



## TOWN OF BELMONT

455 CONCORD AVENUE  
BELMONT, MASSACHUSETTS  
02478

MICHAEL J. WIDMER  
TOWN MODERATOR

mike.j.widmer@gmail.com  
617-489-1822 (home)

September 21, 2023

By Hand

Roy Epstein, Chair Belmont Select Board  
455 Concord Avenue  
Belmont, MA 02478

Re: November 2023 Special Town Meeting – Request to Hold Hybrid Meeting

Dear Mr. Epstein and Members of the Select Board:

I am requesting, in my capacity as Town Moderator, that the Select Board call for the November 6, 2023 Special Town Meeting to be held through hybrid participation “in which both in-person and remote participation are authorized,” as defined in Chapter 2 or the Acts of 2023.

My attached email to Town Meeting Members describes my desire to “hold in-person meetings but provide the opportunity for remote access for those individuals who have a compelling reason not to attend in person.” I hope that the vast majority of Town Meeting Members will be able to attend in person. At the same time, I respect the decisions of individual Town Meeting Members whether their circumstances, medical or otherwise, necessitate that they attend remotely.

I appreciate your consideration of this request.

Sincerely,

Michael J. Widmer  
Town Moderator

cc: Patrice Garvin, Town Administrator  
Ellen Cushman, Town Clerk  
George Hall, Town Counsel

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**TOWN OF BELMONT  
WARRANT FOR 2023 SPECIAL TOWN MEETING  
NOVEMBER 6, 2023  
COMMONWEALTH OF MASSACHUSETTS**

Middlesex, ss.

To any of the Constables of the Town of Belmont in said County:

Greetings:

In the name of the Commonwealth of Massachusetts you are required to notify and warn the Inhabitants of the Town of Belmont, qualified as the law requires to vote in elections and Town Affairs, to convene on **MONDAY, NOVEMBER 6, 2023, at 7:00 P.M.** in person and remote at the Belmont High School Auditorium or by audio/ video conferencing platform described more particularly below,, and to notify and warn the Town Meeting Members to meet and act at said time and place on the following Articles.

Interested members of the public may see and hear the proceedings by tuning in to the Belmont Media Center's live broadcast of the proceedings on Belmont cable television (Comcast channel 8, Verizon channel 28) or by live-streaming at [www.belmontmedia.org](http://www.belmontmedia.org).

Town Meeting Members participating remotely will attend and vote by logging into a web page portal operated by the Town's electronic voting vendor with unique credentials that will be issued to each Town Meeting Member before the meeting.

Town Meeting Members and other participants approved by the Moderator who wish to address the meeting are encouraged to appear in person or may participate in the meeting through the "Zoom" videoconferencing service. Login credentials will be provided to all Town Meeting Members. Registered voters who wish to address the meeting as approved by the Moderator may appear in person or contact the Town Clerk's office for login credentials, 617-993-2603.

**ARTICLE 1**

**REPORTS**

To hear the report of the Select Board and other Town Officers, any Committee heretofore appointed and to act thereon.

*This article accepts the reports of Town departments appearing in the Annual Town Report and allows the Select Board and other Town officers, boards and committees to report*

orally to the Town Meeting on appropriate matters not otherwise appearing on the Warrant. This article stays "on the table" throughout the Town Meeting to allow Town officials and committees to report at the call of the Moderator.

**Majority vote required for passage.**

## **ARTICLE 2                      COMMUNITY PRESERVATION COMMITTEE (CPC)-OFF CYCLE REQUEST(S)**

To see if the Town will vote to appropriate from Fiscal Year 2023 Community Preservation Fund(s) as follows; or in any way act thereon.

<b>Amount</b>	<b>Project Name</b>	<b>CPA Category</b>	<b>Funding Source</b>
\$ 360,000	Community Path Phase 1 Design	RC	Open Space Recreation, Undesignated Fund
\$ 160,000	Town Hall Retaining Wall	HP	Historic Preservation Fund, Undesignated Fund
\$ 200,000	School Administration Building Roof Restoration	HP	Historic Preservation Fund, Undesignated Fund

*This article will authorize the funds needed to complete critical projects that cannot wait until the regular funding cycle at Annual Town Meeting.*

Submitted by the Select Board

The Select Board, Warrant Committee and Community Preservation Committee will report on this Article.

**Majority vote required for passage.**

## **ARTICLE 3                      TRANSFERS TO STABILIZATION FUNDS**

To see if the Town will vote to raise and appropriate, or transfer from available funds, a sum or sums of money to the Capital Stabilization Fund, the General Stabilization Fund, or both; or in any way act thereon.

*This article will authorize transfers to the Capital or General Stabilization Funds for later appropriation by Town Meeting.*

Submitted by the Select Board

The Select Board and the Warrant Committee will report on this Article.

**Majority vote required for passage.**

**ARTICLE 4 CAPITAL APPROPRIATION SECURITY CAMERAS AT WELLINGTON & CHENERY SCHOOLS**

To see if the Town will vote to raise and appropriate or transfer from available funds \$160,000 for the purpose of updating and adding security cameras at the Wellington and Chenery schools; or in any way act thereon.

*At the 2023 Annual Town Meeting a total of \$1,791,681 in funding was set aside for Discretionary Capital, but only \$1,631,681 was appropriated. The difference of \$160,000.00 is being appropriated via this article. The funds will complete a project to update security cameras at all schools which was begun using ARPA funding in May 2023.*

Submitted by the Select Board

The Select Board, Warrant Committee and Comprehensive Capital Budget Committee will report on this Article.

**Majority vote required for passage.**

**ARTICLE 5 REPLACE GENERAL BYLAW §60-310 WITH SPECIALIZED ENERGY CODE**

To see if the Town will vote to replace §60-310 of the Town of Belmont General Bylaws, titled "Stretch Energy Code" with a new §60-310 titled "Specialized Energy Code," for the purpose of regulating the design and construction of buildings for the effective use of energy and reduction of greenhouse gas emissions, pursuant to the entirety of 225 CMR 22 and 23 including Appendices RC and CC, including future editions, amendments, or modifications thereto, with an effective date of January 1, 2025 so that it reads as follows:

**§60-310 Specialized Energy Code**

**A. Purpose**

The purpose of the Specialized Energy Code is to provide a more energy-efficient and low greenhouse gas emissions alternative to the Stretch Energy Code or the baseline Massachusetts Energy Code, applicable to the relevant sections of the State Building Code for new construction.

**B. Applicability**

This §60-310 applies to residential and commercial buildings.

