

COMMITTEE ITEMS

Committee Items-October 26, 2020

Budget & Finance

Budget & Finance

In Committee:

- ORDR216_10_13_2020 57 Supplemental Budget Charter Sec. 2-4
- ORDR217_10_13_2020 Election Grant Acceptance

Removal from Committee Form

Instructions: Remit to rjones@cityofnewburyport.com; pbarker@cityofnewburyport.com; cgreen@cityofnewburyport.com by Wednesday, 5 PM preceding Council meeting

Committee Name: Budget and Finance

Committee Chair: Tontar

	Measure Identifier	Measure Title	Amended in Committee? (if yes, attach final version)	Consent Agenda or Regular Agenda?
1.	ORDR217_10_13_2020	Center for Tech and Civic Life Grant Acceptance \$7,002.50	No	Regular
2.	ORDR216_10_13_2020	Supplemental Budget Charter Sec. 2-4	No	Regular
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b7F

CITY OF NEWBURYPORT

ORDR216_10_13_2020



IN CITY COUNCIL

ORDERED:

October 13, 2020

THAT the City Council of the City of Newburyport approves the Mayor's **Fiscal Year 2021 Supplemental Budget Request** in the total amount of \$42,000, to be appropriated as follows:

Org	Object	Account Description	Amount
01111001	51101	CCN SAL COUNCIL	\$42,000.00

Councillor Charles F. Tontar

Councillor Afroz Khan

CITY OF NEWBURYPORT



IN CITY COUNCIL


ORDERED:

October 13, 2020

THAT, The CITY COUNCIL of the City of Newburyport accepts with gratitude the following grant:

Donor: Center for Tech and Civic Life
Amount: \$7,002.50
Purpose: Planning and operationalizing safe and secure election administration in the City of Newburyport in 2020

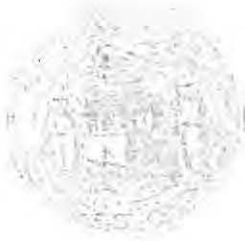
This grant was offered through the Commonwealth of Massachusetts Elections Division and is accepted in accordance with M.G.L. Chapter 44, Section 53A.



Councillor Charles F. Tontar

Committee Items- Planning & Development October 26, 2020

- APPT187_08_31_2020 Robert Armstrong 35 Louise Ave. Bldg Commissioner
1/1/2023
- ORDR211_09_29_2020 Preservation Restriction 272 High Street (Kemble Widmer II
Trust)
- ORDR215_10_13_2020 57 Pres Restriction Central Cong Church



CITY OF NEWBURYPORT
OFFICE OF THE MAYOR
DONNA D. HOLADAY, MAYOR

RECEIVED
CITY CLERK'S OFFICE
NEWBURYPORT, MA

60 PLEASANT STREET - P.O. BOX 550
NEWBURYPORT, MA 01950
978-465-4413 PHONE
978-465-4402 FAX

2020 AUG 25 PM 3:39

To: President and Members of the City Council
From: Donna D. Holaday, Mayor
Date: August 25, 2020
Subject: Appointment

Handwritten initials

I hereby appoint, subject to your approval, the following named individual as Building Commissioner. This term will expire on January 1, 2023.

Robert Armstrong
25 Louise Avenue
Methuen, MA 01844

Robert Armstrong

35 Louise Avenue
Methuen, MA 01844
978-208-0771 Home
781-858-3599 Mobile
bob.armstrong@comcast.net

Education & Skills

- ◆ Medford Vocational High School, Diploma 1989. Architectural & Mechanical Drafting
- ◆ Builders Association of Greater Boston Supervisor License Course- Certificate
- ◆ IEE Lead Safe Renovator Training
- ◆ IEE Moderate to Low Risk Deleading Training
- ◆ Building Inspector Continuing Education- 2 hours or more monthly
- ◆ Email, Internet, Excel, Word, Typing, Read construction documents
- ◆ Online permitting and training

Licenses & Certifications:

- ◆ Massachusetts Certified Local Inspector #: BO 1904 Acquired 2014
- ◆ Massachusetts Construction Supervisor License- CS 075608 Acquired 1999 – Unrestricted
- ◆ ICC Certified: Residential Building Inspector BI, Commercial B2 Inspector, F3 Fire Plans Examiner
- ◆ Massachusetts Home Improvement Contractor- License # 146855
- ◆ Massachusetts Lead Safe Renovator Supervisor
- ◆ Massachusetts moderate risk de-leading / owner agent
- ◆ Massachusetts Class D driver license

Memberships:

- ◆ ICC- International Code Council
- ◆ ASHI- American Society of Home Inspectors
- ◆ MBCIA- Massachusetts Building Commissioners & Inspectors Association
- ◆ Metro West Building Officials

Professional Experience:

March 16th, 2020 – Present

Interim Building Commissioner/ Department Head / ADA Coordinator- Full Time and on call, as needed.

