



# Fort Point Associates, Inc.

URBAN  
PLANNING



PROJECT  
PERMITTING



ENVIRONMENTAL  
CONSULTING





# Experience Highlights

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- ✿ Diverse, multi-disciplinary firm
- ✿ 25 years managing high-profile developments
- ✿ Over \$2 Billion in retail, commercial, industrial, residential and institutional development
- ✿ Experience in all coastal municipalities in Massachusetts





# Master Planning and Waterfronts

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- **Marine Industrial Park**
- **Salem Municipal Harbor Plan**
- **New Bedford Municipal Harbor Plan**
- **Everett Waterfront Study**
- **Hamilton Canal Master Plan**
- **Liberty Wharf**
- **Joe's American Bar & Grill**
- **Marina Bay Quincy**





# Newburyport Waterfront - Constraints



*prepared for:*

**Mass Development**

**May 1, 2012**

# Constraints Summary

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- Viewed as a Project Site with Individual Parcels
- No Proposed Project (limited identifiable constraints)
- Site Description and Context
- Constraints:
  - Physical
  - Environmental
  - Regulatory





## Site Description

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- Ownership: Newburyport Redevelopment Authority
- Size: 5.1 Acres, 6 Parcels



# Physical Constraints

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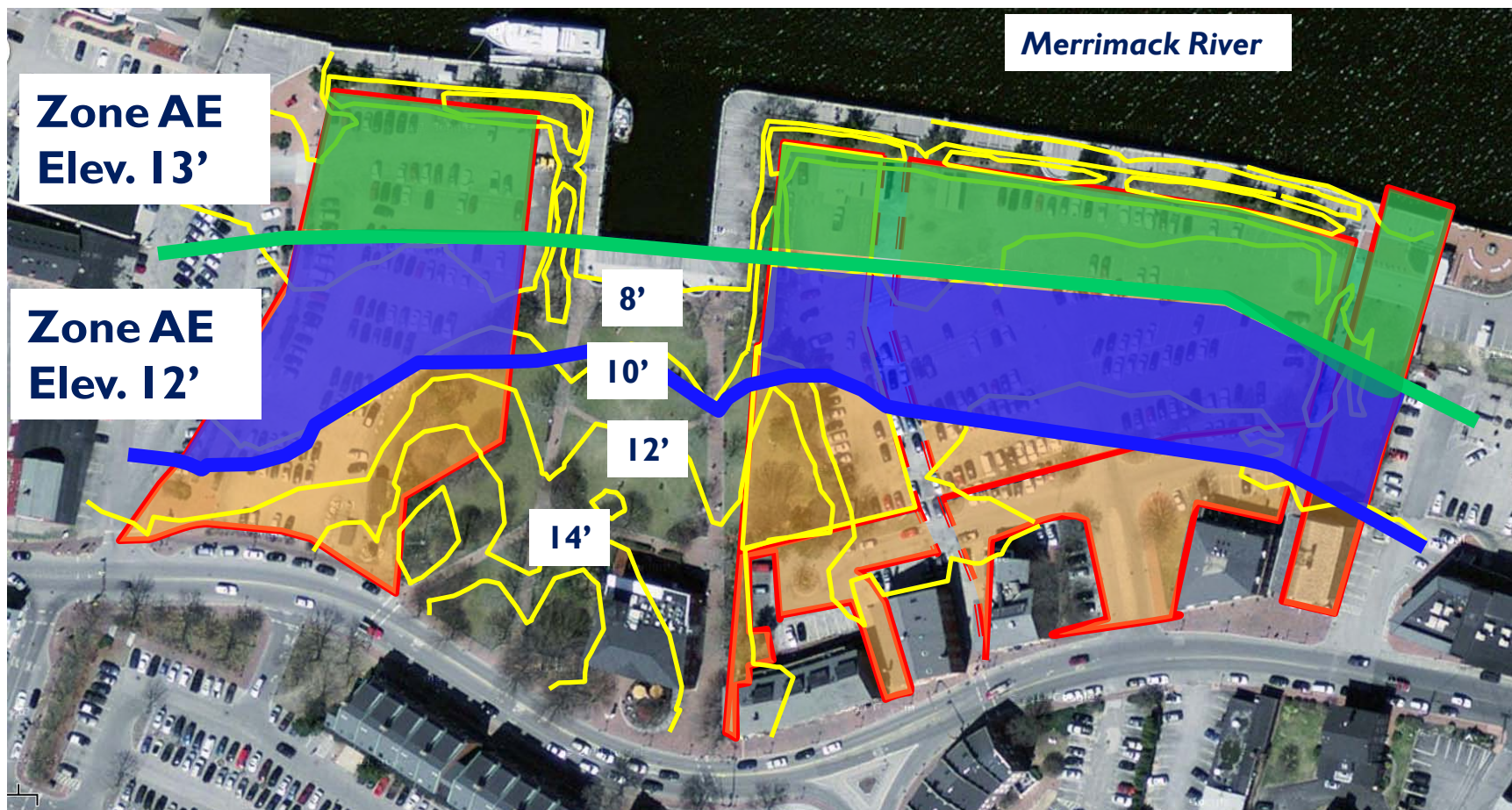
- Elevations
- FEMA Flood Zones (subject to City approval)