**C. Specialized Energy Code**

The Specialized Energy Code codified by the entirety of 225 CMR 22.00 and 23.00 including Appendices RC and CC, and including any future editions, amendments, or modifications, is herein incorporated by reference into this §60-310.

**D. Enforcement**

The Specialized Energy Code is enforceable by the Inspector of Buildings. This section §60-310 shall be effective January 1, 2025;

or in any way act thereon.

*The implementation date of this article differs from the original Citizen Petition filed in the Spring of 2023. The original date proposed was January 1, 2024. The Department of Energy & Resources (DOER) recommends an implementation date of a minimum of six months after a municipal vote to allow for an orderly transition for developers, designers and builders, as well as additional training time for municipal code officials.*

Submitted by the Select Board

The Select Board will report on this Article.

**Majority vote required for passage.**

## **ARTICLE 6**

## **AMEND ZONING BYLAW(S): RESTAURANTS**

To see if the Town will vote to amend the Zoning Bylaws Section 1.4 Definitions, Section 3.3 Schedule of Use Regulations, and Section 6 (add a new Section 6.13) as follows; or in any way act thereon.

1. Amend Section 1.4 Definitions and Abbreviations as follows:

### **A. By Deleting the following definitions in their entirety:**

**Catering Service** - An establishment that prepares, serves, and supplies food in large quantities to be delivered and consumed off premises. Deliveries of food products occur on a regular basis.

**Restaurant** - An establishment at which the principal activity is the preparation, service, and sales of food for consumption on the premises

**Restaurant, Fast Food** - An establishment whose primary business is the sale of food for consumption on the premises which is: (a) primarily intended for immediate consumption rather than for use as an ingredient or component of meals; (b) available upon a short waiting time; (c) packaged or presented in such a manner that it can be readily eaten outside the premises where it is sold; (d) which, because of the nature of the operation sells large volumes of food; but not including drive-up windows

**Restaurant, Take Out** - An establishment whose primary business is the sale of food for consumption off the premises which is: (a) primarily intended for immediate consumption rather than for use as an ingredient or component of meals; (b) available upon a short waiting time; (c) packaged or presented in such a manner that it can be readily eaten outside the premises where it is sold; (d) which, because of the nature of the operation sells large volumes of food; (e) commonly generates a large volume of vehicular traffic, but not including drive-up windows

### **B. by adding the following definitions in alphabetical Order:**

**Food Service Establishment, Formula Based** – A Food Service Establishment that conforms or substantially conforms to a set of common design and operating features that serve to identify the establishment as one of a group of establishments for business, marketing, or public relations purposes. A Food Service Establishment shall be considered a Formula Based Food Service Establishment if it shares at least two (2) of the following three (3) characteristics with ten (10) or more other establishments worldwide (regardless of ownership or location)”:

1. Trademark, service mark or logo, defined as a word, phrase, symbol, or design or combination thereof that identifies and distinguishes the source of the goods or services from others;
2. Standardized building architecture including but not limited to façade design and signage;
3. Standardized color scheme used throughout the exterior of the establishment, including color associated with signs and logos.

**Food Service Establishment** – Any establishment at which the principal activity is the preparation, service, and sales of prepared food intended for consumption on or off the premises, and regardless of whether the establishment provides facilities for on-site consumption. This definition includes restaurants and catering services, but excludes establishments serving customers through drive-up windows.

2. Amend Section 3.3 Schedule of Use Regulations by DELETING the following ENTRIES under the heading “**BUSINESS**”

USES	DISTRICTS							
	SR-A,B,C,D	GR	AH	LB I	LB II	LB III	GB	PL
Catering Service								
• Up to 10,000 square feet	N	N	N	Y	Y	Y	N	N
• More than 10,000 square feet	N	N	N	SP	SP	SP	N	N
Note S 3.3 was amended by Article 10 of the 2003 Special Town Meeting								
Restaurants								
• Up to 10,000 square feet	N	N	N	Y	Y	Y	N	N
• More than 10,000 square feet	N	N	N	SP	SP	SP	N	N
Note S 3.3 was amended by Article 10 of the 2003 Special Town Meeting								
Restaurant, Fast Food								
Note S 3.3 was amended by Article 10 of the 2003 Special Town Meeting	N	N	N	SP	SP	SP	SP	N
Restaurant, Take Out								
Note S 3.3 was amended by Article 10 of the 2003 Special Town Meeting	N	N	N	N	SP	SP	SP	N

and inserting the following ENTRIES in their place:

USES	DISTRICTS							
	SR-A,B,C,D	GR	AH	LB I	LB II	LB III	GB	PL
Food Service Establishment	N	N	N	Y	Y	Y	Y	N
Food Service Establishment, Formula Based See Section 6.13	N	N	N	SP	SP	SP	SP	N

3. Amend Section 6 Special Regulations by adding a new section 6.13 Formula Based Food Service Establishment to read as follows:

**“Section 6.13 Special Permit Review for Formula Based Food Service Establishments**

6.13.1 Purpose. The purpose and intent of the Formula Based Food Service Establishments regulation is to address the adverse impact of standardized businesses on Belmont villages, commercial, and historic areas. Formula Based Food Service Establishments can detract from the overall village experience, appearance, and character, and the proliferation of Formula Based Food Service Establishments will have a negative impact on the town’s economic diversity, historical relevance, unique character, and economic vitality. These uses are therefore restricted in order to maintain the unique character of the zoning districts in which they are eligible to be located.

6.13.2 Review Criteria. The following shall be the basis for decisions on Special Permits to allow Formula Based Food Service Establishments:

- Approval of the Formula Based Food Service Establishment will not detract from the unique character of the District;
- Approval of the Formula Based Food Service Establishment will contribute to a diverse and balanced blend of businesses available to serve residents and visitors in the District;
- Approval of the Formula Based Food Service Establishment will complement those businesses already in the District and help promote and foster the local economic base as a whole; and
- The Formula Based Food Service Establishment will be compatible with existing surrounding uses, and has been designed and will be operated so as to preserve the area’s existing architecture and unique aesthetic experience.

6.13.3 Design and Site Plan Review required. Notwithstanding Section 7.3.2(c) of these By-Laws, Design and Site Plan Review under Section 7.3.2(a)-(b) shall be required for a Formula Based Food Service Establishment to the same extent as it would be for a non-formula-based Food Service Establishment.”

6.13.4 Adaptation of Characteristics. Any Formula Based Food Service Establishment may adapt its characteristics in consultation with the Inspector of Buildings so that the proposed use no longer meets the definition of Formula Based Food Service Establishment as defined in Section 1.4.

