

DE 44

AD-8

PRESERVATION RESTRICTION AGREEMENT
between the CITY OF NEWBURYPORT
by and through the NEWBURYPORT HISTORICAL COMMISSION
and

NEWBURYPORT ART ASSOCIATION, INC.

The parties to this Agreement are the City of Newburyport, by and through its agent the Newburyport Historical Commission located at 60 Pleasant Street, Newburyport, Massachusetts 01950, hereinafter referred to as "the Commission" or "the Grantee", and the **Newburyport Art Association, Inc., a Massachusetts corporation having its usual place of business at 65 Water Street, Newburyport, Massachusetts 01950** hereinafter referred to as the Grantor.

WHEREAS, the Grantor is the owner in fee simple of certain real property located at 65 Water Street, Newburyport, Massachusetts 01950 and described in a deed dated July 7, 1998 recorded with the Essex South Registry of Deeds at Book 5646, Page 19 (hereinafter referred to as the "Premises"), which is improved by a building thereon referred to hereinafter as the "Building."

WHEREAS, the Grantor wishes to impose certain restrictions, obligations and duties upon it as the owner of the Premises and on the successors to its right, title and interest therein, with respect to ongoing maintenance, protection, and preservation of the exterior of the building, including all exterior walls, cladding, foundations, chimneys, roofs, windows, window frames, doors, door frames and all other exterior structural and decorative elements and features (the "Exterior of the Building") in order to protect the architectural and historical integrity thereof; and

WHEREAS, the Premises conservation and preservation values are documented in Exhibits A, B, and C (hereinafter, collectively "Baseline Documentation")

✓

incorporated herein by reference, which Baseline Documentation the parties agree provides an accurate representation of the Premises as of the date of this grant;

WHEREAS, the Baseline Documentation includes the following:

1. Exhibit A: Plan of Land entitled "Topographic Plan of Land, Newburyport, Massachusetts" Prepared for The Newburyport Art Association, Pembroke Land Survey Company, dated May 27, 1999; and
2. Exhibit B: History of the Newburyport Art Association Building, 65 Water Street, including historical images compiled by "Skip" Motes, Summer 2006; and
3. Exhibit C: Photographs of the Exterior of the Building.

WHEREAS, the Premises is architecturally, culturally and historically significant and is listed in the State and National Registers of Historic Places as a contributing resource to the Newburyport Historic District; and

WHEREAS, the preservation of the Exterior of the Building is important to the public for the enjoyment and appreciation of its architectural and historical heritage and will serve the public interest in a manner consistent with the purposes of M.G.L. chapter 184, section 32, hereinafter referred to as the Act; and

WHEREAS, the Building has attached to its southeast façade a wood-frame structure known as the Laura Hill Gallery Annex (hereinafter, the "Annex"), which is not located on the Premises and is not part of the Building for the purposes of this Agreement; and

WHEREAS, the Commission is authorized to accept these preservation restrictions under the Act.

PURPOSE STATEMENT

PURPOSE: The purpose of this Preservation Restriction Agreement is to assure that the features and characteristics that embody the architectural, historic and cultural significance of the Building and the Premises will be forever retained and maintained substantially in their current condition for conservation and preservation purposes and to prevent any use or change in the Premises which will significantly impair or interfere with the Premises' conservation or preservation values.

NOW, THEREFORE, in consideration of One Dollar (\$1.00), receipt and sufficiency of which are hereby acknowledged, the Grantor does hereby grant, release and convey to the Commission, its successors and assigns this Preservation Restriction Agreement in perpetuity, in and to the Exterior of the Building, as follows:

1. Maintenance of Premises: The Grantor agrees to assume the total cost of continued maintenance, repair and administration of the Exterior of the Building so as to preserve the characteristics which contribute to the architectural and historical integrity of the Premises in a manner satisfactory to the Commission according to the Secretary of the Interior's "Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings (36 CFR §67 and §68), as these may be amended from time to time (hereinafter the "Secretary's Standards"). The Grantor may seek financial assistance from any source available to it. The Commission does not assume any obligation for maintaining, repairing or administering the Premises. The Grantor and the Commission agree and acknowledge that certain conditions exist with

respect to the Exterior of the Building which may not conform to the Standards. The Grantor and the Commission further agree and acknowledge that the Grantor's obligations under this provision of the Agreement extend only to maintenance, repair and administration of the Building and the Premises as it exists on the date of this Agreement going forward and the Grantor is under no obligation whatsoever in undertaking normal and ordinary maintenance of the Building to alter or replace existing elements to make them comply with the Secretary's Standards.

2. Inspection: The Commission may inspect the Premises at least annually to ensure that the Grantor is in compliance with the preservation restrictions hereby imposed. More frequent inspection shall be conducted during periods of renovation or reconstruction under an approved rehabilitation plan as described in paragraph 5 below. Grantor agrees to grant the Commission free access to all areas of the Premises upon which restrictions are placed. Such inspections shall be made at reasonable hours and only after prior notice to the Grantor. The failure of the Commission to exercise this right of inspection for any period of time, however, shall under no circumstances be construed as a waiver of such right.
3. Alterations: Grantor agrees that, without the prior written permission of the Commission, no construction, alteration or any other activity shall be undertaken which will alter or adversely affect the appearance, materials, workmanship or structural stability of the Building and the Premises which are the subject of this Restriction Agreement as they exist as of the date of this Agreement, as such are documented in Exhibits A, B and C above.