City of Newburyport, MA – Supervisor: Mayor Donna Holaday

- ◆ During Covid-19 situation created policy and procedures for receiving applications and issuing permits that is safe for applicants and employees. Managed Inspectors and inspections to be done in a safe manner for construction to continue as per Governor Baker guidelines. Construction, inspections and applications did not shut down and building permits increased compared to same time in 2019.
- ◆ Employee scheduling and management
- ◆ Budgeting and expense payments
- ◆ Payroll
- ◆ Assisted with the selection of the online permit system. Anticipate in helping with the setup and implementation.

- ◆ Review permit applications, plot plans, variance approvals, construction plans.
- ◆ Approve or deny permit applications based upon submitted materials.
- ◆ Consult with applicants, residents, and contractors regarding building projects, violations and building code questions.
- ◆ Daily field inspections for construction projects, report daily log with findings.
- ◆ Consult with field supervisors with remedies to building code errors at projects.
- ◆ Issue stop work orders for unpermitted work.
- ◆ Business inspections for Certificates of Inspections per 780 CMR section 110.
- ◆ On call nights and weekends as needed for damaged structures.
- ◆ Review permit applications with other departments for compliance to issue permits.

January 2019 – March 2020

Local Inspector/ ADA Coordinator- Full Time and on call, as needed.

City of Newburyport, MA – Supervisor Peter Binette, Building Commissioner

- ◆ Review permit applications, plot plans, variance approvals, construction plans.
- ◆ Approve or deny permit applications based upon submitted materials.
- ◆ Consult with applicants, residents, and contractors regarding building projects, violations and building code questions.
- ◆ Daily field inspections for construction projects, report daily log with findings.
- ◆ Consult with field supervisors with remedies to building code errors at projects.
- ◆ Issue stop work orders for unpermitted work.
- ◆ Business inspections for Certificates of Inspections per 780 CMR section 110.
- ◆ On call nights and weekends as needed for damaged structures.
- ◆ Review permit applications with other departments for compliance to issue permits.

July 2015 - December 2018

Local Inspector – Full Time and on call, as needed.

Town of Dracut, MA- Supervisor Dan McLaughlin, Building Commissioner

- ◆ Review permit applications, plot plans, variance approvals, construction plans
- ◆ Approve or deny permit applications based upon submitted materials
- ◆ Consult with applicants, residents, and contractors regarding building projects, zoning requirements, violations and building code questions.
- ◆ Daily field inspections for construction projects, report daily log with findings.
- ◆ Consult with field supervisors with remedies to building code errors at projects.
- ◆ Code enforcement as daily routine. Issue stop work orders for unpermitted work.
- ◆ Detect zoning violations, log a report of violations with pictures, discuss & issue letters to residents or businesses with violations. Discuss violations with Building Commissioner / Zoning Officer
- ◆ Business inspections for Certificates of Inspections per 780 CMR section 110.
- ◆ On call nights and weekends as needed for damaged structures

2014- 2018

Town of Stoneham, MA – Cheryl Noble, CBO

Building Inspector as needed when the Commissioner is sick or on vacation.

August 2014 – July 2015

Code Enforcement Inspector – Permanent part-time 8 hours per week

Town of Reading, MA – Supervisor Ms. Jean Delios

Inspect for compliance of local Town zoning and bylaws.

Inspect for compliance of local, state and International building codes.

Building Inspector when the Commissioner was on vacation.

November 2012- July 2015

Local Building Inspector – Permanent part-time 15 hours per week.

Town of Tewksbury, MA – Supervisor: Edward Johnson, CBO (978) 640-4435

- ♦ Review permit applications, plot plans, variance approvals, construction plans
- ♦ Approve or deny permit applications based upon submitted materials
- ♦ Consult with applicants, residents, and contractors regarding building projects, zoning requirements, violations and building code questions.
- ♦ Daily field inspections for construction projects, report daily log with findings.
- ♦ Consult with field supervisors with remedies to building code errors at projects.
- ♦ Code enforcement as daily routine. Issue stop work orders for unpermitted work.
- ♦ Detect zoning violations, log a report of violations with pictures, discuss & issue letters to residents or businesses with violations. Discuss violations with Building Commissioner / Zoning Officer
- ♦ Business inspections for Certificates of Inspections per 780 CMR section 110.
- ♦ On call nights and weekends as needed for damaged structures

1998- 2017

President/ Owner- Self Employed (Business is closed)

MCD Inc.

General Contracting & Remodeling Company

Methuen, MA

- ♦ New construction & remodeling projects- Residential & Commercial
- ♦ Architectural & Structural plan review
- ♦ Permitting / Zoning review / Variance applications and approvals
- ♦ Design & draft construction documents for customers projects
- ♦ Work with structural engineers for customer plans to meet or exceed building code
- ♦ Project management
- ♦ Contractor hiring and scheduling
- ♦ Control of day to day operations
- ♦ Estimating & Job takeoffs
- ♦ Employee hiring & training ,Record keeping/ payroll, budgeting
- ♦ Acquiring and purchasing necessary insurance policies. Updating policies annually.
- ♦ Obtaining sub-contractor insurances, verifying insurances
- ♦ Numerous residential customers
- ♦ Commercial customers including: Macys, H&R Block, Filenes, Belk

P+D

ORDR211_09_29_2020

CITY OF NEWBURYPORT



IN CITY COUNCIL

ORDERED:

THAT the City Council of the City of Newburyport approve the attached Preservation Restriction Agreement by and between the Society for the Preservation of New England Antiquities, D.B.A. Historic New England and Kemble Widmer, II Trustee of The Kemble Widmer II Revocable Trust.