# FEMA Flood Zones (FIRM effective July 3, 2012)

- Two Flood Zone Elevations
- Covers Approximately 75% of Site





# Environmental Constraints

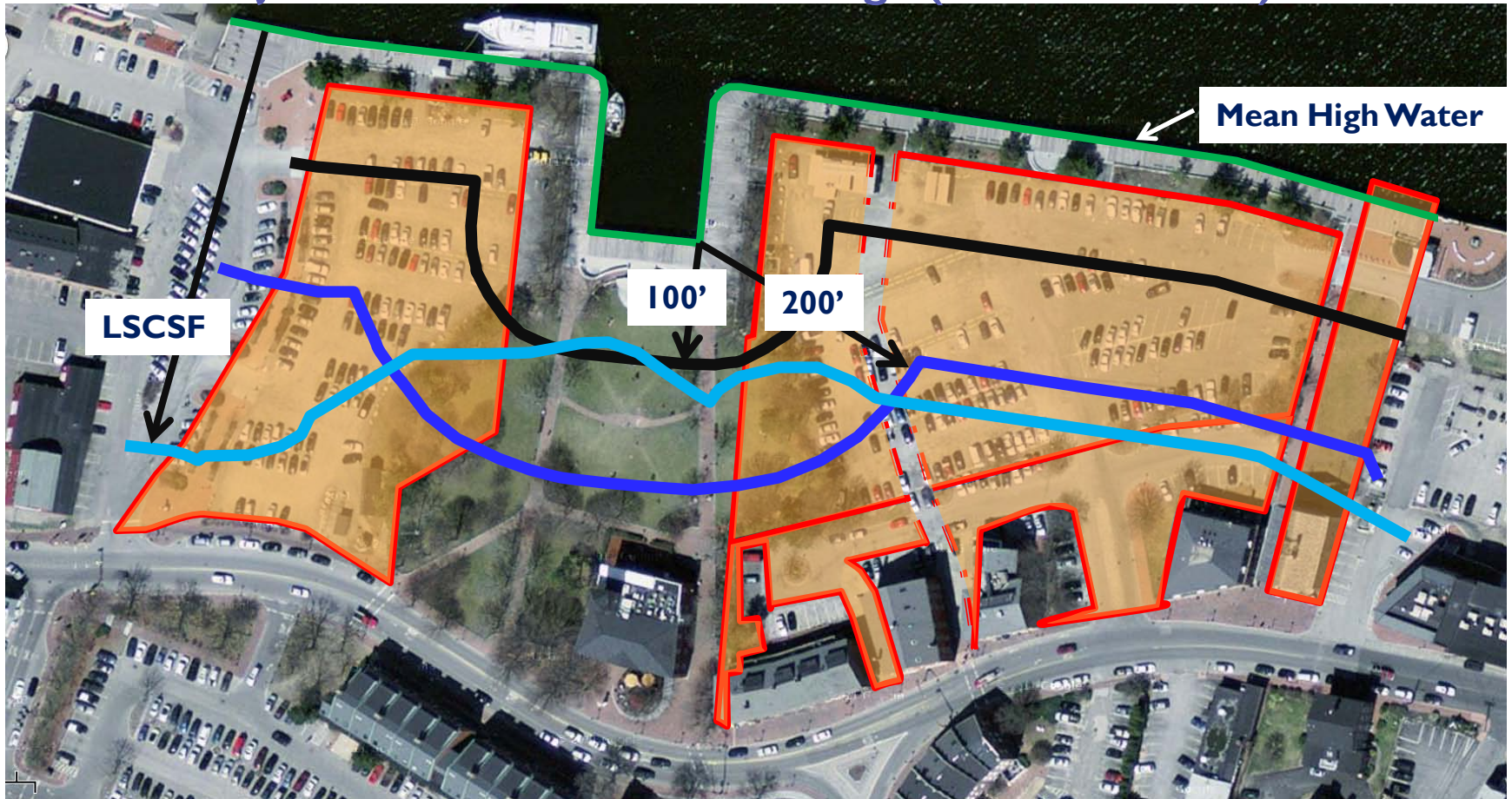
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- 100 Foot Buffer Zone
- Land Subject to Coastal Storm Flowage
- River Protection Zone (superseded by Chapter 9I)



# Environmental Constraints

- Buffer Zone – 100'
- Riverfront Protection Area – 200'
- Land Subject to Coastal Storm Flowage (100 Year Flood)





# **Regulatory Summary**

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- **Chapter 9I**

- Jurisdiction/Commonwealth Tidelands
- Water Dependent Use Zone (WDUZ)
- Building Height

- **Zoning**

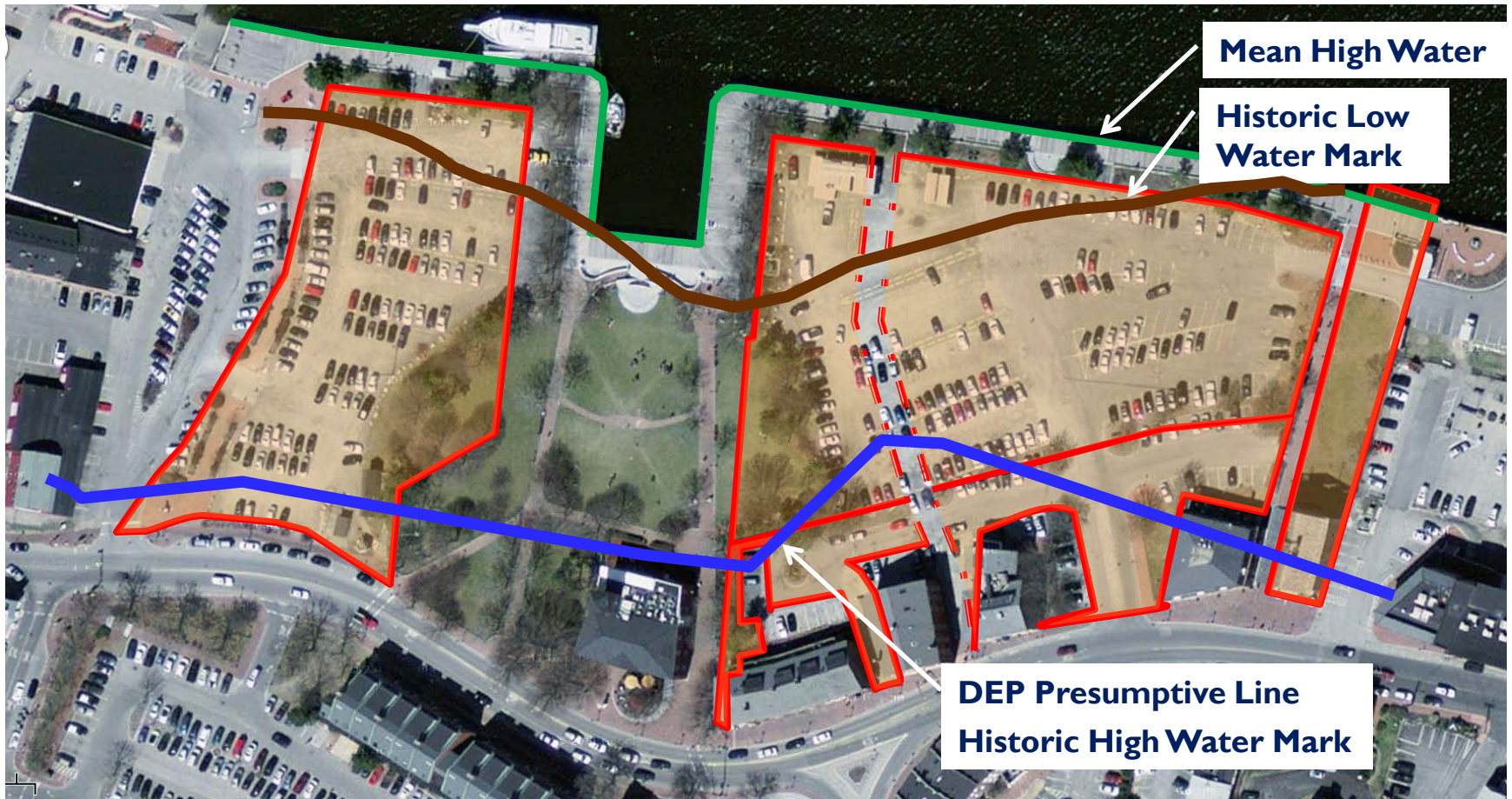
- Site Plan Review
- Dimensional (setbacks, heights)