4. Conforming amendments.

**A. Amend Section 1.4 Definitions and Abbreviations as follows:**

By deleting the word “restaurant” from the definition of “Outdoor Seasonal Seating” and replacing it with the words “Food Service Establishment.”

**B. Amend Section 5.1 Off Street Parking and Loading as follows:**



By deleting the word "Restaurant" from Section 5.1.2 d) and replacing it with the words "Food Service Establishment."

**C. Amend Section 8.2.1 Uses Permitted in the Cushing Square Overlay District as follows:**

By deleting the words "Restaurant up to 12,000 square feet, but not including fast food or take out restaurants" from **Section 8.3.2 A)(ii)** and replacing it with the words "Food Service Establishment up to 12,000 square feet."

**D. Amend Section 8.3.2 Parking Requirements as follows:**

By deleting the word "Restaurant" from **Section 8.3.2 A)(ii)** and replacing it with the words "Food Service Establishment."

Submitted by the Select Board

The Select Board and the Planning Board will report on this Article.

**Two-thirds vote required for passage.**

**ARTICLE 7**

**AMEND ZONING BYLAW(S): OFF STREET PARKING**

To see if the Town will vote to amend the Zoning Bylaws Section 5.1 Off Street Parking and Loading as follows; or in any way act thereon.

Amend **Section 5.1.2 d)** by deleting the words "2 persons seating capacity" and replacing it with the words "4 persons seating capacity".

Submitted by the Select Board

The Select Board and the Planning Board will report on this Article.

**Two-thirds vote required for passage.**

**ARTICLE 8**

**REMOVAL FROM CIVIL SERVICE: POLICE**

To see if the Town will vote to remove the Police Department from the Provisions of the Civil Service Laws, and rules and regulations relating to the same, by revoking the Town's acceptance of Section 37 of Chapter 19 of the General Laws voted under Article 15 of the Warrant for the 1915 Annual Town Meeting and of Section 48 of Chapter 31 (as both have been recodified in G.L. c. 31, Section 52) with regard to the Police Department; or in any way act thereon.

*This article seeks the approval of Town Meeting to remove all uniformed Police Department personnel from the provisions of Civil Service laws, which removal would become part of a negotiated agreement between the Town of Belmont and the Belmont Patrolmen's Association and Belmont's Police Superior Officers Association. Civil Service was adopted in Belmont for Police in 1915, before the existence of collective bargaining agreements.*

Submitted by the Select Board

The Select Board will report on this Article.

**Majority vote required for passage.**

**ARTICLE 9 CITIZEN PETITION: HOME RULE LEGISLATION / 61B EXEMPTION**

To see if the Town will vote to authorize and request the Select Board to file Home Rule Legislation or other Special Legislation exempting the Town from the requirement to accept and grant applications for valuation, assessment, and taxation of land under the provisions of Mass. Gen. Laws Chapter 61B while maintaining the Town's first refusal option and ability to collect any and all applicable conveyance and roll-back taxes for applications previously granted under Mass. Gen. Laws Chapter 61B.

Submitted by Max Colice

The Petitioner will report on this Article.

**Majority vote required for passage.**

**ARTICLE 10 CITIZEN PETITION: TRANSITION FROM ELECTED TO APPOINTED (HIRED) BOARD OF ASSESSORS**

To see if the Town will (1) vote to convert the Town's elected Board of Assessors from an elected board to an appointed position pursuant to M.G.L. c.41 sec. 1B; and (2), request and authorize the Select Board in accordance with M.G.L. c. 41 sec. 1B, to place the following question on the 2024 Annual Town Election Ballot: "Shall the Town vote to have its elected Board of Assessors become an Appointed Board of Assessors of the Town? Yes \_\_\_ No \_\_\_" ; or in any way act thereon.

Submitted by Angus Abercrombie

**Majority vote required for passage.**

**ARTICLE 11 APPROPRIATE FROM OPIOID SETTLEMENT STABILIZATION FUND**

To see if the Town will vote to appropriate funds from the Opioid Settlement Stabilization Fund for the purpose of funding initial planning work, or in any way act thereon.

*This article appropriates funds from the Opioid Settlement Stabilization Fund for use by a planning group for initial activities to be determined by the group. Future appropriations will be requested as the group gets underway and develops a more robust plan.*

Submitted by the Select Board

The Select Board and the Warrant Committee will report on this Article.

**Two-thirds vote required for passage.**



Given under our hands this 13<sup>th</sup> day of **October, 2023**

**BELMONT SELECT BOARD**

Roy Epstein, Chair

Elizabeth Dionne, Vice Chair

Mark Paolillo, Member

A True Copy, Attest  
*Ellen O'Brien Ashman*  
Town Clerk of Belmont, MA



**MOTIONS**  
**2023 SPECIAL TOWN MEETING**  
**November 6, 2023**  
Draft as of ~~October 19~~ November 1, 2023  
(Subject to Change)

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**PRELIMINARY MOTION**

**ORDER OF THE ARTICLES**

**MOVED:** That the Town Meeting hear the motions in the following order: 1, 4, 8, 11, ~~8~~, 3, 10, 6, 7, 2, 5, 9

*(Majority vote.)*

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**ARTICLE 1**

**REPORTS**

**MOVED:** That Article 1 be taken from the table.

**MOVED:** That Article 1 be laid on the table.

*(Majority Vote)*

Submitted by the Select Board

Reporting: The Select Board will report on this Article.

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**ARTICLE 2**

**COMMUNITY PRESERVATION COMMITTEE (CPC)-OFF CYCLE  
REQUEST(S)**

**MOVED:** A. That \$335,868 be appropriated from the Undesignated Fund Balance of the Community Preservation Fund for the Community Path Phase 1 Design.

**MOVED:** B. That \$160,000 be appropriated from the Undesignated Fund Balance of the Community Preservation Fund for the Town Hall Retaining Wall.

**MOVED:** C. That \$200,000 be appropriated from the Undesignated Fund Balance of the Community Preservation Fund for the School Administration Building Roof Restoration.

*(Majority Vote)*

Submitted by the Select Board

Reporting: The Select Board, Warrant Committee and the Community Preservation Committee will report on this Article.

## ARTICLE 3

## TRANSFERS TO STABILIZATION FUNDS

**MOVED:** That the Town raise and appropriate and transfer the amount of ~~TBD~~ \$727,500 into the Capital Stabilization Fund.

**MOVED:** That the Town raise and appropriate and transfer the amount of ~~TBD~~\$727,500 into the General Stabilization Fund.

***(Majority Vote)***

Submitted by the Select Board

Reporting: The Select Board, Warrant Committee and the Comprehensive Capital Budget Committee will report on this Article.