Councillor Jared J. Eigerman

PRESERVATION RESTRICTION AGREEMENT

**SOCIETY FOR
THE PRESERVATION OF NEW ENGLAND ANTIQUITIES**

The Parties to this Preservation Restriction Agreement (this "Agreement") is made as of the ____ day of _____, 2020 by and between the **SOCIETY FOR THE PRESERVATION OF NEW ENGLAND ANTIQUITIES, D.B.A. HISTORIC NEW ENGLAND**, a Massachusetts charitable corporation having an address at Harrison Gray Otis House, 141 Cambridge Street, Boston, Massachusetts 02114-2702, (hereafter "Grantee") and Kemble Widmer, II, Trustee of **THE KEMBLE WIDMER II REVOCABLE TRUST**, a New Hampshire revocable trust established pursuant to a revocable trust agreement dated September 15, 2005, by and between Kemble Widmer II as Grantor and as Trustee and having an address at P.O. Box 308, Cornish Flat, New Hampshire, 03746-0308 (herein together with his heirs, successors, administrators and assigns called "Grantor").

RECITALS

WHEREAS, Grantor is the owner in fee simple of certain property located at 272 High Street, Newburyport, Massachusetts, which includes certain premises consisting of approximately 11,843 square feet of land, more particularly described in that certain Warranty Deed (the "Deed"), recorded with the Essex South Registry of Deeds (the "Registry") in Book 24960, Page 588, and in Exhibit A attached hereto, and shown as Lot 1 on a plan entitled "272 High Street Subdivision" dated November 17, 1999, and prepared by Riverside Engineering Services, said plan being duly recorded with the Registry in Plan Book 339, Plan 74, a copy of which is attached hereto and incorporated herein as Exhibit A-1, together with all improvements thereon (the "Premises"), being subject to and having the benefit of any and all easements of record. The Premises are also shown in the photographs and diagrams attached as Exhibits B, C, and D hereto. The buildings protected by this Agreement consist of the Thomas Emery House (the "Emery House") and the Carriage Barn (the "Carriage Barn") as labeled and more particularly shown in Exhibits B, C, and D and the "Protected Features" defined below in Section 1.3.4.

WHEREAS, Grantee is a Massachusetts, non-profit charitable corporation created in 1910 and exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code. By its Articles of Organization and By-Laws, and in accordance with the applicable provisions of M.G.L. c. 184, §§ 31-33 as may be amended, replaced and/or restated (the "Act"), Grantee is authorized to create, impose, accept and enforce preservation restrictions to protect sites and structures historically significant for their architecture, archaeology or other associations.

WHEREAS, the Emery House is historically significant and worthy of preservation. The house is an important example of Federal Period architecture and building practice in Massachusetts. As a carpenter and house wright, Thomas Emery built the house to serve both as his home and his calling card. With a prime location on High Street, Newburyport's main thoroughfare, Emery's structure demonstrated to all passersby his skills as a craftsman. His workshop was located on the north side of the central staircase, where, in other circumstances he might have put another parlor. The north half of the house remained unfinished, even lacking a chimney, until after Thomas Emery's death in 1860. In 1886, the house was purchased from his descendant Rufus Emery by James Parton, who was dubbed "the father of modern biography" by historian Milton Embick Flower. He lived there until his death in 1891, at which point the house underwent some modernization when his widow Ellen Parton leased the property for five years to the Houston Cure Institute, a sanitarium for the treatment of narcotics addictions. The property was then returned to residential use and owned for several decades by former Newburyport mayor, Orrin Gurney, who was mayor for four consecutive one year terms from 1892 to 1895. Under the current owner, Grantor, the house has been restored to a more Federal appearance overall, with the removal of Victorian embellishments and the preservation of earlier details, including swipes of red and green paint on a plank wall in what was Emery's workshop.

WHEREAS, in recognition of these qualities, and because of its architectural and historical significance, the Thomas Emery House is a contributing property to the Newburyport Historic District listed in the National Register of Historic Places on August 2, 1984, and is listed in the State Register of Historic Places.

WHEREAS, the Emery House is comprised of a three story, five-bay, west-facing main block (the "Main Block"), a one-story Greek Revival portico (the "Portico") attached to the west façade of the Main Block, a one-story entry porch (the "Entry Porch") attached to the south elevation of the Main Block, a two-story rear ell (the "Rear Ell") attached to the east elevation of the Main Block, and a c. 1980, one-story enclosed sun porch (the "Sun Porch") attached to the east elevation of the Main Block and the north elevation of the Rear Ell. An 1820s Carriage Barn (the "Carriage Barn") is located several yards east of Emery House. The open space of the Premises consists primarily of lawn and gardens enclosed on the south and west side by a painted wood fence, providing a setting that complements the historic structures on the Premises, thereby endowing the Thomas Emery House and Carriage Barn with scenic, natural and aesthetic value and significance.