- **Historic**

- Newburyport Historic District (federal/NPS)
  - Market Square Historic District (state)
  - Central Wharf Archaeological District (state)
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## Chapter 9 | Jurisdiction

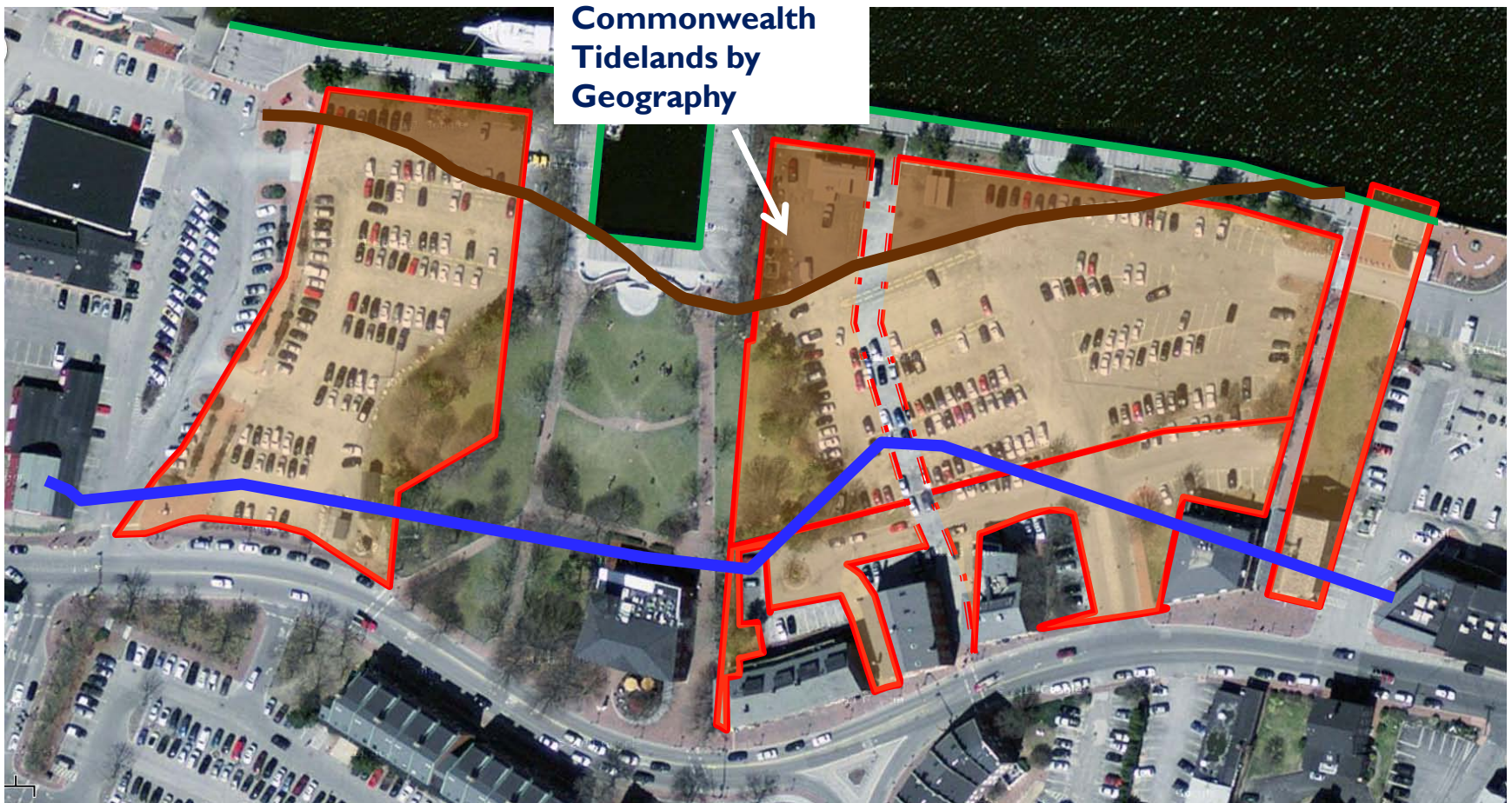
- **DEP Presumptive Line**
- **Historic Low Water Mark**





# Chapter 9 | Jurisdiction

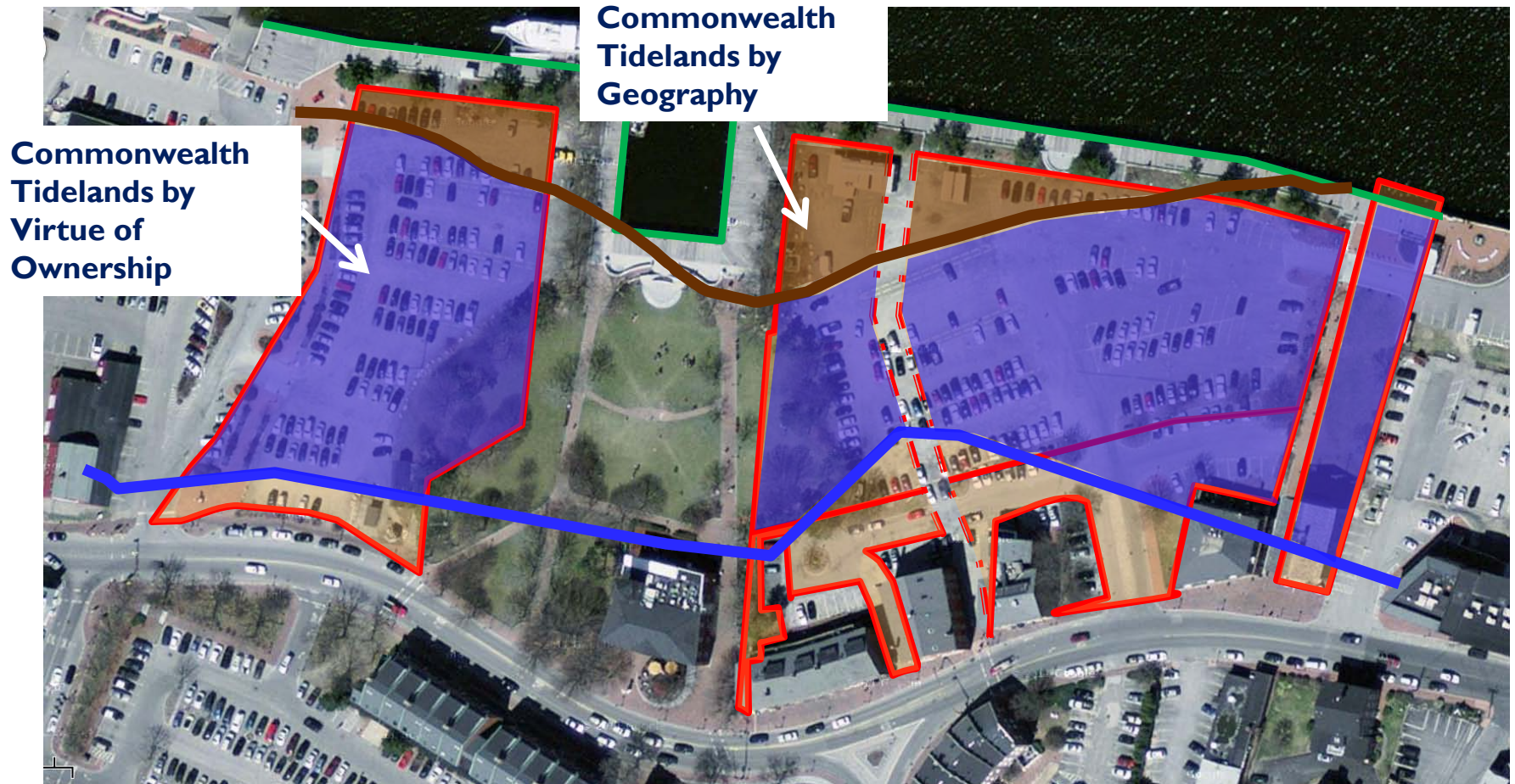
- **DEP Presumptive Line**
- **Historic Low Water Mark**