4. Exceptions. For the purposes of these restrictions, the work identified below shall not constitute construction, alteration or activity requiring the prior written permission of the Commission:

- (a) Any construction, alteration or activity to the interior of the building excluding any interior alteration that may affect the appearance of the exterior of the Building or the structural stability of the Building; and
- (b) Replacement of broken glass; and
- (c) That construction, alteration or activity which is of minor nature (as defined by the Restriction Guidelines attached hereto and incorporated herein) or does not affect the characteristics which contribute to the architectural or historical integrity of the Premises; and
- (d) Required by casualty or other emergency promptly reported to the Commissioner; and
- (e) For compliance with the Americans with Disabilities Act (hereinafter the "ADA") or the Commonwealth of Massachusetts Architectural Access Board (hereinafter "AAB"), provided the Grantor's plans and specifications for this purpose are first approved by the Commission, which said approval shall not be unreasonably withheld. In any event, if the Commission's determination shall cause the Grantor to be out of compliance with the ADA or the AAB and should the Grantor determine that it cannot satisfy both the Commission and the ADA or AAB, the Grantor shall notify the

Commission in writing of said conflict prior to undertaking any work, and, if the Commission reasonably determines that such a conflict exists and that a waiver of the requirements of the ADA should be requested, cooperate with the Commission in seeking such a waiver. The Grantor, its successors and assigns shall bear all costs associated with the seeking of a waiver hereunder. In the event that the Commission decides in writing not to seek a waiver, or if the requested waiver is not granted, the Grantor shall comply with and satisfy the ADA and the AAB, notwithstanding this Preservation Restriction and any terms herein to the contrary.

- (f) Ordinary maintenance and repair of the Premises may be made without the permission of the Commission. For purposes of this section, interpretation of what constitutes alterations of a minor nature and ordinary maintenance and repair is governed by the Restriction Guidelines which are attached to this Agreement and hereby incorporated by reference.

5. Notice and Approval: Whenever approval by the Commission is required under this restriction, Grantor shall send written notice thereof to the Commission, by certified mail, return receipt requested, not less than thirty (30) days prior to the date on which Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit the Commission to make an informed judgment as to its consistency with the purposes of this Preservation Restriction. Within thirty (30) days of receipt of Grantor's reasonably sufficient request for said approval, the Commission shall, in writing,

grant or withhold its approval, or request additional information relevant to the request and necessary to provide a basis for its decision. However, should the Commission, for good cause, determine that additional time is necessary in order to make its decision the Commission shall so notify the Grantor. The Commission's approval shall take into consideration the financial constraints of the Grantor, if any, with respect to the activity to be undertaken and shall not be unreasonably withheld, and shall be granted upon a reasonable showing that the proposed activity shall not materially impair the purpose of this Preservation Restriction, or that the proposed activity complies as much as practical with the terms of this Preservation Restriction after taking into consideration a cost/benefit analysis and reasonable alternatives. Failure of the Commission to make a decision within thirty (30) days from the date on which the request is accepted by the Commission or to send notice of a time extension within said time shall be deemed to constitute approval of the request as submitted, so long as the request sets forth the provisions of this section relating to deemed approval after the passage of time. In the event the Commission shall withhold its approval, the Grantor shall have all rights of appeal to the Essex Superior Court.

6. Casualty Damage or Destruction: In the event that the Building or any part thereof shall be damaged or destroyed by fire, flood, windstorm, hurricane, earth movement or other casualty, Grantor shall notify Grantee in writing within fourteen (14) days of the damage or destruction, such notification including what, if any, emergency work has been completed. No repairs or reconstruction of any type other than temporary emergency work to prevent further damage to the

Building and to protect public safety shall be undertaken by Grantor without Grantee's prior written approval of the work. Within thirty (30) days of the date of damage or destruction, if required by Grantee, Grantor at Grantor's expense shall submit to the Grantee a written report prepared by a qualified restoration architect and an engineer who are acceptable to the Grantor and Grantee, which report shall include the following:

- (a) an assessment of the nature and extent of the damage;
- (b) a determination of the feasibility of the restoration of the Building and/or reconstruction of damaged or destroyed portions of the Building; and
- (c) a construction estimate of such restoration and/or reconstruction work necessary to return the Building to the condition existing at the date thereof.

7. Review After Casualty Damage or Destruction: If, after reviewing the report provided in paragraph 6 and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims under paragraph 8, Grantor and Grantee agree that the Purpose of the Preservation Restriction Agreement will be served by such restoration/ reconstruction, Grantor and Grantee shall establish a schedule under which Grantor shall complete the restoration/ reconstruction of the Building in accordance with plans and specifications consented to by the parties to not more than the total of the casualty insurance proceeds available to the Grantor.

If, after reviewing the report and assessing the availability of the insurance proceeds after satisfaction of any mortgagee's/lender's claims under paragraph 8,

Grantor and Grantee agree that restoration/ reconstruction of the Property is impractical or impossible, or agree that the Purpose of the Preservation Restriction Agreement would not be served by such restoration/ reconstruction, Grantor may with prior written consent of Grantee, alter, demolish, remove or raze the Building and/or construct new improvements on the Property. In such event, Grantor and Grantee may agree to extinguish this Preservation Restriction Agreement in accordance with the laws of the Commonwealth of Massachusetts and paragraph 16 hereof.