WHEREAS, the Act authorizes the creation and enforcement of preservation restrictions appropriate to the preservation of a site or structure for its historical significance and for its natural, scenic and open condition.

WHEREAS, Grantor and Grantee, each, recognize the historic, architectural, cultural, scenic and aesthetic value and significance of the Premises, and have the common purpose of conserving and preserving the aforesaid value and significance of the Premises, the Emery House, and the Carriage Barn.

WHEREAS, to that end, Grantor desires to grant to Grantee, and Grantee desires to accept, the Preservation Restrictions set forth in this Agreement, pursuant to the Act.

NOW, THEREFORE, in consideration of One Dollar (\$1.00), the mutual promises, covenants and agreements contained herein this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby irrevocably grant, release and convey unto Grantee, its successors and assigns a Preservation Restriction Agreement in gross and in perpetuity, in and to the Premises, all as more fully set forth herein this Agreement as follows:

1. RECITALS, DEFINITIONS AND EXHIBITS.

1.1 Purpose. It is the purpose of this Agreement to assure that the features and characteristics that embody the architectural, historic and cultural significance of the Premises will be retained and maintained substantially in their current condition and to prevent any use or change in the Premises that will significantly impair or interfere with the preservation values of the Premises during the term of this Agreement.

1.2 Recitals. The parties acknowledge that the recitals set forth above are true and correct and are hereby made a part of this Agreement.

1.3 Definitions.

1.3.1 "Addition." "Addition" shall mean and include all construction attached to the Thomas Emery House or Carriage Barn in any way, and any subsequent construction that attaches to any such addition, including, without limitation, a deck, porch, ramp, stair or landing and/or any building appurtenances.

1.3.2 "Structure." "Structure" shall mean any combination of materials assembled at a fixed location to give support or shelter, including, without limitation, a building, deck, ramp, arbor, trellis, sign, paving, fencing, walls, game courts, swimming pools and poles (utility and otherwise).

1.3.3 "Facade(s) and Elevation(s)." "Facade(s) and elevation(s)" shall include, without limitation, all exterior doors, door frames, windows, window sash, window frames, transoms, sidelights, shutters, hardware, wall sheathing, clapboards, siding boards, porches, porticos, panels, cornices, balustrades, moldings and other decorative elements and all other elements, whether decorative or structural, which support any of the foregoing. For convenience of reference, the front elevation of the Thomas Emery House facing High Street shall be called the West facade, the rear elevations of the Thomas Emery House shall be called the East elevation, and the other elevations of the Thomas Emery House shall be

called the North and South elevations, based upon such elevation's orientation relative to the West facade.

- 1.3.4 "Protected Features."** "Protected Features" shall mean those historical, architectural and landscape features protected pursuant to Sections 2 and 3 4 of this Agreement.

1.4 Exhibits.

- 1.4.1 Plans.** Plans entitled "Floor Plan" and "Site Plan" are attached as Exhibit C and D respectively and incorporated herein by this reference.

- 1.4.2 Documentary Photographs.** In order to establish with more certainty the condition of the building and the character of the Protected Features as of the date hereof, attached hereto as Exhibit B and incorporated herein by this reference are copies of 10 exterior photographs taken by Andrew Barr on October 14 through October 16, 2019, and 54 interior photographs taken by Andrew Barr on October 14 through October 16, 2019, together with an affidavit specifying certain technical and locational information with respect to such photographs. It is stipulated between Grantor and Grantee that such copies accurately represent the external and internal condition of the Thomas Emery House, Carriage Barn, and the Premises and the character of the Protected Features on the date hereof and as of the date this Agreement is first recorded with the Registry.

- 2. LAND RESTRICTIONS.** Grantor covenants and agrees to maintain the Premises in accordance with the following restrictions in order to ensure that the designed landscape features of the Premises existing as of the date of this Agreement are preserved as documented in the photographs attached hereto as part of Exhibit B:

- 2.1** the wood fence that extends along the property boundary at High Street and Oakland Street (Exhibit B negatives 56687-A through 56691-A).

- 3. EXTERIOR RESTRICTIONS.** Grantor covenants and agrees that, without the prior written approval of Grantee, no activity shall be undertaken which Grantee determines will alter or adversely affect the appearance, materials, workmanship or structural stability of the following exterior portions of the Thomas Emery House and Carriage Barn or following site features as they exist as of the date of this Agreement, documented in the photographs attached hereto as part of Exhibit B:

- 3.1** all facades and elevations (Exhibit B negatives 56687-A through 56696-A);

- 3.2** the massing, profile and materials of the roofs; skylights, dormers or other roof additions being expressly forbidden (Exhibit B negatives 56687-A through 56696-A);

- 3.3 the chimneys at the Main Block in their entirety (Exhibit B negatives 56688-A through 56694-A);
- 3.4 all foundations (Exhibit B negatives 56687-A through 56696-A);
- 3.5 the granite steps located at the portico on the West facade and South elevation entry of the Premises (Exhibit B negatives 56687-A through 56690-A).