# Chapter 9 | Jurisdiction

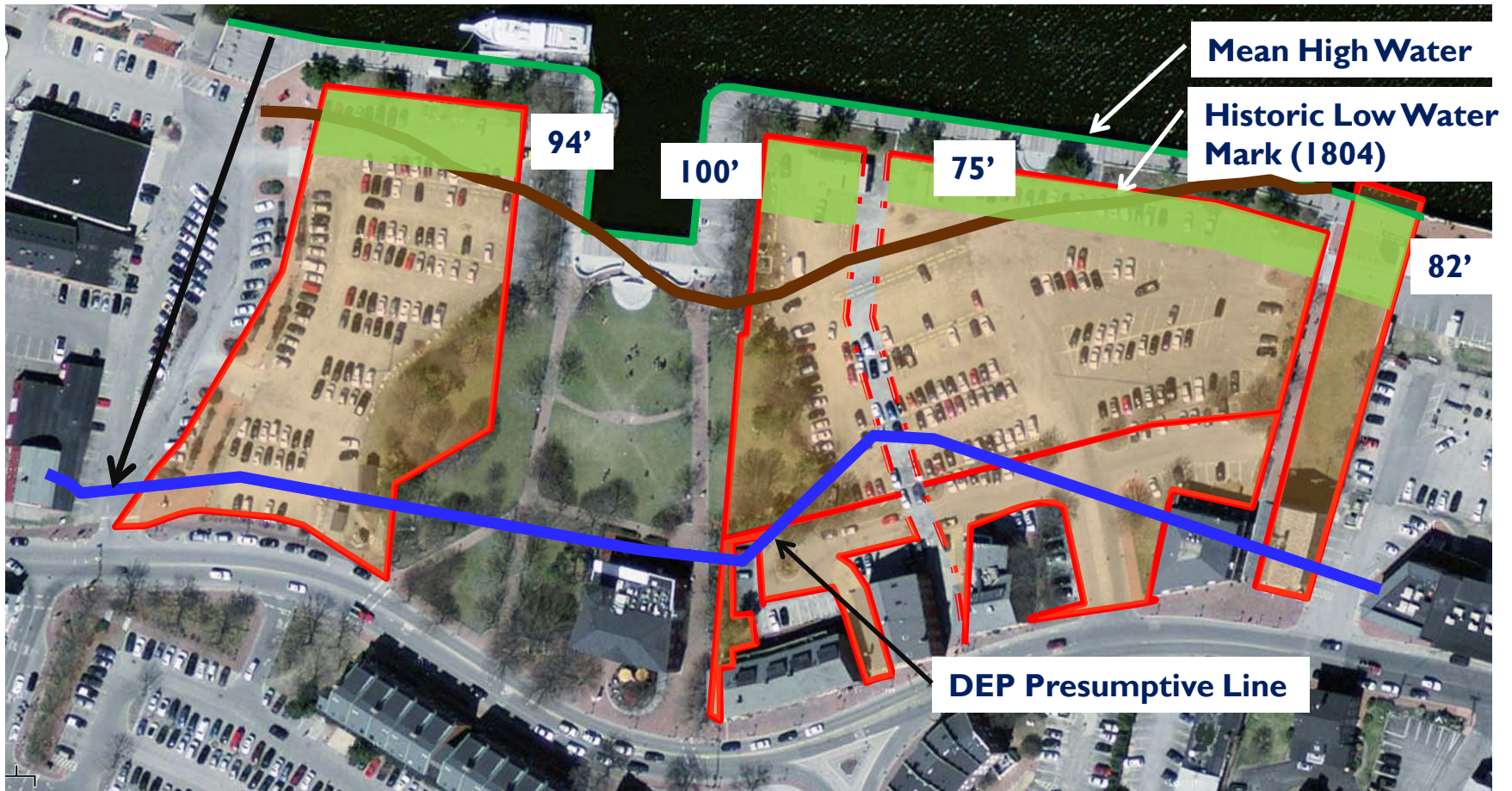
- DEP Presumptive Line
- Historic Low Water Mark