8. Insurance: Grantor shall keep the Property insured by an insurance company rated "A1" or better by Best's for the full replacement value against loss from the perils commonly insured under standard fire and extended coverage policies and comprehensive general liability insurance against claims for personal injury, death and property damage. Property damage insurance shall include change in condition and building ordinance coverage, in form and amount sufficient to replace fully the damaged Property and Building without cost or expense to Grantor or contribution or coinsurance from Grantor. Such insurance shall include Grantee's interest and name Grantee as an additional insured. Grantor shall deliver to Grantee, within ten (10) business days of Grantee's written request therefore, certificates of such insurance coverage. Provided, however, that whenever the Property is encumbered with a mortgage or deed of trust nothing contained in this paragraph shall jeopardize the prior claim, if any, of the mortgagee/ lender to the insurance proceeds.

9. Assignment: Upon written notice to the Grantor, the Commission may assign this Agreement to another governmental body or to any charitable corporation or trust among the purposes of which is the maintenance and preservation of historic properties only in the event that the Commission should cease to function in its present capacity and only to the extent that the Grantor continues to maintain the benefits it receives as a result of having made the within grant and that the purposes of this Preservation Restriction continue to be carried out by the assignee.

10. Legal Remedies of the Grantee:

A. Legal and Injunctive Relief.

The rights hereby granted shall include the right in the Commission to enforce this Preservation Restriction by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, including without limitation, relief requiring restoration of the property to its condition prior to the time of the injury complained of (it being agreed that the Commission may have no adequate remedy at law). The rights hereby granted shall be in addition to and not in limitation of, any other rights and remedies available to the Commission for the enforcement of the Preservation Restriction.

B. Costs of Enforcement.

In the event the Grantor violates this restriction, the Grantor and thereafter its successors and assigns agree to bear the costs and expenses (including without limitation reasonable counsel fees) incurred by the Commission in enforcing this Preservation Restriction or in remedying or abating any violation thereof occurring during such person's ownership.

C. Commission's Disclaimer of Liability.

By its acceptance of this Preservation Restriction, the Commission does not undertake any liability or obligation relating to the condition of the Premises.

D. Non-waiver.

Any election by the Commission as to the manner and timing of its right to enforce this Preservation Restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of any such rights.

E. No Personal Liability.

No trustee, beneficiary, shareholder, director or employee of the Grantor, or any of them, shall be held personally liable for any costs and/or expenses or other damages which may be awarded to the Commission pursuant to the provisions hereof.

11. Acts Beyond Grantor's Control: Nothing contained in this Preservation Restriction shall be construed to entitle the Commission to bring any action against Grantor for any injury to or change in the Premises resulting from causes beyond the Grantor's control, including, but not limited to, fire, flood, storm, earth movement, and acts caused by trespass on the Premises not contributed to by acts or omissions of Grantor, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the premises resulting from such causes.

12. Notice from Government Authorities. Grantor shall deliver to Grantee copies of any notice of violation or lien relating to the Property received by Grantor from any government authority within five (5) days of receipt by Grantor. Upon request by Grantee, Grantor shall promptly furnish Grantee with evidence of

Grantor's compliance with such notice or lien where compliance is required by law.

13. Insertion in Subsequent Instruments: Grantor shall insert a reference to this Preservation Restriction, such reference to include Registry book and page number of this Agreement, into any subsequent deed or other legal instrument by which Grantor divests itself of either the fee simple title to or any lesser estate in the Premises. Concurrently, with its delivery of any such deed or other legal instrument, Grantor shall give written notice to the Commission of same. Failure by Grantor to comply with the requirements of this paragraph shall not affect the validity, enforceability or priority of this Agreement or any lien arising hereunder.
14. Written Acceptance: At the time of taking legal possession of the Premises or any portion thereof, each new Owner of the Premises shall indicate its acceptance of these preservation restrictions contained herein by a letter to the Commission. Failure by any new Owner to so indicate, and failure by the Commission to demand such indication, shall not affect the validity, enforceability or priority of this Agreement or any lien arising hereunder.
15. Liens: Any lien on the Property created pursuant to any paragraph of this Preservation Restriction Agreement may be confirmed by judgment and foreclosed by Grantee in the same manner as a mechanic's lien. Provided, however, that no lien created pursuant to this Preservation Restriction Agreement shall jeopardize the priority of any recorded lien of mortgage or deed of trust

given in connection with a promissory note secured by the Property, now existing or hereafter arising.

16. Extinguishment: Grantor and Grantee hereby recognize that an unexpected change in conditions affecting the Property may make impossible the continued ownership or use of the Property for the Purpose of this Preservation Restriction Agreement and necessitate extinguishment of the Preservation Restriction Agreement. Such a change in conditions may include, but is not limited to, partial or total destruction of the Building resulting from casualty. Such an extinguishment must be the result of a judicial proceeding, as well as public hearings and approval by the Grantee, or the then holder of the Preservation Restriction Agreement, if it has been assigned pursuant to Section 9 hereof, and the Massachusetts Historical Commission if this Agreement has been approved by the Massachusetts Historical Commission. Any Extinguishment must meet all requirements of the Act for extinguishment.
17. Condemnation: If all or any part of the Property is taken under the power of eminent domain by public, corporate or other authority, otherwise acquired by such authority through a purchase in lieu of a taking, Grantor may commence appropriate proceedings at the time of such taking to recover the full value of the Property that is subject to the taking and all incidental and direct damages from the taking.
18. Execution of Instruments: The Commission is authorized to record this Preservation Restriction. The Commission is authorized to record or file the

approval of the Massachusetts Historical Commission, notices of restriction under M.G.L. c. 184, § 27, or other required documents pursuant thereto for the exclusive purpose of ensuring the perpetual enforceability of this Preservation Restriction, and the Grantor and its successors and assigns agree to execute any such instrument upon request.