4. **INTERIOR RESTRICTIONS.** Grantor covenants and agrees that, without the prior written approval of Grantee, no activity shall be undertaken which Grantee determines will alter or adversely affect the appearance, materials, workmanship or structural stability of the following interior portions of the Thomas Emery House and Carriage Barn as they exist as of the date of this Agreement, documented in the photographs attached hereto as part of Exhibit B, including, without limitation, as follows:

Thomas Emery House and Carriage Barn:

- 4.1 all structural members and framing, including but not limited to, interior beams, posts, girts, plates, studs, sheathing boards, rafters, purlins, masonry walls and masonry piers (Exhibit B negatives 56701-A, 56702-A, 56707-A, 56710-A, 56712-A, 56718-A, 56719-A, 56723-A, 56728-A, 56730-A, 56732-A through 56750-A);

Main Block and Rear Ell:

- 4.2 at the Main Block and Rear Ell, the space configuration and door locations of all rooms, closets, halls and stairhalls at all stories, excepting the cellar, and at the Main Block, all baths, north chamber, and third story northeast and northwest rooms, and at the Rear Ell, the east kitchen, the north entry mudroom, and the second story east chamber, closet, and bath, and at the Sun Porch (Exhibit B negatives 56697-A through negatives 56707-A, 56711-A through 56731-A);
- 4.3 all fireplaces and hearths in their entirety, including any attached iron or brass hardware, whether decorative or functional (Exhibit B negatives 56700-A, 56704-A, 56707-A, 56717-A, 56721-A, and 56727-A);

Main Block:

- 4.4 at the Main Block, all softwood floors of the south parlor, south chamber, and third story south room, and all closets, halls and stairhalls at all stories, including the attic, excepting the cellar, north parlor, all baths, north chamber, and third story northeast and northwest rooms (Exhibit B negatives 56697-A through 56703-A, 56711-A through 56720-A, 56722-A through 56731-A, 56739-A through 56741-A);

- 4.5 at the Main Block, all plaster walls of all rooms, closets, halls and stairhalls at all stories, excepting the cellar, north parlor, all baths, north chamber, and third story northeast and northwest rooms (Exhibit B negatives 56697-A through 56703-A, 56711-A through 56720-A, 56722-A through 56731-A);
- 4.6 all woodwork of all rooms, closets, halls and stairhalls at all stories, including the attic, including but not limited to cornices, mantelpieces, paneling, wainscoting, baseboards, door stops, stairs, railings, balusters, newels, doors, door casings, windows, window sash, window casing, pocket shutters and other decorative elements and any paint thereon, excepting the cellar, all baths, north chamber, third story northeast and northwest rooms, and the Sun Porch's west doors (Exhibit B negatives 56697-A through 56706-A, 56711-A through 56720-A, 56722-A through 56731-A);
- 4.7 all door hardware at all rooms, closets, halls and stairhalls at all stories, including the attic, excepting the cellar, first story hall bath, second story north bath, and the Sun Porch's west doors (Exhibit B negatives 56697-A, 56699-A through 56701-A, 56703-A through 56707-A, 56711-A through 56714-A, 56717-A through 56719-A, 56721-A, 56725-A through 56727-A, 56729-A through 56731-A);
- 4.8 the built-in shelving at the northeast closet of the south parlor and the northeast closet of the south chamber (Exhibit B negatives 56703-A and 56720-A);
- 4.9 the plank wall and the red and green paint thereon at the southwest corner of the north parlor (Exhibit B negatives 56705-A and 56706-A);
- 4.10 the original exterior shingles visible at the top of the Main Block attic stair (Exhibit B negative 56738-A);

Rear Ell:

- 4.11 at the Rear Ell, the original sliding shutter located at the interior of the first story east window (Exhibit B negative 56709-A);
- 4.12 the fireplace surround and adjacent cupboard at the west wall of the east chamber (Exhibit B negative 56721-A);
- 4.13 the fireplace surround, wainscoting, door and window surrounds, and plaster walls, at the west and south walls of the first story east kitchen (Exhibit B negatives 56707-A and 56710-A);

Carriage Barn:

4.14 at the Carriage Barn, the hay feed shoot at the north wall (Exhibit B negative 56746-A); and

4.13 the stair between the first and second stories at the west wall and its vertical board wall and railing (Exhibit B negatives 56744-A, 56748-A, 56749-A).

5. **REVERSIBLE ALTERATIONS.** Grantee shall approve the activities identified below, except as noted below, provided that Grantee first determines that the proposed activity will not alter or adversely affect any Protected Features:

5.1 installation of three-tab black or charcoal asphalt shingle or wood shingle roof coverings on the roofs of the Thomas Emery House and Carriage Barn;

5.2 installation of screens, storm windows, and storm doors;

5.3 installation of insulation at the attic floor or in the cellar of the Thomas Emery House and Carriage Barn, provided that no insulation shall be introduced in any way into any vertical wall cavities of the House;

5.4 electrical re-wiring, provided that no electrical fixtures are in any manner imbedded in or attached to protected woodwork and structural members and other framing are not cut or otherwise altered;

5.5 replacement of existing plumbing lines and plumbing fixtures;

5.6 interior and exterior painting or paint removal, provided that the material(s) and method(s) to be used to remove paint shall not damage the underlying substrate;

5.7 painting of, or paint removal from, softwood floors, provided that the material(s) and method(s) to be used shall allow hand-planed surfaces to remain visible and undamaged, and such that sanding, grit blasting or other abrasive methods shall not be used;

5.8 replacement of broken window glass;

5.9 interior wallpapering, provided such papering shall not dislodge, damage or destroy protected woodwork, paint, plaster, floor or hardware as identified in section 4 above; and

5.10 installation of a chair lift between the first and second stories, and between the second and third stories, at the main stair, subject to review of structural soundness and attachment methods.