## Chapter 9I – Water Dependent Use Zone

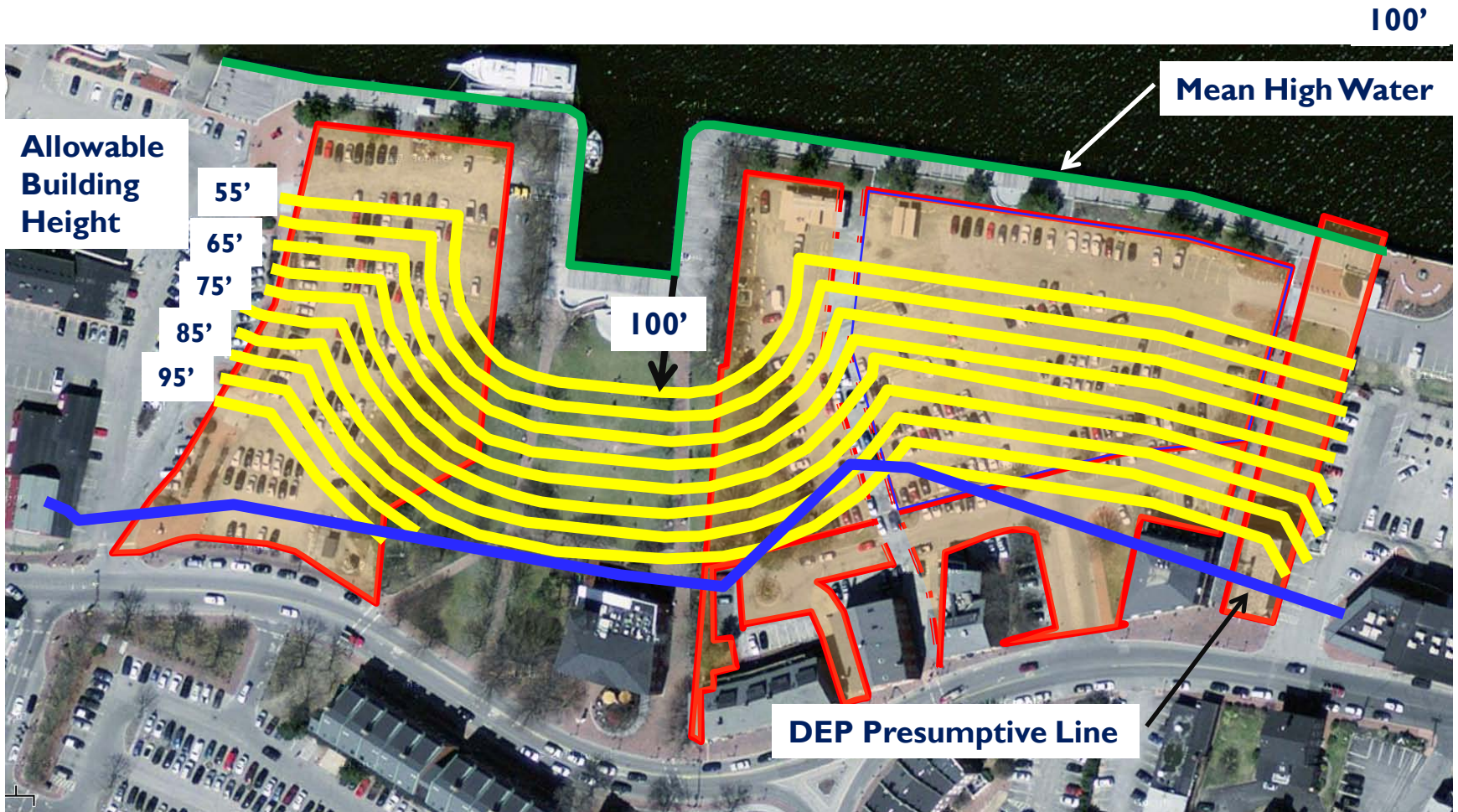
- No Nonwater-dependent Use Structures Allowed
- Setbacks Range from 75' to 100' from MHW
- Includes 0.8 Acres Feet of Parcel Area





# Chapter 91 – Allowable Building Heights

- Allows Up to 55' Building Height within 100 feet of MHW
- Higher Buildings Allowed at 1:2 Ratio Beyond 100'

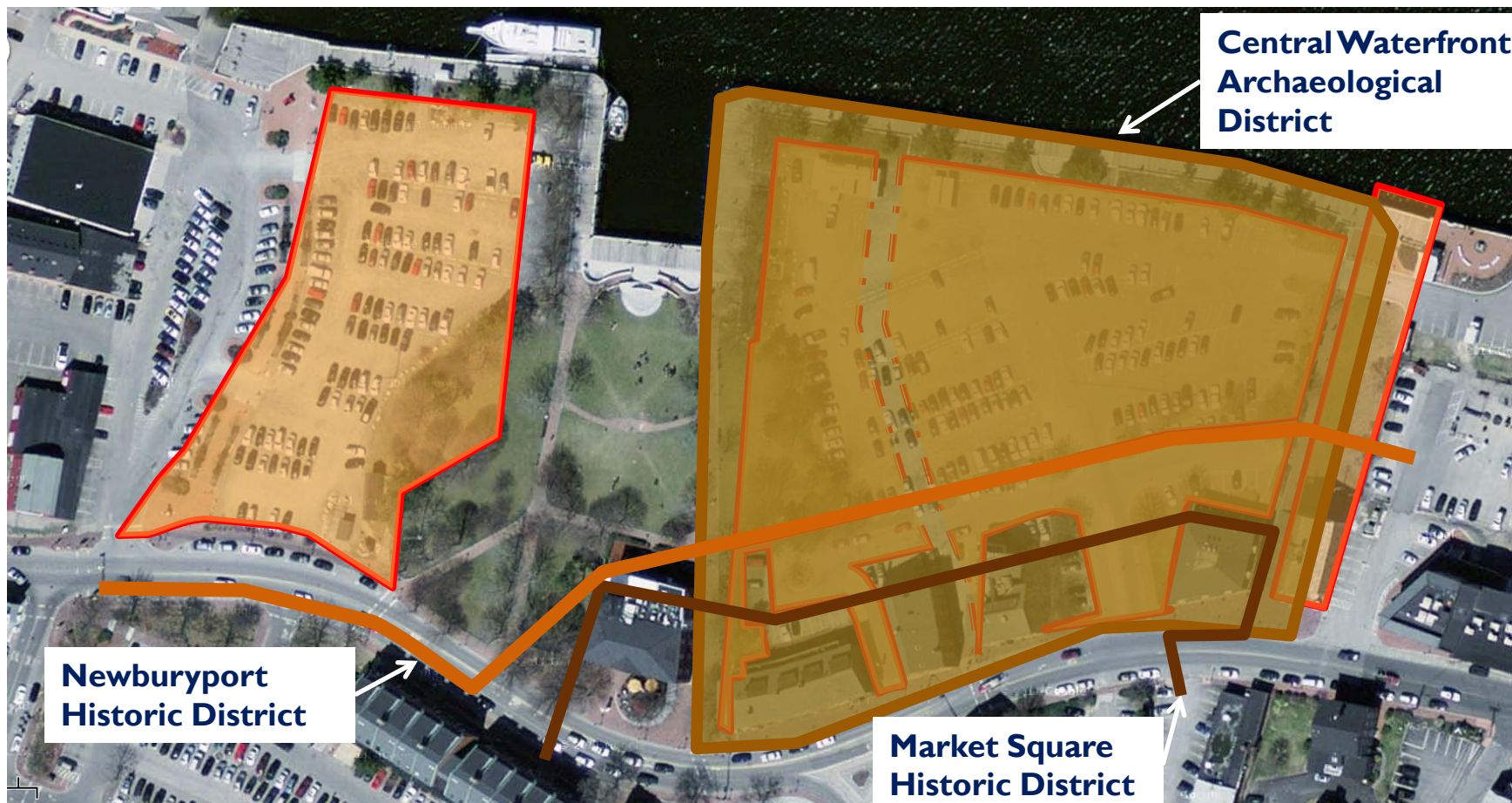




# Historic Context

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- State and Federal Historic and Archaeological Districts