19. Controlling Law: The interpretations and performance of this Preservation Restriction shall be governed by the laws of the Commonwealth of Massachusetts.
20. Liberal Construction: Any general rule of construction to the contrary notwithstanding, this Preservation Restriction shall be liberally construed in favor of the grant to affect the purposes of the Preservation Restriction and the policy and purposes of Grantee. If any provision is found to be ambiguous, an interpretation consistent with the purpose of this Preservation Restriction that would render the provision valid shall be favored over any interpretation that renders it invalid.
21. Validity and Severability: The invalidity of M.G.L. c. 184 or any part thereof shall not affect the validity and enforceability of this Agreement according to its terms. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement.
22. Recording: The Grantor agrees to record this Agreement with the appropriate Registry of Deeds and file a copy of such recorded instrument with the Commission.

23. Photographs: In order to establish with more certainty the condition of the building and the character of protected architectural details and elements as of the date hereof, listed in Exhibit C are the exterior photographs taken by Suzanne M. Poitras on June 26, 2007, together with an affidavit specifying certain technical and locational information with respect to such photographs. The Grantor and the Commission agree that the photographs accurately represent the external condition of the building and the Premises and the character of the architectural details and elements on the date hereof and as of the date this instrument is first recorded with the Registry.
24. Intent of the Grantor and Further Amendment: The Grantor and the Commission agree and acknowledge that the purpose of the Grantor in making this grant is in part to obtain certain public funding for improvements to the building now and in the future. To the extent any term or terms of this document fail to comply in any respect with any requirements of any funding institution, the Grantor and the Commission agree that the document may be amended to comply with any such requirements insofar as not such amendment shall be contrary to the purposes of this Agreement.

The burden of the restrictions created herein shall run with the land and is binding upon future owners of an interest therein.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this

1st day of October, 2007.

GRANTOR:

Newburyport Art Association, Inc.

By: *Monica Welsh* *Monica Welsh* *Susan Helms Tiet* *Dean J. Wilk*
PRESIDENT SECRETARY VICE PRESIDENT EXECUTIVE DIR.
_____, Its duly authorized _____

GRANTEE:

City of Newburyport

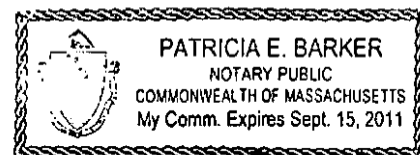
By: *Uinda Smiley*
CHAIR, Its duly authorized Historical Commission

COMMONWEALTH OF MASSACHUSETTS

Essex, ss

On this 1st day of October, 2007, before the undersigned notary public, personally appeared Monica Welsh, the President of the Newburyport Art Association, Inc. proved to me through satisfactory evidence of identification, which was a Massachusetts driver's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he/she) signed it voluntarily for its stated purpose on behalf of the Newburyport Art Association

Patricia E. Barker
Notary Public:
My commission Expires:



COMMONWEALTH OF MASSACHUSETTS

Essex, ss

On this 4th day of October, 2007, before the undersigned notary public, personally appeared Linda Smiley, member of the Newburyport Historical Commission, as aforesaid, proved to me through satisfactory evidence of identification, which was a Massachusetts driver's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose on behalf of the City of Newburyport.

Rich B. Finn
Notary Public:

My Commission Expires 4/19/2013

ACCEPTANCE AND APPROVAL BY THE CITY OF NEWBURYPORT

The undersigned hereby certifies that the foregoing preservation restrictions have been approved and accepted by the City of Newburyport

CITY OF NEWBURYPORT

John F. Moak
John F. Moak, Mayor

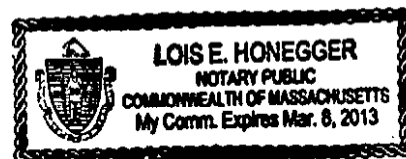
COMMONWEALTH OF MASSACHUSETTS

Essex, ss

On this 5th day of October, 2007, before the undersigned notary public, personally appeared John F. Moak, proved to me through satisfactory evidence of identification, which was a Massachusetts driver's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he/she) signed it voluntarily for its stated purpose as Mayor of the City of Newburyport.

Lois E. Honegger
Notary Public:

My commission Expires:



APPROVAL BY THE MASSACHUSETTS HISTORICAL COMMISSION

The undersigned hereby certifies that the foregoing preservation restrictions have been approved pursuant to Massachusetts General Laws, Chapter 184, Section 32.

MASSACHUSETTS HISTORICAL COMMISSION

By Brona Simon

Brona Simon
Massachusetts Historical Commission

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss

On this 22nd day of October, 2007, before the undersigned notary public, personally appeared Brona Simon, proved to me through satisfactory evidence of identification, which was a Massachusetts driver's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he/she) signed it voluntarily for its stated purpose as Executive Director and Clerk of the Massachusetts Historical Commission.

Nancy Maida
Notary Public
My commission Expires: January 19, 2012

RESTRICTION GUIDELINES

ATTACHMENT TO PRESERVATION RESTRICTION AGREEMENT BETWEEN THE CITY OF NEWBURYPORT AND *Newburyport Art Association*

The purpose of the Restriction Guidelines is to clarify paragraph three of the terms of the preservation restriction, which deals with alterations to the premises. Under this section permission from the Commission is required for any major alteration. Alterations of a minor nature, which are part of ordinary maintenance and repair, do not require Commission review.

In an effort to explain what constitutes a minor alteration and what constitutes a major change, which must be reviewed by the Commission, the following list has been developed. By no means is this list comprehensive: it is only a sampling of some of the more common alterations, which may be contemplated by building owners.

PAINT

Minor – Exterior hand scraping and repainting of non-decorative and non-significant surfaces as part of periodic maintenance.