6. **USE, MAINTENANCE AND OTHER ACTIVITIES.**

6.1 **Prohibitions and Covenants.** The following acts or uses are expressly forbidden on, over, or under the Property, except as otherwise conditioned in this paragraph:

6.1.1 **Additions.** No additions to the Thomas Emery House and Carriage Barn shall be erected hereafter without prior written approval of Grantee.

6.1.2 **Additional Structures.** No structure not on the Premises as of the date of this Agreement shall be erected or placed on the Premises hereafter without prior written approval of Grantee.

6.1.3 **Communication and Energy Source Structures.** Notwithstanding any provision in this Agreement to the contrary, freestanding or attached towers, exterior antennas, wind turbines, solar panels, or similar communications or energy-producing structures shall not be installed or affixed on the Premises without the prior written approval of Grantee; and installing or affixing towers and wind turbines on the Thomas Emery House or Carriage Barn is prohibited.

6.1.4 **Topographical Changes and Landscaping.** In order to protect the historic setting and Protected Features of the Emery House and Carriage Barn no alterations may be made to the topography of the Premises that either raise or lower grade levels by more than one (1) foot. No soil, loam, rock or mineral resource or natural deposit shall be excavated, dredged or removed from the Premises, no soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, waste or other substance or material whatsoever shall be placed, filled, stored or dumped thereon, provided that this Subsection shall not be deemed to prohibit improvements and activities approved under Subsection 6.1 or 6.2, if any, or permitted under Subsection 6.6. The provisions of this Subsection 6.4 shall not be deemed to restrict activities necessary and desirable (i) to preserve or protect the Premises, (ii) to maintain existing trees, lawn, garden or utilities associated with the Premises, (iii) for the planting of trees, shrubs, flowers, herbs or grasses or (iv) related to an approved Archaeology Plan or restoration after archeological activity as provided for in Subsection 6.11.

6.1.5 **Demolition.** Grantor shall not permit or allow to occur, either through positive action or neglect, demolition of the Emery House or Carriage Barn.

6.1.6 **Relocation.** No portion of the Emery House or Carriage Barn shall be moved from its present location unless such moving is required by a taking through eminent domain.

6.1.7 Signs. No signs, billboards or other advertising displays shall be placed on, painted onto or affixed to the Emery House or Carriage Barn or the Premises except that, subject to Grantee's prior written approval, Grantor may erect a sign or marker which is appropriate to identifying the historical significance and associations of the Premises. This paragraph shall not prevent Grantor from placing temporary, free-standing signs on the lawn provided such signs are in accordance with local law.

6.1.8 Use. Grantor shall not permit any use to be carried on, in or around the Premises that is unlawful, constitutes a nuisance, or which is determined by Grantee to be inconsistent with the intent of this Agreement or to adversely affect the historic significance of the Emery House or Carriage Barn and surrounding landscape. Without limiting the generality of the foregoing, the Premises may be used for a single-family residence, which may include a portion of the Premises for a home professional office for a member of the family in residence, and may also include a guest or rental residential unit at the Carriage Barn provided that such use is permitted by local zoning ordinances. With respect to matters not covered by this Agreement, Grantee shall have the right to operate and use the Premises in such manner as it determines, provided that such operation and use is not inconsistent with the intent of this Agreement.

6.2 Maintenance.

6.2.1 General. Grantor covenants at all times to maintain the Emery House or Carriage Barn and the Premises in good and sound state of repair in order to prevent the deterioration or destruction through alteration or neglect of Protected Features.

6.2.2 Cost of Maintenance. Grantor shall assume the total cost of continued maintenance, repairs and administration of the Premises in order to preserve the protected architectural and historic features, materials, appearance and workmanship of the Emery House or Carriage Barn. Grantor covenants that it shall indemnify and hold Grantee harmless from and against any such costs. The foregoing shall not prohibit the Grantor from seeking financial assistance for the foregoing purposes from any sources available to it.

6.3 Compliance with Law. Nothing contained herein shall be interpreted to authorize or permit the Grantor to violate any law, ordinance or regulation relating to building materials, construction methods or use. In the event of any conflict between any law, ordinance or regulation and the terms hereof, Grantor promptly shall notify Grantee in writing of such conflict and shall cooperate with Grantee and local authorities to accommodate the purposes of both this Agreement and such law, ordinance or regulation. No construction and no other

alteration or change of use or occupancy which would create such conflict, or cause such conflicting law, ordinance or regulation to be applicable to the Thomas Emery House or Carriage Barn or any protected element thereof, shall be undertaken without the prior written approval of Grantee.