# Environmental

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- Activity and Use Limitation Area





# Site Description

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- Stormwater Drain Line





# Zoning

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- Site Entirely Within Waterfront Mixed Use District (WMU)





# Zoning

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- Subject to Site Plan Review
    - Building Orientation
    - Building Height
    - Building Design
    - Water Views
    - Parking
    - Ground Floor Uses
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# Newburyport Waterfront Study - Constraints

- Comments and Discussion









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**To:** Ed Starzec, MassDevelopment  
James Shanley, Newburyport Redevelopment Authority  
**From:** Jamie Fay  
**Date:** April 20, 2012  
**Subject:** Newburyport Waterfront Summary Site Constraints

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Below are listed in a preliminary fashion the primary site design constraints based on our analysis to date.

1. Flood Zones/Sea Level Rise

The existing site slopes down toward the water from Water/Merrimac Street starting at an elevation of approximately 12-14 feet NGVD and ending at an elevation of approximately 7-8 feet NGVD. FEMA's recently completed flood insurance rate maps show a 100 year return base flood elevation of approximately 13 feet NGVD along the immediate shoreline of the site and approximately 12 feet NGVD on the balance of the site. See Figure 1 - FEMA Flood Zones. Approximately 70% of the site is located within a flood zone.

State Building Code requires any new construction to have the structural members of the first floor elevated above the base flood elevation. This implies that new construction will need to be elevated in most areas from one foot to five feet above current grade.

In planning for future projects in this area, it would make sense to consider elevating the general grade of the site to match the elevation of Water/Merrimac Streets and the Central Waterfront Park in order to raise the prevailing grade above the existing 100 year base flood elevation. This would also provide some measure of protection from future sea level rise.

2. Chapter 91

Chapter 91 is the section of the Massachusetts General Laws that regulates the use of land and waters now or formerly subject to the ebb and flow of the tide.

a) Historic Shoreline

Approximately 90% of the project site is subject to Chapter 91, as the historic shoreline is located along Water/Merrimac Street. A small area of upland not subject to Chapter 91 exists along the street frontage. For the purposes of this analysis, we have used the DEP Presumptive lines for the location of the historic high (HHWM). The low water mark (HLWM) is based on the low water mark taken from the American Coast Pilot of 1804. See Figure 2 - Chapter 91 Constraints. Other historic high water lines



exist that may change the extent of jurisdiction if reviewed and approved by DEP.

The area between HHWM and HLWM is normally considered private tidelands, subject to the public rights of fishing, fowling and navigation. However, as the property is at present owned by a public authority, it is classified as "Commonwealth tidelands" by virtue of ownership, and thus is subject to the higher standards for Commonwealth tidelands. The treatment of Commonwealth tidelands by virtue of ownership is currently the subject of regulatory reform being undertaken by DEP and thus there may be some changes to the standards within the coming year. For the purposes of this memo, the existing regulatory framework is used and the site is assumed to consist solely of Commonwealth tidelands and uplands.

b) Water Dependent Use Zone

The Water Dependent Use Zone (WDUZ) is an area running along the shoreline within which no nonwater dependent buildings and uses may occur. The area is to be "reserved" for water dependent uses, such as public access, public landings and marine-related activities. Parking for any use is prohibited in this area, although vehicular circulation is allowed.

The width of the WDUZ is formulaic, with a width equal to 25% of the distance from the water's edge to the inland parcel boundary and with a minimum width of 25 feet, a maximum width of 100 feet. As shown in Figure 2, Chapter 91 Constraints, the width of the WDUZ varies from 75 feet to 100 feet back from the shoreline, depending on the individual lot depth. Treating the entire area as a single parcel and establishing a uniform depth for the entire area is also possibility

The WDUZ should include at least one water-based public activity, although since the NRA does not actually control the water's edge, this may not be fully possible to achieve. Any future nonwater dependent buildings need to be set back from the waterfront outside the WDUZ.

c) Height Constraints

Chapter 91 sets a uniform height limit for projects located on filled tidelands of 55 feet within 100 feet of the project shoreline and stepping up beyond this point by one foot vertical for every two feet of horizontal distance. Chapter 91 Building Heights are shown in Figure 3 - Building Heights. Prevailing building heights in the area and City of Newburyport zoning heights are well below this limit. Chapter 91 will not constrain building heights given the lower height limits contained in the local zoning ordinance.

d) Open Space Requirements

Chapter 91 requires open space to be provided which is at least equal to the area outside of the footprint of proposed buildings. Building footprints include any overhangs or projections. Building footprints cannot exceed 50% of the area within jurisdiction.

Open space for the purposes of Chapter 91 includes any area open to the sky, including parking lots, streets, sidewalks and landscape areas. However, on Commonwealth tidelands, only 50% of the total open space area may be used for public vehicular circulation and public parking.

e) Ground Floor Use

On Commonwealth tidelands and within 100 feet of the shoreline, the ground floor of all nonwater dependent buildings must be used for Facilities of Public Accommodation (FPAs). FPAs include uses that are open to the public and generally include restaurants, retail, hotel, bed and breakfast, educational and cultural facilities open to the public, and museums. A portion of the ground floor, up to 25%, maybe used for lobbies, stairwells and other uses related to upper floor uses. While public parking is considered a facility of public accommodation, it is not an allowed use on the ground floor within Commonwealth tidelands.

Business and professional offices, and residential uses are not FPAs. However, as noted above, DEP is currently reviewing the standards for FPAs and changes in the amounts, locations and types of allowed uses may be forthcoming. At least 75% of the ground floor of any proposed buildings should be allocated to FPAs.

f) Parking

As noted above, no parking for any use may occur in the WDUZ and only public parking may occur within the open space areas of the project, and then, only up to a maximum of 50% of the open space area including vehicle circulation. Private parking is essentially prohibited, as it is allowed only on uplands, private tidelands (none on project site), underground, or above the first floor.

g) Pedestrian/Bicycle Access

Pedestrian access to the waterfront is a core goal of Chapter 91 and the project will need to provide connecting links from public ways at Water/Merrimac Streets to the water (some already exist) as well as supporting pedestrian circulation along the water's edge. Consideration should be given to bike path connections as well.