## ARTICLE 4

## CAPITAL APPROPRIATION SECURITY CAMERAS AT WELLINGTON & CHENERY SCHOOLS

**MOVED:** That the Town raise and appropriate the amount of \$160,000 for security cameras at the Wellington and Chenery schools.

***(Majority Vote)***

Submitted by the Select Board

Reporting: The Select Board, School Committee, Warrant Committee and the Comprehensive Capital Budget Committee will report on this Article.

## ARTICLE 5

**REPLACE GENERAL BYLAW §60-310 WITH SPECIALIZED ENERGY CODE**

**MOVED:** That the Town amend the General Bylaws of the Town of Belmont as printed in Article 5 of the November 6, 2023 Special Town Meeting Warrant.

***(Majority Vote)***

Submitted by the Select Board

Reporting: The Select Board will report on this Article.

## ARTICLE 6

## AMEND ZONING BYLAW(S): RESTAURANTS

**MOVED:** That the Town amend the Belmont Zoning Bylaw as printed in Article 6 of the November 6, 2023 Special Town Meeting Warrant.

***(Two-thirds majority Vote)***

Submitted by the Select Board

Reporting: The Select Board and the Planning Board will report on this Article.

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**ARTICLE 7** **AMEND ZONING BYLAW(S): OFF STREET PARKING**

**MOVED:** That the Town amend the Belmont Zoning Bylaw as printed in Article 7 of the November 6, 2023 Special Town Meeting Warrant.-

***(Two-thirds majority Vote)***

Submitted by the Select Board

Reporting: The Select Board and the Planning Board will report on this Article.

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**ARTICLE 8** **REMOVAL FROM CIVIL SERVICE: POLICE**

**MOVED:** That the Town remove the Police Department from the provisions of the Civil Service Laws, and the rules and regulations relating to the same, by revoking the Town's acceptance of Section 37 of Chapter 19 of the General Laws voted under Article 15 of the Warrant for the 1915 Annual Town Meeting and of Section 48 of Chapter 31 (as both have been recodified in G.L. c. 31, §52).

***(Majority Vote)***

Submitted by the Select Board

Reporting: The Select Board will report on this Article.

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**ARTICLE 9** **CITIZEN PETITION: HOME RULE LEGISLATION / 61B EXEMPTION**

**MOVED:** That the Town authorize and request the Select Board to file Home Rule Legislation or other Special Legislation exempting the Town from the requirement to accept and grant applications for valuation, assessment, and taxation of land under the provisions of Massachusetts General Laws Chapter 61B while maintaining the Town's first refusal option and ability to collect any and all applicable conveyance and roll-back taxes for applications previously granted under Massachusetts General Laws Chapter 61B.

***(Majority Vote)***

Submitted by Max Colice

Reporting: The Petitioner will report on this Article.

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**ARTICLE 10                      CITIZEN PETITION: TRANSITION FROM ELECTED TO APPOINTED  
(HIRED) BOARD OF ASSESSORS**

**MOVED:**        That ~~the Town Meeting vote to convert the Town's elected Board of Assessors from an elected board to an appointed position pursuant to Massachusetts General Laws Chapter 41, section 1B; and to request and authorize the Select Board in accordance with M.G.L. c. 41 sec. 1B, to place the following question on the 2024 Annual Town Election Ballot: "Shall the Town vote to have its elected Board of Assessors become an Appointed Board of Assessors of the Town? Yes \_\_\_\_ No \_\_\_\_."~~ Article 10 be dismissed.

***(Majority Vote)***

Submitted by Angus Abercrombie

Reporting: The Petitioner will report on this Article.

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**ARTICLE 11                      APPROPRIATE FROM OPIOID SETTLEMENT STABILIZATION FUND**

**MOVED:**        That the Town appropriate ~~\$35,700.00~~ \$18,500.00 from the Opioid Settlement Stabilization Fund for the purpose of funding initial planning, programming and supplies in accordance with the provisions of the Massachusetts Statewide Opioid Settlements and the State-Subdivision Agreement.

***(Two-thirds majority Vote)***

Submitted by the Select Board

Reporting: The Select Board will report on this Article.

*You are invited to attend:*

# **Warrant Briefing**

**Thursday, October 26<sup>th</sup>, 2023**

**at 7:00 PM**

*Viewing Options:*

<https://us02web.zoom.us/j/86895071121>

**Zoom meeting ID: 868 9507 1121**

Live broadcast: Belmont **Ch 8 (Comcast); Ch 28 (Verizon)**  
Livestream or on-demand: [belmontmedia.org/watch/govtv](http://belmontmedia.org/watch/govtv)