Major - Painting or fully stripping decorative surfaces or distinctive stylistic features including ornamental ironwork, stone, decorative or significant woodwork.

WINDOWS AND DOORS

Minor - Regular maintenance including caulking, painting and necessary reglazing. Repair or in-kind replacement of existing individual decayed window parts.

Major - Wholesale replacement of units; change in fenestration or materials; alteration of profile or setback of windows. The addition of storm windows is also considered a major change; however, with notification it is commonly acceptable.

EXTERIOR

Minor - Spot repair of existing cladding and roofing including in-kind replacement of clapboards, shingles, slates, etc.

Major - Large-scale repair or replacement of cladding or roofing. Change involving inappropriate removal or addition of materials or building elements (i.e. removal of chimneys or cornice detailing; installation of architectural detail which does not have a historical basis); altering or demolishing building additions; spot repointing of masonry. Structural stabilization of the property is also considered a major alteration.

LANDSCAPE/GROUNDS

Minor – Routine maintenance of grounds and landscape including lawn mowing, pruning, planting, painting and repair.

Major – subdividing Premises; altering of Premises; altering or removing significant landscape features such as gardens, vistas, walks, plantings; new construction of buildings or structural features; ground disturbance affecting archaeological resources.

Changes classified as major alterations are not necessarily unacceptable. In fact approval of such changes shall not be unreasonably withheld. Under the preservation restriction such changes must be reviewed by the Commission and their impact on the historic integrity of the Exterior of the Building assessed while taking into consideration to financial burden associated with the nature or manner of any work which may be requested by the Commission..

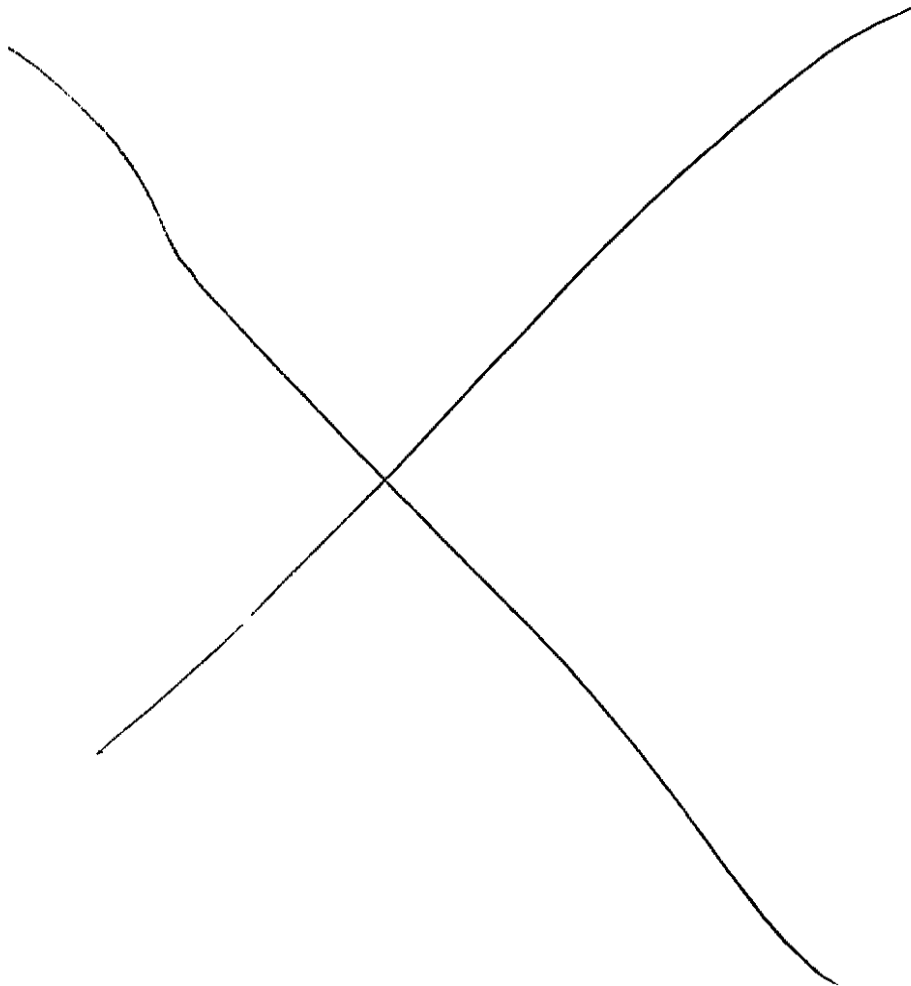
It is the responsibility of the property owner to notify the Commission in writing when any major alterations are contemplated. Substantial alterations may necessitate review of plans and specifications.