3. Wetlands Protection Act

The Wetlands Protection Act is a state law designed to protect and preserve wetland resources and is administered at the local level by the Newburyport Conservation Commission. The only resource area located on the project site is Land Subject to Coastal Storm Flowage, the boundaries of which coincide with the 100 year return base flood elevation. There are no performance standards for work within this resource area. See Figure 4 - Wetland Resource Areas. In addition, there is a 100 foot buffer zone from the Merrimack River which extends along a portion of the site, within which the Conservation Commission may



impose restrictions to protect the resources of the Merrimack River. Although the Riverfront Protection Area is delineated on Figure 4, any project requiring a Chapter 91 license is exempt from the requirements of the Riverfront Area under the Wetlands Protection Act. Any proposed project will need to comply with the Stormwater Management Standards by providing pollutant removal, groundwater recharge and other measures.

3. Historic Resources

The site is one of the oldest developed waterfronts in the Commonwealth and has a number of important historic assets that need to be recognized in the planning process. In general, all future development must take place with care and attention to the integration of proposed development with the existing historic fabric of the area.

a) Central Waterfront Archeological District

A significant portion of the easterly section of the site is located within the Central Waterfront Archeological District, listed in the National Register of Historic Places. Previous archeological investigations have taken place in this area and some historic and pre-historic artifacts have been recovered, but much of the site has been extensively altered through filling and construction of the past century and a half. Any below grade work proposed within this area should be done in coordination with an archeologist permitted by Massachusetts Historical Commission to ensure preservation of any artifacts encountered.

b) Market Square Historic District

A small portion of the project site along Water/Merrimac Streets is located within the Market Square Historic District, listed on the National Register of Historic Places. Any work proposed in or near this district should be designed to be respectful of and compatible with the historic buildings and fabric of the district.

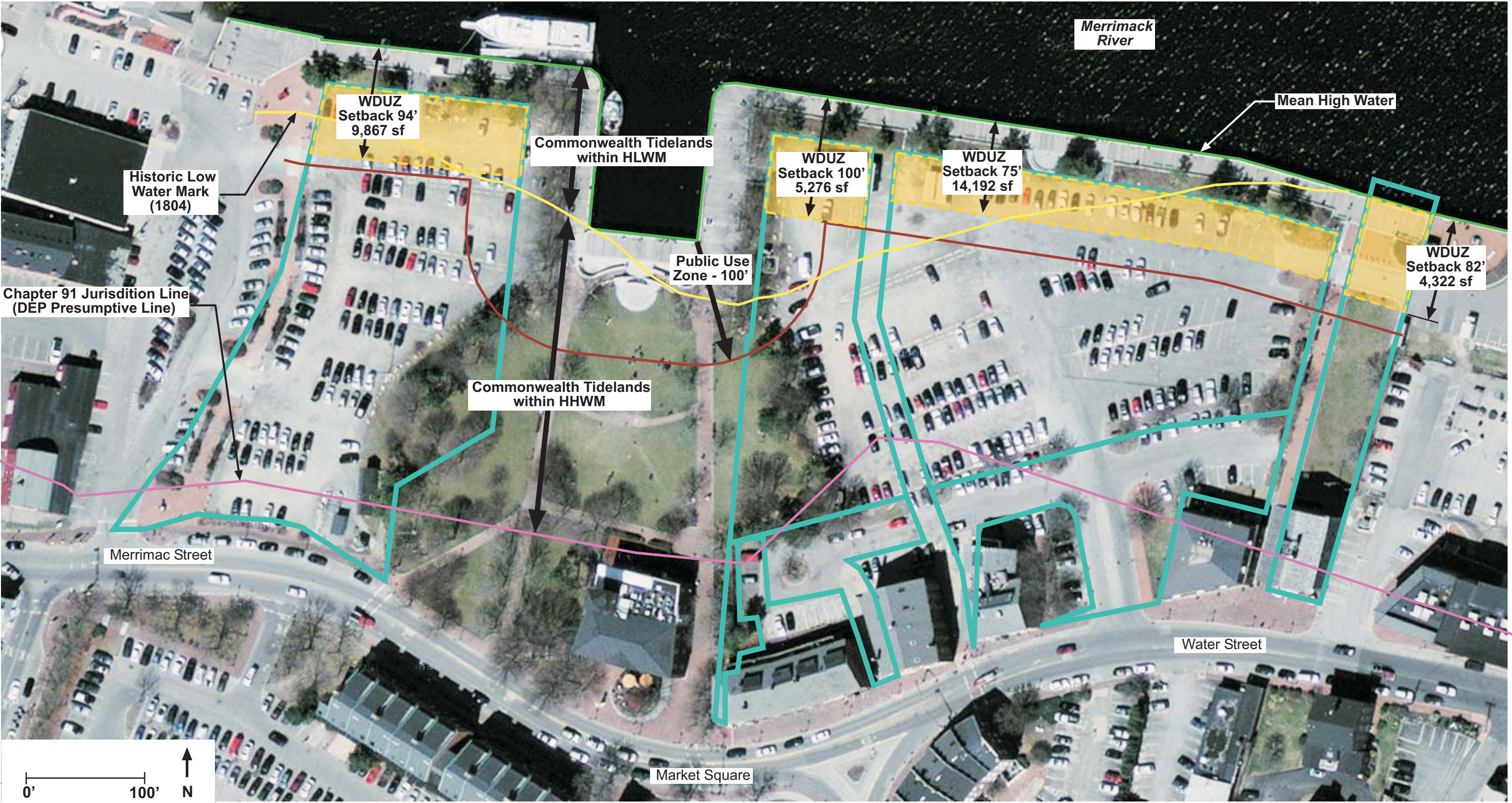
c) Newburyport Historic District

As with the Market Square historic District, a small portion of the project site is located within the Newburyport Historic District, which is on the National Register of Historic Places.

