENSES

The following rules and regulations apply to Wine and Malt Beverage Licenses. They do not apply to All Alcohol Restaurant Licenses.

POLICY STATEMENT

It is the policy of the Town of Arlington that the issuance of wine and malt beverage only licenses will be utilized so as to both enhance the dining experience of individuals patronizing Arlington restaurants and to foster the economic development of business areas in the Town by encouraging and promoting foot traffic in those areas where restaurants are located. The Board will consider when deciding upon a license application the foregoing factors and any other matter thought appropriate by the Board including by way of description but not limitation, proximity to residential neighborhoods, traffic, parking, appropriateness of menu and other aesthetic considerations including the physical layout of the interior of the establishment. Licenses will not be granted to establishments whose principal business activity is fast food take out or have any drive-in aspect.

Wine and Malt Beverage Only Licensees must comply with all of the following rules and regulations, in addition to all general regulation:

1. The annual license fee shall be $1,200. The payment must be made by certified check at the time the license in issued. The license fee may be prorated for application filed after January 1, by vote of the Board, but in no event will the same be less than $600. The Board reserves the right to adjust the license fee from year to year, and may choose to reduce the annual licensing fee by $200 for those applicants who have successfully completed a certified server training program.

2. Service of food is required in all areas where wine and malt beverages are to be served, and wine and malt beverages may only be served with a full meal ordered from the menu of the licensed premises. In no event may a patron be served an alcohol beverage prior to having been seating and having ordered a full meal.

3. The Board reserves the right to approve the menu and further define what constitutes a full meal consistent with its policy statement. Single servings of appetizers, soups, garden salads, or desserts shall not be considered a full meal. Menus shall reflect the requirement that wine and malt beverages may only be ordered in conjunction with the consumption of a full meal.

4. Meals must be served on solid dinnerware with silverware accompanying the same. No paper plates or plastic cutlery is permitted. Wine and Malt Beverages may be consumed only from glasses.

5. No licensed restaurant may permit the use of any amusement device such as electronic games on the premises.

6. No pitchers of beer may be served. Applicants' attention is invited to the provision of Section 4.03 of the Alcohol Beverage Control Commission Regulations a copy of which is attached hereto.

7. Service of wine or malt beverages shall be by a wait person, and only to patrons who are seated at tables.

8. No premises may be licensed that contain any advertisement or sign on the outside facade upon which appears any brand name of a wine or malt beverage product. Signs on the inside of the premises are subject to Board approval at its discretion.

9. No premises may be licensed where food service is provided over any counter be it for sitting down or take out purposes. This prohibition shall not apply to premises where counter stools are permanently affixed to such counter, nor shall this prohibition apply to premises which offer take out service in a distinctly separate portion of the premises. Such distinctly separate facility shall include, but not be limited to a separate entrance from the outside to such a take out facility.

10. Cordials and Liqueurs may not be served unless and until Chapter 451 of the Acts of 1993 is accepted by the Town and written approval of the same is granted by the Board consistent with said law.