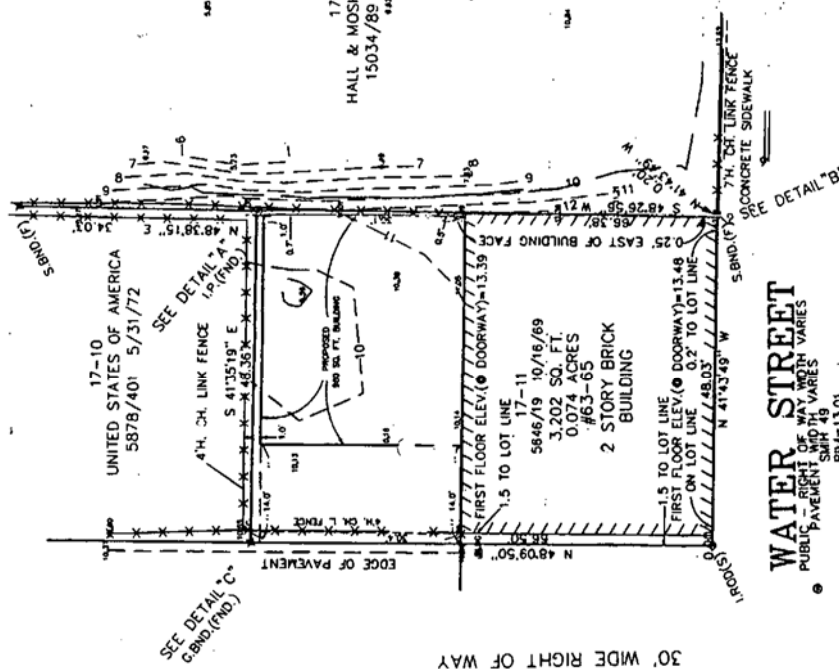
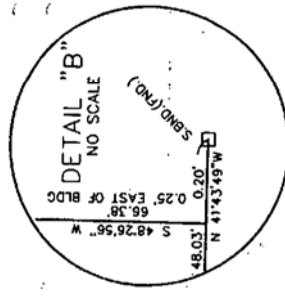
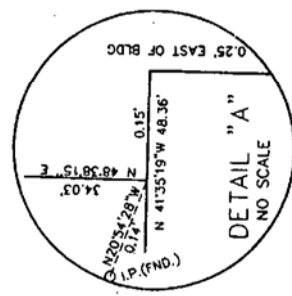
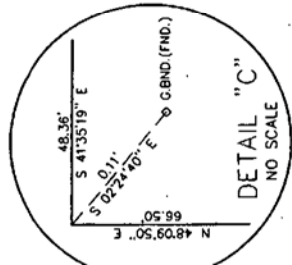
The intent of the preservation restriction is to enable the Commission to review proposed alterations and assess their impact on the integrity of the structure, not to preclude future change. The Commission will attempt to work with property owners to develop mutually satisfactory solutions, which are in the best interests of the property.

EXHIBIT A

PRESERVATION RESTRICTION AGREEMENT
between the CITY OF NEWBURYPORT
by and through the NEWBURYPORT HISTORICAL COMMISSION
and

NEWBURYPORT ART ASSOCIATION, INC.





TOPOGRAPHIC PLAN OF
NEWBURYPORT, MASSACHUSETTS
PREPARED FOR

THE NEWBURYPORT ART ASSOC

PEMBROKE LAND SURVEY COMPANY
P.O. BOX 205 SALEM, NH 03079
P.O. BOX 491 NEWBURYPORT, MA 01950

SCALE	DATE	DR
1" = 10'	MAY 27, 1999	
REVISIONS		
ADD DETAIL AND MONUMENTS		SH
6/11/99		



LEGEND

- ③ SMH
- ④ WATER GATE
- ⑤ UTILITY POLE
- ⑥ CATCH BASIN
- ⑦ FIRE HYDRANT
- ⑧ MONITORING WELL

7. HEREBY CERTIFY THAT THE PROPERTY LINES SHOWN ON THIS PLAN ARE THE LINES OF EXISTING OWNERSHIPS, AND THE LINES OF THE STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED, AND THAT NO NEW LINES OR DIVISION OF EXISTING OWNERSHIPS OR FOR NEW WAYS ARE SHOWN.

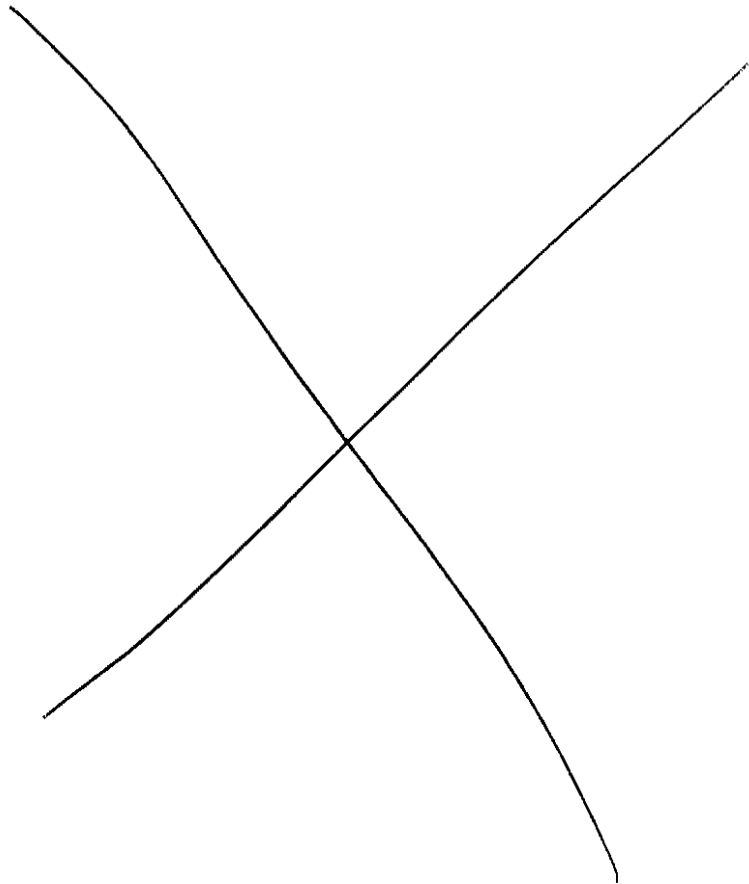
NOTES:

1. THE CURRENT OWNER OF RECORD OF LOT 17-11 IS NEWBURYPORT ART ASSOCIATION. THE MAILING ADDRESS IS P.O. BOX 28, NEWBURYPORT, MASSACHUSETTS, 01950. THE DEED REFERENCE TO THE LOT IS VOL. 5646, PG. 19, DATED 7/77/98, IN THE S.E.R.D..
2. 17-11 DENOTES THE TAX MAP AND PARCEL NUMBER.
3. THE TOTAL AREA OF LOT 17-11 IS 3.202 SQ. FT. OR 0.074 ACRES.
4. TOPOGRAPHY IS BASED UPON N.G.V.D. OF 1929.
5. TOPOGRAPHY PERCENTAGE OF LOT COVERAGE IS 83%.

EXHIBIT B

PRESERVATION RESTRICTION AGREEMENT
between the CITY OF NEWBURYPORT
by and through the NEWBURYPORT HISTORICAL COMMISSION
and

NEWBURYPORT ART ASSOCIATION, INC.



Newburyport Art Association History & Background

The Newburyport Art Association was founded in March 1948 when twenty artists met at the YMCA to "initiate an organization to further art." The first exhibition was held on Bartlet Mall during Newburyport's Open House in July of that year.

The association's founder, Sam Sargent (1889-1959), served as the first president. He was a native of Newburyport, a painter and a teacher. He graduated from the Massachusetts Normal Art School (later Massachusetts College of Art). His paintings were exhibited at the London Museum; the Copley Gallery, Boston; the Addison Gallery of American Art; the Currier Museum, Manchester, NH; and the Museo Historico Provincial, Rosario Argentina. Sargent was active in the community and served as a councilman on the Newburyport City Council.



Sam Sargent

Among the NAA charter members was Laura Coombs Hills (1859-1952). Born in Newburyport, she was a member of a flourishing group of aspiring women artists in nineteenth century Boston. She rose to national prominence as a painter of landscapes, pastel floral subjects and miniatures. Her work is in the collection of the Museum of Fine Arts, Boston, where it was included in the MFA exhibition, "A Studio of Her Own" and was the subject of a retrospective by the Historical Society of Old Newbury.¹



Laura Hills

By the 1960's the Association had grown to a volunteer-run organization of 150 members. NAA leased space at 1 Threadneedle Alley and in 1965 moved to 12 State Street, where it occupied two floors, until it was displaced by urban renewal in 1968. NAA then met at the YWCA.

In a period of energetic development that paralleled the urban restoration of Newburyport, NAA was incorporated in 1965; purchased its Water Street building, a circa 1800 commercial



maritime structure, in 1969; held a grand opening and first juried exhibition in 1970; and was issued its 501(c)(3) nonprofit status by the IRS in 1971. The *Newburyport Daily News* photograph shows the first floor interior of the NAA building shortly after its purchase.

A renaissance began in 1997. NAA, still volunteer-run, transformed itself into a diversified, regionally based art association providing a broad range of art services to regional communities. The Association encouraged participation of artists and friends at all levels of artistic achievement and appreciation from throughout the geographic area, and welcomed diversity in artistic style, media and expression. Over the next six years the membership increased over four-fold. Membership extended from Boston to mid-coast Maine, with seventy-five percent from Essex County, with every community in Essex County represented. Fifty percent of the members are from the Greater Newburyport area. The NAA website was inaugurated in 2001.

¹ Sargent photograph courtesy Clark Currier Inn; Hills photograph courtesy Historical Society of Old Newbury

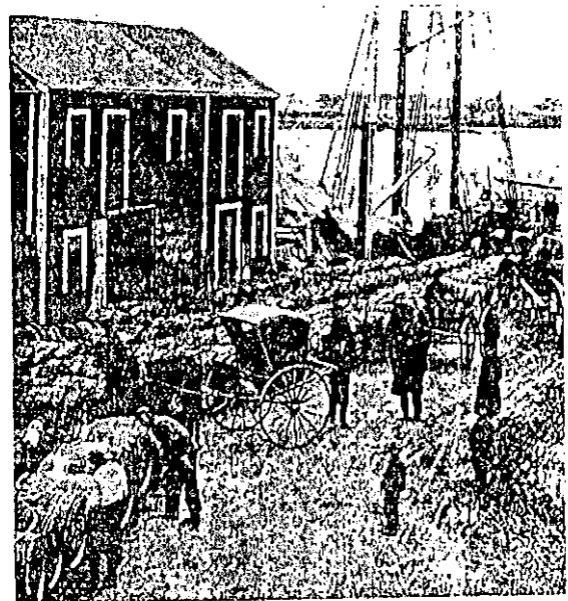
NAA invested over \$150,000 in building capital expansion and improvements, including an administrative office and a first floor, handicap accessible bathroom. The building underwent extensive interior renovation and structural re-enforcements. Automatic fire detection and sprinkling systems were installed. The Laura Coombs Hills Gallery addition was completed in July 2002. This gallery provided a new handicap accessible entrance and expanded exhibition space. The Hills Gallery was a joint project with Hall and Moskow Corp.

NAA was a totally volunteer-run organization until 1999, when a part-time gallery staff was employed. In 2002 the staff was expanded to include a gallery director and business manager. In 2003 there was an interim executive director and in 2004 a permanent executive director.

The NAA building at 65 Water Street is one of the few surviving, late eighteenth-century brick mercantile buildings on Newburyport's waterfront. The building's history coincides with the phases of Newburyport's commercial history: ship building, import/export; manufacturing, lapsed uses during economic downturns and cultural development.