*Opportunity to ask questions about:*

## **Warrant Articles**

**prior to**

## **Special Town Meeting**

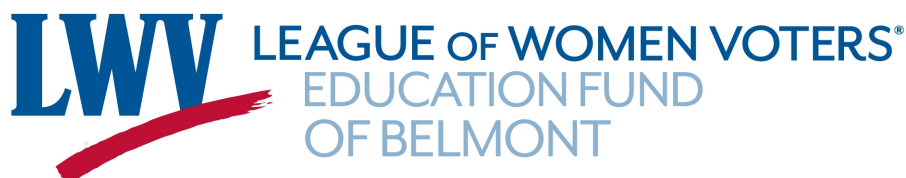
**November 6<sup>th</sup>**

**Town Officials and Department Heads  
will be present to provide information**

**Geoffrey Lubien**

**Chair of the Warrant Committee will preside**

**Cosponsored by: the Warrant Committee  
and the**





**Special Town Meeting – Article 2  
Community Path Phase 1 Design  
Frequently Asked Questions**

1. What is Phase 1 of the Community Path?  
Phase 1 of the planned Community Path will span approximately one mile between Brighton Street and the Clark Street Bridge, and includes an underpass from Alexander Avenue to the High School/ Middle School campus.
2. I hear that there is a change order request from the consultant on Phase 1. What's going on?  
Projects like the Community Path, whose construction will be entirely funded through state and federal transportation funds, are reviewed by state agencies including MassDOT and MBTA at several points in the design process. The 25% design documents were submitted through MassDOT in November of 2021 for the state agency review process. The Town's design consultant, Nitsch Engineering, has now received hundreds of comments on the submitted documents as well as numerous requests for changes to the work to be submitted prior to the 25% approval. These requests include: changing the construction method for the underpass and planning for the construction to be done in a very short window of time; doing underground utility mapping in the area of the underpass and at the Brighton Street crossing; changing the way retaining structures are to be built; and additional preparation for right-of-way use. The extra work entailed in redesigning structures and engaging additional subconsultants is resulting in a total change request of \$476,925. Some of this can be covered by the funds already allocated for Phase 1 design, so the request to the Community Preservation Committee and Town Meeting is to provide \$335,868 to the project design.
3. Why didn't the consultant anticipate these requests?  
Nitsch Engineering is a highly qualified consultant that has worked on numerous transportation projects similar to the Belmont Community Path. They were selected for this project in part because they have a long history of experience working with state agencies including MassDOT and the MBTA. On March 9, 2020, Nitsch, along with Town officials, met with senior representatives from the MBTA who insisted there would be only one acceptable method of constructing the underpass. Nitsch designed the underpass accordingly. However, during design review, the MBTA shifted positions and stated that an alternative method should be used instead. The alternative method will actually result in a better outcome for path users, because it enables the pathway below the tracks to be wider and thus safer. The alternative method will also result in significant construction cost savings, but will require re-engineering and new design by Nitsch Engineering and its sub-consultants. The MBTA and MassDOT have also asked for different methods of supporting retaining walls, and for a substantial amount of utility survey information.
4. What does this mean for the project schedule?  
Nitsch Engineering has been directed by the Town to complete the engineering design work for the 25% submission in order to avoid any further delays to design approval. It appears that the state review is nearly completed and that the

project schedule will be maintained to begin construction in Federal Fiscal Year 2026, as the funding through the state's Transportation Improvement Program has been programmed.

5. What has the Town done to mitigate these costs?  
The Town has reviewed the submitted change request and negotiated a savings of \$15,925. By way of comparison, typically design costs are normally about 10% of total construction costs. When this project was originally conceived, the estimated construction cost was approximately \$14M, so the original CPC request for design for Phase 1 was \$1,400,000. However, the current estimate for construction cost is approximately \$21 - 22M. Even with the additional \$335,868, the design costs remain well below the industry norm.
6. Has anyone looked into alternate sources of funding than the CPC?  
Yes. Given that the MBTA contradicted its first design directions, and that new scopes of work were requested beyond what was originally conceived, the Town made a request to MassDOT for funding assistance, which was denied. Due to the urgency of need to keep this project moving forward, the best way to fund it is through CPC funds, allowing the Town to leverage a relatively small investment in the project design in order to have the state cover the full cost of the path construction. The Town did apply for and receive a \$150,000 grant through MassTrails in 2020 to contribute toward the design costs.
7. Will this be enough money to get the project to construction?  
Yes, barring any additional unforeseen design changes.

Prepared by the Belmont Community Path Project Committee, Holly Muson Chair.  
Please direct inquiries to Glenn R. Clancy, Town Engineer [gclancy@belmont-ma.gov](mailto:gclancy@belmont-ma.gov)



OFFICE OF PLANNING & BUILDING  
TOWN OF BELMONT  
19 Moore Street  
Homer Municipal Building  
Belmont, Massachusetts 02478-0900


Building Division  
(617) 993-2664  
Planning Division  
(617) 993-2666

Telephone: (617) 993-2650

## MEMORANDUM

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**To:** Patrice Garvin, Town Administrator  
**CC:** Planning Board, Economic Development Commission, Vision 21 Committee  
**From:** Christopher J. Ryan, AICP; Director of Planning & Building  
**RE:** Planning Board Report on Proposed Zoning Warrant Articles  
**Date:** October 12, 2023



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At a special meeting of the Planning Board on Tuesday, October 10, 2023, the Planning Board held a duly advertised public hearing on two (2) proposed zoning bylaw amendments as provided in the public hearing notice and which a full text of the proposed amendments have been available in the Planning & Building Department and with the Town Clerk.

The Planning Board voted **4-1-1** to recommend favorable action of the Restaurant Zoning Bylaw amendment and voted **5-0-0** to recommend favorable action of the Parking Zoning Bylaw amendment.

Please advise if you have any questions in regard to the Planning Board action as described in this memorandum.

RECEIVED  
TOWN CLERK  
BELMONT, MA

2023 OCT 26 PM 1:27

34 Cushing Ave.  
Belmont, MA 02478  
October 26, 2023  
[repstein@belmont-ma.gov](mailto:repstein@belmont-ma.gov)

**BY EMAIL**

Town Clerk  
Town Hall  
455 Concord Avenue  
Belmont, MA 02478

Dear Ellen:

I would like to submit an amendment (Epstein amendment 1 of 3) to Article 6 in the Warrant for the 2023 Special Town Meeting.

Amendment to Article 6

In the section headed "1. Amend Section 1.4 Definitions and Abbreviations", remove the double quotation mark at the end of the definition of Food Service Establishment, Formula Based.

In the section headed "3. Amend Section 6 Special Regulations by adding a new section 6.13 Formula Based Food Service Establishment to read as follows", remove the double quotation mark in the heading before paragraph 6.13.1 and at the end of paragraph of 6.13.3.

In paragraph C of the section headed "4. Conforming amendments.", change "Section 8.3.2 A)(ii)" to "Section 8.2.1 c)" so that this paragraph C reads:

The revised sentences and headings would then read:

A Food Service Establishment shall be considered a Formula Based Food Service Establishment if it shares at least two (2) of the following three (3) characteristics with ten (10) or more other establishments worldwide (regardless of ownership or location):

**Section 6.13 Special Permit Review for Formula Based Food Service Establishments**

6.13.3 Design and Site Plan Review required. Notwithstanding Section 7.3.2(c) of these By-Laws, Design and Site Plan Review under Section 7.3.2(a)-(b) shall be required for a Formula Based Food Service Establishment to the same extent as it would be for a non-formula-based Food Service Establishment.

**C. Amend Section 8.2.1 Uses Permitted in the Cushing Square Overlay District as follows:**

By deleting the words "Restaurant up to 12,000 square feet, but not including fast food or take out restaurants" from **Section 8.2.1 c)** and replacing it with the words "Food Service Establishment up to 12,000 square feet."

The reason for this amendment is to correct minor drafting errors in Article 6.

Thank you.

Roy Epstein  
Chair, Select Board  
TMM, Precinct 6

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**BY EMAIL**

Town Clerk  
Town Hall  
455 Concord Avenue  
Belmont, MA 02478

Dear Ellen:

I would like to submit an amendment (Epstein amendment 2 of 3) to Article 6 in the Warrant for the 2023 Special Town Meeting.

Amendment to Article 6

In the section headed "1. Amend Section 1.4 Definitions and Abbreviations", change "ten (10)" text in the definition of a Food Service Establishment, Formula Based to "fifty (50)".