- 6.4 **ARCHAEOLOGY.** The conduct of archaeological activities, including without limitation archaeological surveys, excavation for the purpose of archaeology and artifact retrieval may occur only in accordance with an archaeological field investigation plan (the "Archaeology Plan") prepared by or on behalf of the Grantor and approved in advance of such activity in writing by the State Archaeologist of the Massachusetts Historical Commission (or, if Massachusetts General Laws ceases to require approval by the Massachusetts Historical Commission for the perpetual enforceability of historic preservation restrictions, then by the official recognized by Grantee from time to time as having responsibilities for preservation of archaeological resources in the Commonwealth of Massachusetts). Plans for restoration of the site of archaeological activity shall be submitted to Grantee in advance of restoration, and such restoration shall be conducted only in accordance with a plan approved by Grantee.

7. **INSURANCE.**

- 7.1 **Property.** Grantor, at its sole cost and expense, shall keep the Emery House and Carriage Barn insured for the full replacement value against loss from perils commonly insured under the broadest standard home insurance policy form in use from time to time, including without limitation fire, lightning, wind storm, hail, explosion, damage by vehicles, smoke, vandalism, malicious mischief, weight of ice, snow, or sleet, freezing of plumbing, HVAC or sprinkler systems, and sudden and accidental damage from artificial electrical current explosion, 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 Emery House and Carriage Barn without cost or expense to Grantor or contribution or coinsurance from Grantor. Grantor shall deliver to Grantee, within ten (10) business days of Grantee's written request thereof, certificates of such insurance coverage. Provided, however, that whenever the Premises 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.
- 7.2 **Liability.** Grantor, at its expense, shall carry and maintain at all times general liability insurance with coverage against claims for personal injury, death, and property damage, identifying the Thomas Emery House and Carriage Barn as covered premises, and for not less than one million dollars (\$1,000,000) per person per occurrence, such sum to be increased from time to time to reflect increases in the cost of living from the date of this Agreement. Every policy

required pursuant to this Subsection 7.2 shall name Grantee as an additional insured.

[Notwithstanding anything in this Agreement to the contrary, in the event members of the public, as distinct from specific invitees, are allowed access to the Premises, the following provisions shall apply in lieu of the foregoing provision of this section 7.2:

***Liability.** Grantor, at its expense, shall carry and maintain at all times commercial general liability coverage identifying the Thomas Emery House and Carriage Barn as covered premises, and with a general aggregate limit of not less than one million dollars (\$1,000,000) per person per year, such sum to be increased from time to time to reflect increases in the cost of living from the date of this Agreement. In the event that the use of the Thomas Emery House and Carriage Barn changes such that it is no longer open to the public, Grantor, at its expense, shall subsequently carry and maintain at all times general liability insurance, with coverage against claims for personal injury, death, and property damage, identifying the Thomas Emery House and Carriage Barn as covered premises, and for not less than one million dollars (\$1,000,000) per person per occurrence, such sum to be increased from time to time to reflect increases in the cost of living from the date of this Agreement. Every policy required pursuant to this Subsection 7.2 shall name Grantee as an additional insured.]*

7.3 Other Requirements. Every policy required pursuant to this Section 7 shall be issued by an insurance company rated "A" or better by A.M. Best Company or equivalent rating by a comparable rating service, and shall provide for the sending of any and all notices of cancellation by the insurer to Grantee at least twenty (20) days prior to any cancellation taking effect. Grantor shall promptly provide copies of all insurance policies required by this Section and all supplements or endorsements thereto to Grantee.

7.4 Changes in Practice. Grantee reserves the right to change the coverage requirements provided under this Section 7 from time to time to reflect changes in the best practices for property and liability coverages for historic houses in New England provided Grantee first gives Grantor thirty (30) days advance notice of any such change.

8. CASUALTY DAMAGE.

8.1 Notice. In the event that the Thomas Emery House or Carriage Barn or any portion thereof is damaged or destroyed, Grantor shall notify Grantee in writing within seven (7) days of the damage or destruction, and such notification shall identify what, if any, emergency protective work has already been completed.

8.2 Restoration. No repairs or reconstruction of any type other than temporary emergency work to prevent further damage to the Emery House, Carriage Barn,

and the Protected Features and that necessary to protect public safety shall be undertaken by Grantor without Grantee's prior written approval of the restorative work. Except as set forth in this Section, in the event of any casualty damage (as hereinafter defined), (a) Grantor shall submit to Grantee a proposal in accordance with Section 14 of this Agreement for Grantee's approval to restore the Emery House or Carriage Barn using similar materials, workmanship and design and in a manner which shall protect those Protected Features which have not been totally destroyed, and (b) Grantor shall then restore the Emery House or Carriage Barn in accordance with such proposal as Grantee has approved.

8.3 Substantial Casualty. Notwithstanding any other provision of this Agreement to the contrary, in the event of substantial casualty damage to the Emery House or Carriage Barn, Grantor may request the approval of Grantee not to restore the Thomas Emery House or Carriage Barn pursuant to this Agreement. If Grantee determines that the extent or nature of such casualty damage would prevent restoration in a manner which would protect the remaining Protected Features, then Grantee may grant such approval and Grantor may elect not to restore the Emery House or Carriage Barn pursuant to this Agreement. In the event of such approval not to restore, before any remaining portion of the Emery House or Carriage Barn is relocated or otherwise altered, Grantor shall allow Grantee to enter onto and into the Premises for the purpose of choosing and removing for posterity any such Protected Features, or portions thereof, together with the materials in which such features are set, that Grantee desires to salvage.