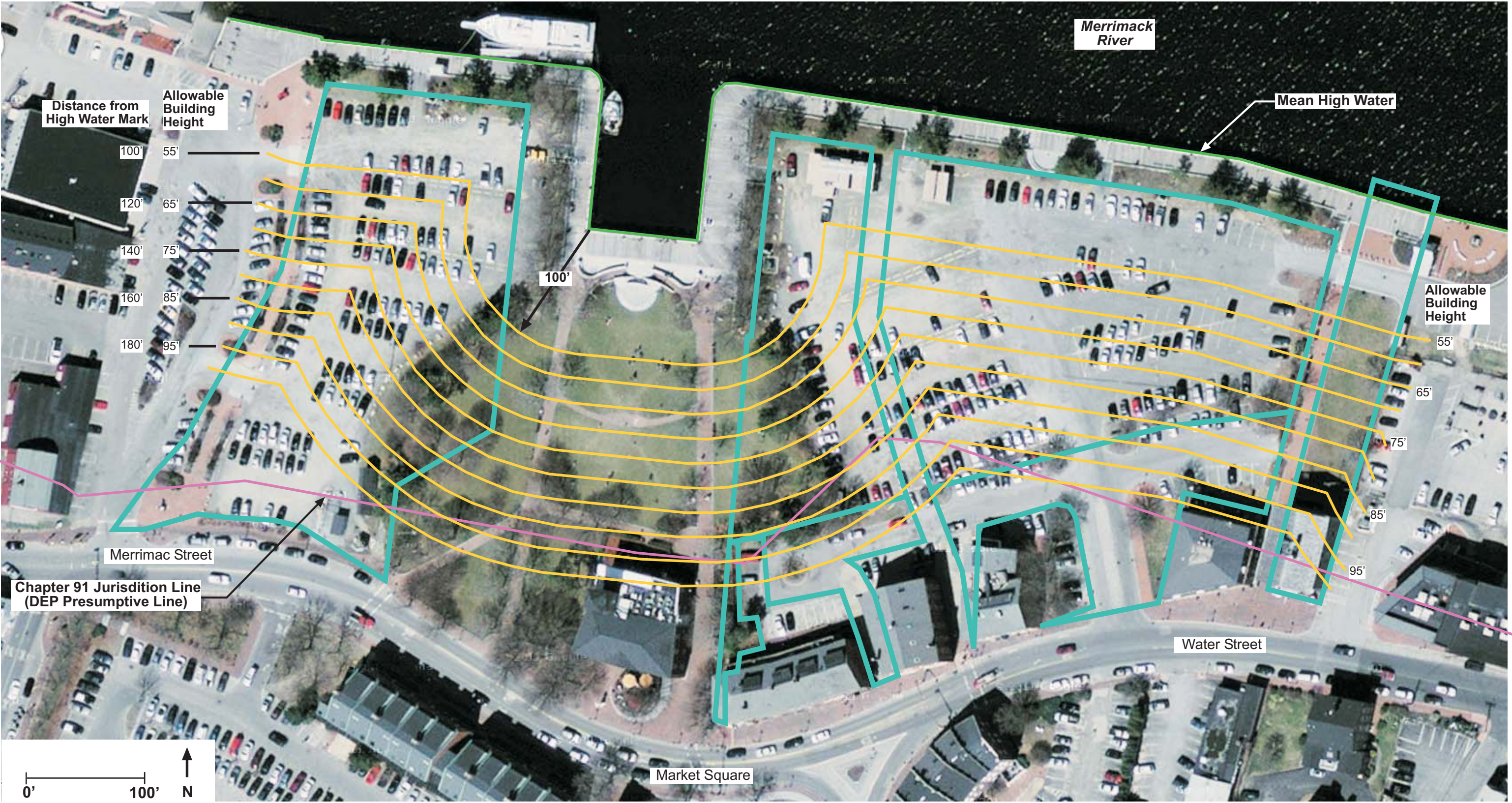




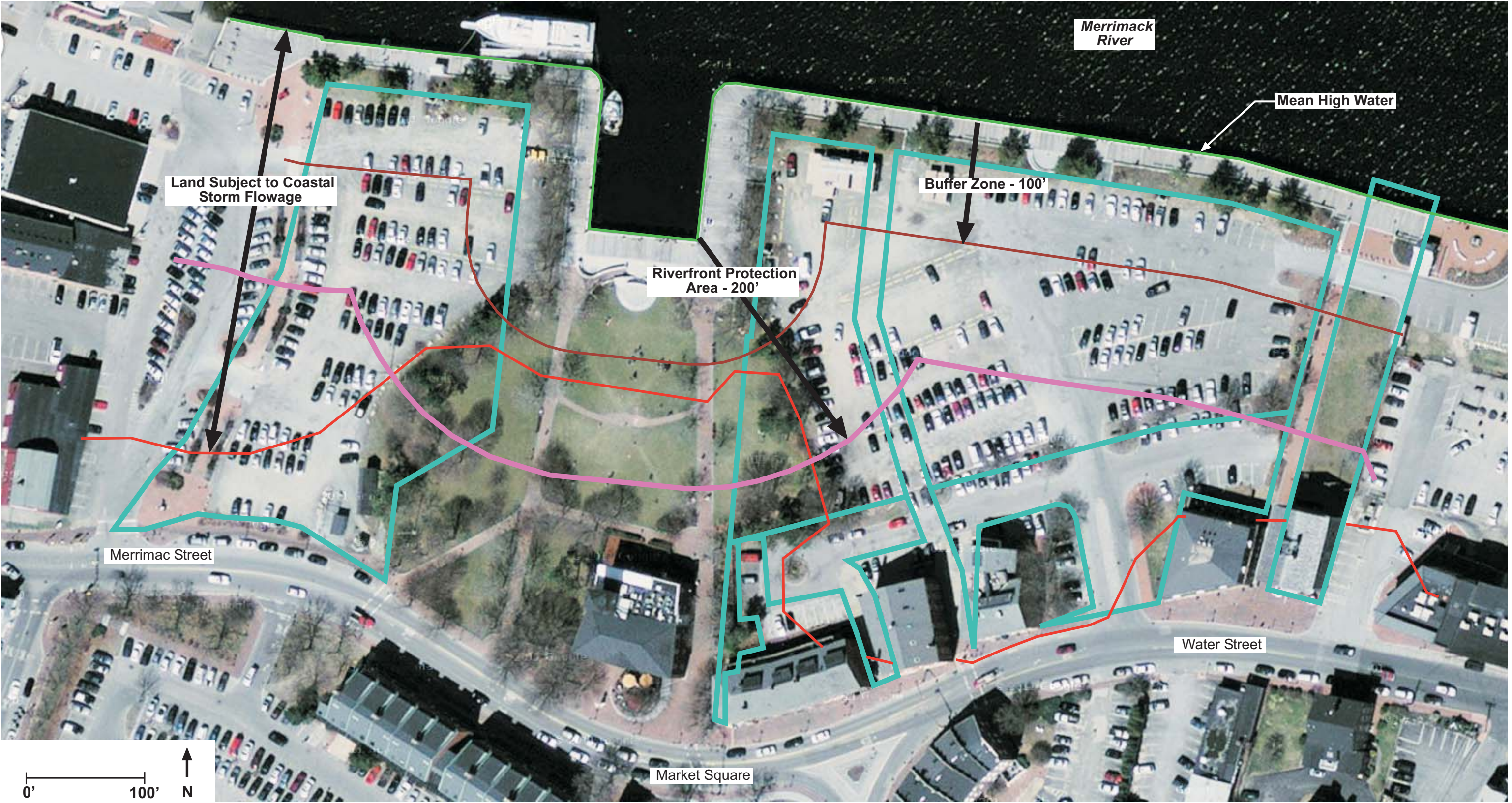
















Note: District boundaries are for planning purposes only.