The revised sentence in the definition would then read:

A Food Service Establishment shall be considered a Formula Based Food Service Establishment if it shares at least two (2) of the following three (3) characteristics with fifty (50) or more other establishments worldwide (regardless of ownership or location):

The reason for this amendment is to make Belmont more welcoming for smaller, often local, restaurant brands, in the same spirit as the reason for Article 6 in the first place. Examples of brands that would be affected by my amendment are Friendly Toast (11 locations), Legal Sea Foods (25 locations), and Caffè Nero (40 locations). Consider also a small local brand like Anna's Taqueria. They have 7 locations currently. If they succeeded in growing to 10 locations, why wouldn't we want to make it easy for them to come to Belmont, when the presumption of Article 6 is that a special permit requirement discourages restaurants?

Thank you.

Roy Epstein  
Chair, Select Board  
TMM, Precinct 6

RECEIVED  
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BELMONT, MA

2023 OCT 26 PM 1:26

34 Cushing Ave.  
Belmont, MA 02478  
October 26, 2023  
[repstein@belmont-ma.gov](mailto:repstein@belmont-ma.gov)

**BY EMAIL**

Town Clerk  
Town Hall  
455 Concord Avenue  
Belmont, MA 02478

Dear Ellen:

I would like to submit an amendment (Epstein amendment 3 of 3) to Article 6 in the Warrant for the 2023 Special Town Meeting.

Amendment to Article 6

In proposed new paragraph 6.13.1, insert the word "potential" before "adverse impact" and delete the text starting with "on Belmont villages" and ending with "negative impact."

The revised paragraph 6.13.1 would then read:

6.13.1 Purpose. The purpose and intent of the Formula Based Food Service Establishments regulation is to address the potential adverse impact of standardized businesses on the town's economic diversity, historical relevance, unique character, and economic vitality. These uses are therefore restricted in order to maintain the unique character of the zoning districts in which they are eligible to be located

The reason for this amendment is express the rationale for section 6.13 without the unqualified and unsupported claim that a Formula Based Food Service Establishment has an adverse impact or a negative impact on Belmont. The goal of Article 6 is to make Belmont more welcoming for smaller, often local, restaurant brands. There is no reason to impugn such businesses as Friendly Toast (11 locations), Legal Sea Foods (25 locations), and even Tatte (34 locations), which are all considered as Formula Based Food Service Establishments by Article 6 as drafted.

Thank you.

Roy Epstein  
Chair, Select Board  
TMM, Precinct 6



**Two Amendments to Main Motion Article 7**  
**Angus Abercrombie, Town Meeting Member Precinct 8**

Hello,

In my capacity as a member of Belmont Town Meeting, I'd like to formally submit these two motions under Article 7 at the November 6th Special Town Meeting.

**Amendment #1**

MOVED:

That the main motion under article 7 be amended by substituting the following in its place.  
Moved: that section 5.1.2 d) of the zoning Bylaw be amended by eliminating the words "Restaurant: one parking space per 2 persons seating capacity. For purposes of calculating parking requirements, up to 20 outdoor seasonal seats shall not count in total seating capacity." and inserting the words "Food Service Establishments shall be exempt from the provisions of section 5.1.1 of this zoning bylaw." in their place.

and,

**Amendment #2**

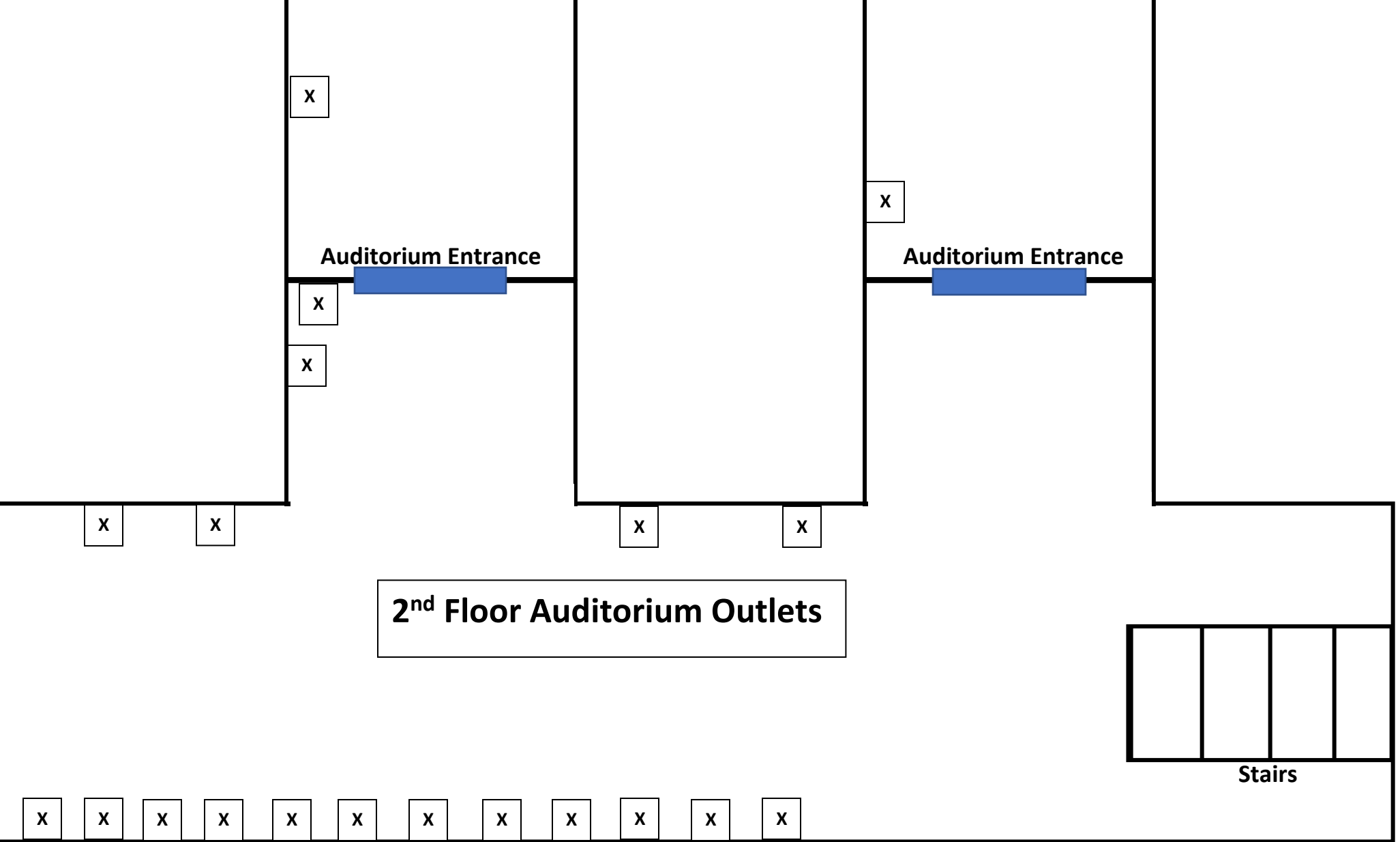
MOVED:

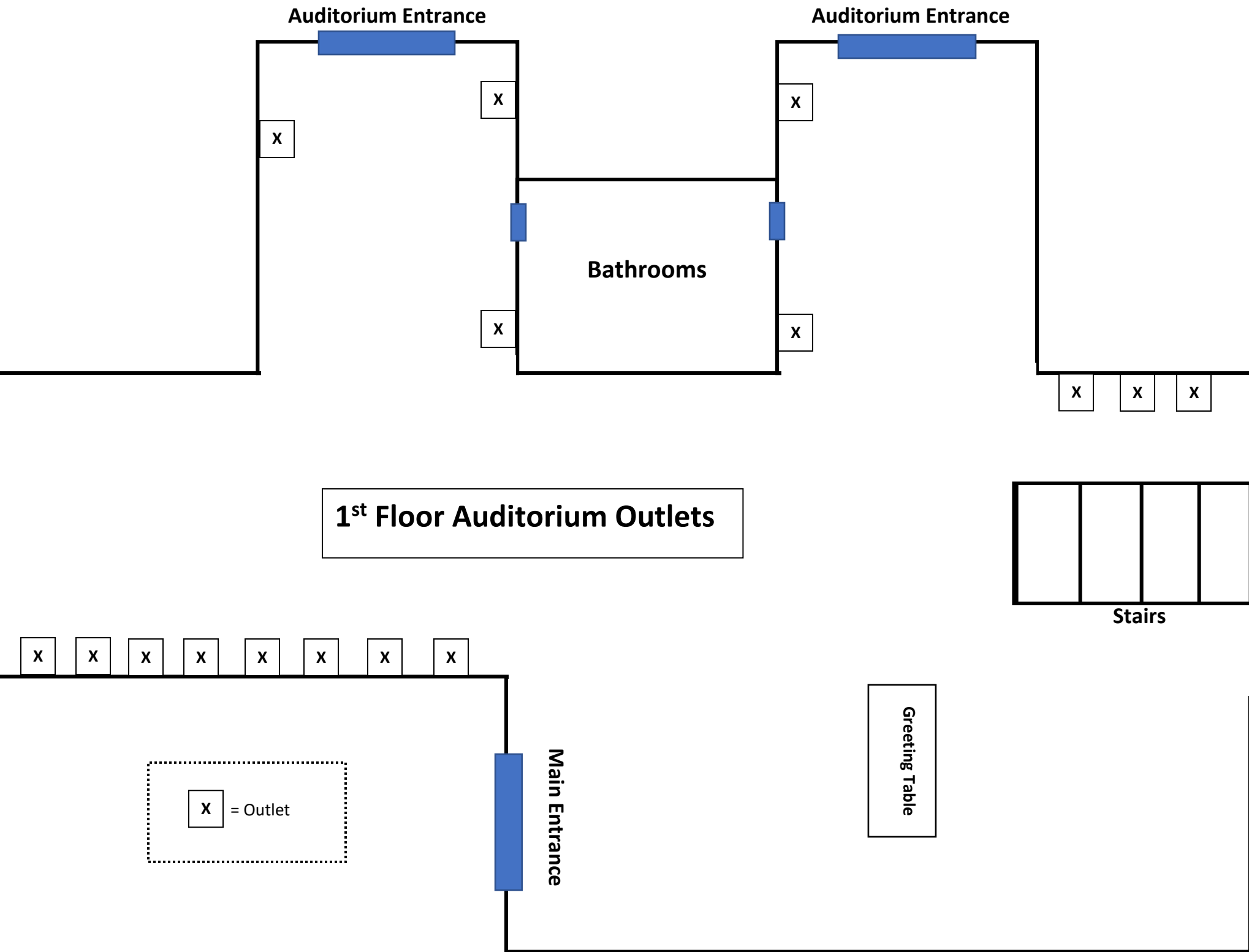
That the main motion under article 7 be amended by substituting the following in its place.  
Moved: that section 5.1.2 d) of the zoning Bylaw be amended by eliminating the words "Restaurant: one parking space per 2 persons seating capacity. For purposes of calculating parking requirements, up to 20 outdoor seasonal seats shall not count in total seating capacity." and inserting the words "Restaurants shall be exempt from the provisions of section 5.1.1 of this zoning bylaw." in their place.

