

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

LAND COURT
NO. 39539

LAND COURT

Mar 31 1980

FILED

NEWBURYPORT REDEVELOPMENT AUTHORITY

v.

COMMONWEALTH & another

STIPULATION

The undersigned parties to the above proceedings hereby agree and stipulate as follows:

1. The Newburyport Redevelopment Authority shall convey to the City of Newburyport, and the City of Newburyport agrees to convey to the Trustees of the Newburyport Waterfront, the Ways, Market Landing, Promenade, and Riverside Park (hereinafter collectively referred to as "Settlement Areas") as substantially shown on a plan entitled "Newburyport Waterfront Ways Traced by R. Barnes from Metcalf and Eddy Plan 3/12/1968". (Exhibit A). Said Trustees shall hold these Settlement Areas in public trust forever, and the public shall have free access to these Settlement Areas forever. Said Trustees will not have the power to alienate or transfer any interest in these Settlement Areas, except to the City of Newburyport for public use.

2. It is agreed that the way known as Central Wharf Way shall be at least twenty five (25) feet in width, and may be relocated no more than thirty five (35) feet in a westerly direction, and along Merrimac Street in an easterly direction not more than one hundred thirty five (135) feet. Central Wharf Way may be connected to the riverfront Promenade either directly or by joining and merging with the Promenade running along the westerly side of the slip or embayment.

RICHARD B. JONES
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DEPUTY RECORDER

Jeanne M. Maloney

It is agreed that the Newburyport Redevelopment Authority will make a good faith effort to locate Central Wharf Way opposite the intersection of Merrimac Street and Unicorn Street. It is further agreed that the Way known as Ferry Wharf Way may be relocated in an easterly or westerly direction provided that after said relocation, one may have visual access to the Merrimac River from a point on Water Street where said R. Barnes Plan shows the intersection of Water Street and Ferry Wharf Way.

3. It is agreed that in the alternative to the above-mentioned R. Barnes Plan, said parties may agree to adopt any plan to be proposed and prepared by planners available to the Newburyport Redevelopment Authority, retained by the Office of Community Development of Newburyport, relative to the Settlement Areas, provided that the Newburyport Redevelopment Authority and the Committee on Civic Rights of the Friends of the Newburyport Waterfront (hereinafter the "Committee"), each by a majority vote of the members present at a duly called meeting, and the City of Newburyport through its Mayor agree to accept such substitute plan.

4. The conveyance from the Newburyport Redevelopment Authority to the City of Newburyport, and subsequently to said Trust, shall reserve to the Newburyport Redevelopment Authority, its successors and assigns, the right to construct pedestrian crosswalks in the air space not less than approximately ten (10) feet over said Ways, and Market Landing to be conveyed thereby. It is agreed that said pedestrian crosswalks in the air space will not result in an unaesthetic architectural effect.

5. Said Riverside Park shall be dedicated as a public park forever, provided that public parking is not an excluded use in said Park. Riverside Park shall contain a public pedestrian walkway and park landscaping running between Merrimac Street and the Merrimac River. Said walkway and park landscaping

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together shall be no less than an average of twenty-five (25) feet in width. It is agreed that motor vehicle traffic will be permitted to cross said walkway and park landscaping to remaining land of the Newburyport Redevelopment Authority at no more than two locations. Each said location shall be no more than twenty (20) feet in width. Furthermore, an area at the northerly end of Riverside Park running from the easterly end of the existing boat ramp to the westerly end of the Promenade and equal in width to the Promenade shall be maintained as a public pedestrian area with parking not allowed. The facilities in the pedestrian area shall be so constructed and maintained as to permit emergency use for marine activities.

6. The Parties waive all rights of review and appeal, provided however, the Newburyport Redevelopment Authority reserves the right to such further review by the Land Court, Appeals Court, or the Supreme Judicial Court of the Commonwealth of Massachusetts, for that part of the Decision of the Appeals Court in these proceedings relating to the "Public Trust" affecting the portion of the premises below the "natural" low water mark as referred to in said Decision, provided that if said Authority shall seek such determination, neither the Committee nor any other party shall be precluded by the terms of this Stipulation from appearing in opposition at such proceedings, and provided further that except as set forth in this paragraph, the parties agree that this Stipulation is a complete settlement of all the claims raised by said Committee in these proceedings.

7. The above conveyance shall further provide that the City of Newburyport, by its acceptance and recording of the Deed relating to this conveyance, agrees to maintain the Parcel known as Riverside Park as a public park subject to the rights of said Trust. The City further agrees to maintain said Ways, Market Landing, and Promenade after said conveyance.

A TRUE COPY
ATTEST:

Leanne M. Meloney

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8. Said Committee further agrees, at the request of the Newburyport Redevelopment Authority, to execute any documents or join in any petition which may be required in order to confirm with the United States District Court of the District of Massachusetts that the premises are no longer subject to any order, stipulation or injunction of such Court prohibiting or limiting in any way the use or transfer of title to such premises. It is agreed, subject to the exceptions contained in Paragraph Six (6), that this Stipulation is a complete settlement of all the claims raised by and between the Newburyport Redevelopment Authority and said Committee, Peter A. Latham, Joanne C. Purinton, Thomas C. Candee, William R. Harris, and Historical Survey Associates, Inc., in these proceedings.

9. Said conveyance, with exception of Ferry Wharf Way and Central Wharf Way, shall occur upon the completion of proceedings in the Massachusetts Land Court and entry of final judgment and the expiration of all rights of appeal, and as required in the Decision of the Massachusetts Appeals Court, referred to above, and contemporaneously with the entry of a decree of the Land Court confirming the Newburyport Redevelopment Authority title to the premises, subject only to the matters set forth in the Decree of the Land Court, modified as required by the above mentioned Decision of the Appeals Court and not inconsistent with the terms of this Stipulation. Ferry Wharf Way and Central Wharf Way shall be conveyed and recorded no later than immediately preceding the conveyance for development of the land abutting said Ways.

A TRUE COPY
ATTEST:

Jeane M. Maloney

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See Plans filed in Land Court, Land Court Case #39539

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BK 6695 PG 432

NEWBURYPORT REDEVELOPMENT AUTHORITY
By its Chairman

3/29/80

James E. Farley

COMMITTEE ON CIVIC RIGHTS OF THE
FRIENDS OF THE NEWBURYPORT
WATERFRONT

By its Attorney

3/31/80

William R. Harris

PETER A. LATHAM, JOANNE C. PURINTON,
THOMAS C. CANDEE, WILLIAM R. HARRIS,
HISTORICAL SURVEY ASSOCIATES, INC.
By their Attorney

3/31/80

William R. Harris

CITY OF NEWBURYPORT

By its Mayor

3/29/80

Richard E. Sullivan

COMMONWEALTH OF MASSACHUSETTS

By its Attorney;

3/31/80

*subject to any and
all rights of the Commonwealth
with respect to its public trust
and its right of entry for
condition broken, if any there be,
and the legislative authority to
change existing usage of the
subject property. By Howard R. Palmer
Assistant Attorney General*

A TRUE COPY
ATTEST:

Joanne M. Maloney

DEPUTY RECORDER

ESSEX SS. RECORDED Apr. 18 1980 21 M. PAST 12 P. M. INST. #147