The site on which the building stands was granted first in 1710. A building is first mentioned in a deed conveying the tract from Stephen Cross, Sr., boat builder, to his son Stephen in 1784 including "land, store and wharf." Robert Bayley and Son, importers of molasses and other products from Puerto Rico and the West Indies, owned the building with wharf and warehouse from 1845 to 1879. The embayment terminated directly behind the building until the mid-1850.

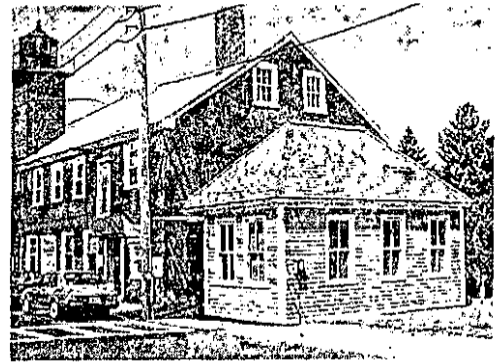
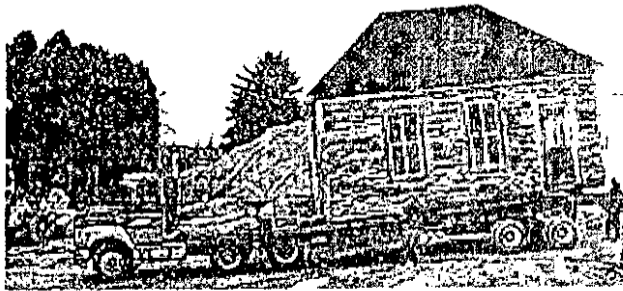
Bayley's Wharf is shown in a c. 1850 photograph with a warehouse of similar design to the NAA building. Pictured is the unloading of several hundred hogsheads of molasses. [John J. Currier, *History of Newburyport, MA. Newburyport*, Published by the author, 1906. Pgs. 176-177].



The Victor Manufacturing Company purchased the building in 1886, where they manufactured barn door hangers and rails, and "heat closing" fire doors and shutters until 1925. The building had other owners and uses, including a grocery and pool hall before NAA purchased it in 1969. Victor Manufacturing Company is shown in an artist rendering for the Newburyport Bicentennial Map, 1976. A Victor fire door is still installed in The Birdwatcher of Newburyport's store in the Tannery.



The Laura Coombs Hills Gallery originally was a circa 1890 weigh station for Cashmen Brothers Oil Company and later part of an amateur theater. The photographs below show the weigh Station before and during its move next to the Art Association building. The Laura Coombs Hills Gallery addition was completed in July 2002. This gallery provided a handicap accessible entrance and expanded exhibition space. The Hills Gallery was a joint project with Hall and Moskow Corp.



Charter Members, March 10, 1948

Mrs. Marjorie Akerman
 Mrs. Eva Allen
 Miss Elizabeth Bartlett
 Mrs. Alexander Brown
 Mrs. Dorothy Brown
 Mr. Arthur F. Davis
 Mr. John Farrell
 Mrs. Irene Grant
 Mrs. Laura Hale
 Mrs. Evelina Haley
 Mrs. Edith Hamilton
 Mrs. Mildred Hartson
 Mr. Ralph G. Heard
 Mr. William A. Hill
 Miss Laura Coombs Hills
 Mrs. Louise M. Holt
 Mr. John Hursh
 Mrs. Laura Hursh
 Mrs. Richard S. Keene
 Estelle Kezer
 Mrs. Annie V. Knapp
 Miss Effie Knapp
 Mr. Gilbert Kruschwitz
 Mr. Frank McGregor
 Mrs. Martha G. Moody
 Rev. Glen Tilley Morse

Mrs. Edward F. Murphy
 Mrs. Dorothy R. Noyes
 Miss Lillian Newman
 Miss Mildred Pearson
 Mr. Warren Perkins
 Mrs. Leslie Priestman
 Mr. Leslie Priestman
 Mr. Harlan Randall
 Mr. Horace F. Robinson
 Mr. J. Clifford Ronan
 Mr. Arthur Rose
 Mr. Sam Sargent
 Mrs. Nan Collins Sayball
 Mr. Doris F. Stevens
 Mrs. Aida Tedford
 Mrs. Clara True
 Mrs. Mildred E. Twomey
 Mrs. Elsie Wales
 Miss Roberta Wales
 Miss Nancy Weate
 Sylvia Wentworth
 Miss Dorothy Winchester
 Mrs. Kenneth Wheeler
 Mrs. Charles Wilding White
 Mrs. George Zinch

EXHIBIT C

PRESERVATION RESTRICTION AGREEMENT
between the CITY OF NEWBURYPORT
by and through the NEWBURYPORT HISTORICAL COMMISSION
and

NEWBURYPORT ART ASSOCIATION, INC.

Exhibit C Attachment
Affidavit

I, Suzanne M. Poitras, on oath do depose and say that:

1. I personally took the photographs of the Newburyport Art Association Building on June 26, 2007, copies of which are attached as Exhibit C to the PRESERVATION RESTRICTION AGREEMENT between the CITY OF NEWBURYPORT by and through the NEWBURYPORT HISTORICAL COMMISSION and NEWBURYPORT ART ASSOCIATION, INC.; and
2. The photographs of the four sides of the building, the abutting parcel and the land upon which the building is located are a true and accurate representation of the land and building as in existence on that day.

Witness my hand and seal this 3rd day of October, 2007.



Witness



Suzanne M. Poitras