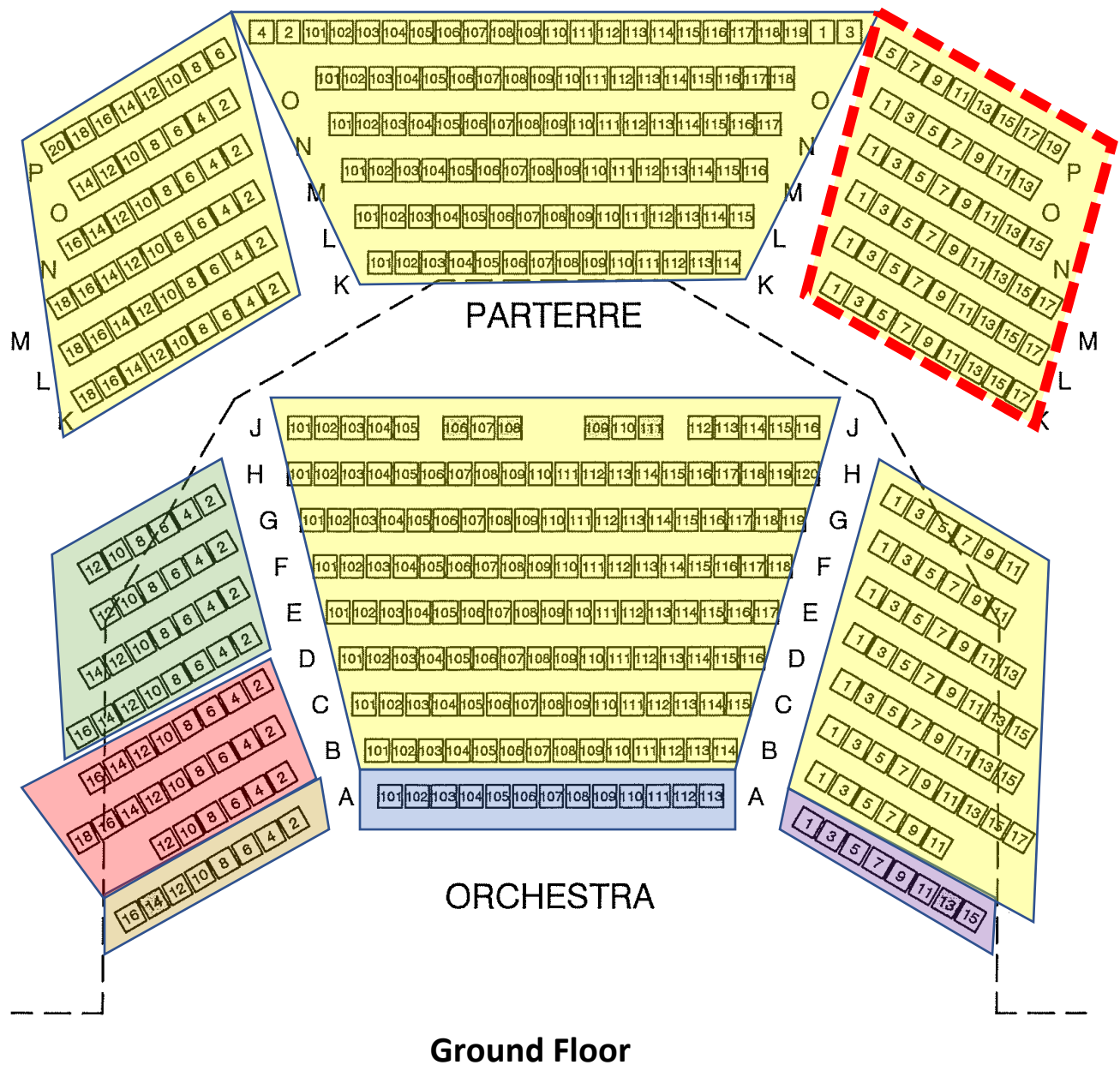
signed,

Angus James Benedict Abercrombie  
[angusabercrombie22@gmail.com](mailto:angusabercrombie22@gmail.com)





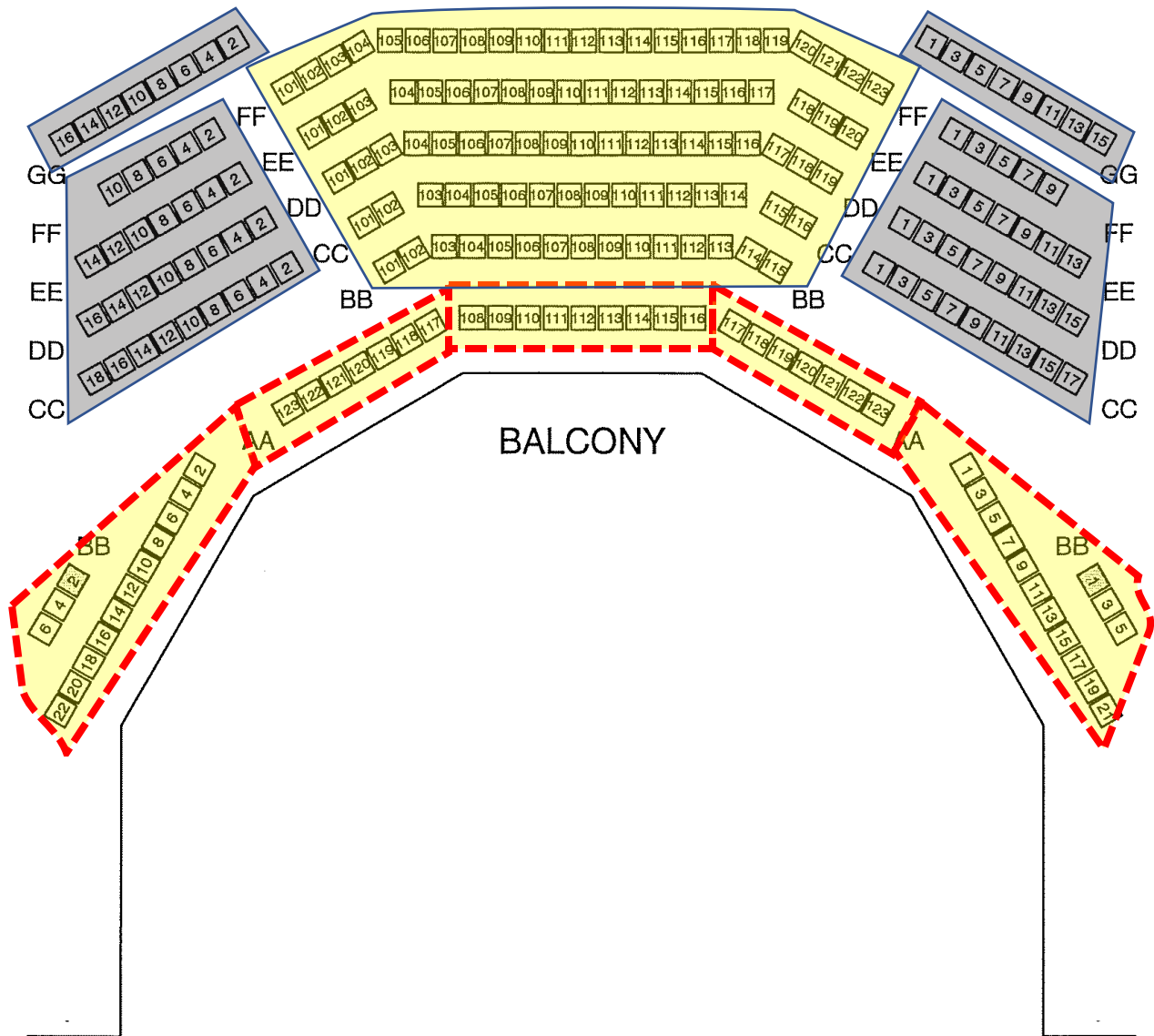




**Legend:**

	Press
	Presenters
	School Committee
	Warrant Committee and Comprehensive Capital Budget Committee
	Town Staff
	Town Meeting Members
	Town Meeting Members – COVID spacing (Every other seat)

Members of the Public are welcome to attend Town Meeting but must sit in the reserved areas of the Balcony only. See below, the gray areas.



**Legend:**

	Town Meeting Members
With red striped border	Town Meeting Members – COVID spacing (Every other seat)
	Members of the Public are welcome to attend Town Meeting but must sit in the reserved areas of the Balcony only, shown in gray shading.