8.4 Damage Defined. For the purposes of this Agreement casualty damage shall be defined as such sudden damage or loss which would qualify for a loss deduction pursuant to Section 165(c)(3) of the Internal Revenue Code (construed without regard to the legal status, trade, or business of the Grantor or any applicable dollar limitations).

9. CONDEMNATION. If the Premises, or any substantial portion thereof, shall be made the subject of a procedure threatening a taking through eminent domain, or if Grantor shall receive notice from a governmental authority of the intent to institute such proceeding, Grantee shall immediately be given notice thereof by Grantor. Grantee shall have the right to enter its name as an additional party in eminent domain proceedings, pursuant to Massachusetts General Laws, Chapter 79, Section 5A, but shall not have the right to any monetary award which would diminish the award to be made to Grantor resulting from such taking. In the event of such taking, Grantee shall have the right to enter onto and into the Premises (or portion thereof subject to such taking) for the purpose of choosing and removing for posterity any Protected Features, or portions thereof, together with the materials in which such features are set, that Grantee desires to salvage, prior to the effective date of such taking.

10. **TAXES.** Grantor shall pay on or before the due date all general taxes, special taxes, special assessments, water charges, sewer service charges and other charges which may become a lien on the Premises.
11. **INDEMNIFICATION.** Grantor shall indemnify, defend with counsel acceptable to Grantee, and hold Grantee and/or its agents, contractors, officers, employees, boards and others acting by and through Grantee harmless from and against any claims, liability, costs, damages, losses, expenditures, attorneys' fees, judgments or expenses to Grantee its agents, contractors, officers, employees, boards and others acting by and through Grantee arising out of or in connection with, not in limitation: injury to or death of any person on or about the Premises; arising out of or in connection with this Agreement; physical damage to the Premises; the presence or release in, on, or about the Premises, at any time, of any hazardous, toxic, polluting or contaminating material or substance; or other injury or damage occurring on or about the Premises. If Grantor is required to indemnify Grantee pursuant to the terms of this paragraph, the amount of such indemnity until discharged shall constitute a lien on the Premises with the same effect and priority as a mechanic's lien, provided, however, that nothing contained herein shall jeopardize the priority of any recorded first priority mortgage given in connection with a promissory note secured by the Premises.
12. **INSPECTION.** Grantee may inspect the Premises at least annually to ensure that the Grantor is in compliance with the preservation restrictions hereby imposed. In addition, Grantee may inspect the Premises more frequently during periods of repair, renovation or reconstruction as Grantee deems appropriate for the nature of the work being conducted. Grantor agrees to grant Grantee free access to all areas of the Premises. Such inspections shall be made at reasonable hours and only after prior notice to the Grantor. This right of inspection shall be assignable by Grantee to any governmental body or qualified non-profit entity whose purposes include preservation of structures or sites of historic or aesthetic significance. The failure of Grantee to exercise this right of inspection for any period of time, however, shall under no circumstances be construed as a waiver of such right.
13. **WRITTEN APPROVAL.**
 - 13.1 **Approval.** Whenever Grantor desires to undertake any activity which, by the terms of this Agreement, is not to be undertaken without Grantee's approval, Grantor shall first deliver to Grantee a written request for approval, describing the specific activity proposed (including, but not limited to, the nature, scope, schedule, budget and, if applicable, materials, design and location thereof, and by whom the activity will be performed) in sufficient detail as determined by Grantee to enable it to evaluate the proposed activity and the potential effect thereof upon the features and interests protected by this Agreement (a "Request for Approval"). Grantor shall supplement the written Request for Approval with any and all supplementary documentation, including, but not limited to, architectural drawings, site plans, photos or digital images, as Grantee determines are

necessary to fully describe the proposed activity for the purposes of this Section 13. In exercising its discretion, Grantee shall apply standards that it establishes from time to time of general applicability to similar historic properties on which it holds preservation restrictions. Approval by Grantee for any such activity shall be in recordable form, executed and acknowledged by any one or more of the President, Treasurer, Director or such officer or officers who may succeed to their responsibilities under other titles.

13.2 Waiver; Other Approval. Grantee may, in its sole discretion, waive the submittal of a Request for Approval or the issuance of a recordable approval, or both, for any activity described in Section 5. Notwithstanding any other provision of this Agreement to the contrary, Grantee may, in its sole discretion, grant written approval for any other activity by Grantor which is restricted by any provision of this Agreement in addition to those activities which are not to be undertaken without approval by Grantee, but only in accordance with the procedures set forth in Subsection 13.1.

13.3 Timing. Grantee shall grant or deny its approval for such proposed activity not later than sixty (60) days after the later of the date (i) Grantee has received a Request for Approval or (ii) Grantee either inspects the Premises, as mutually and reasonably agreed upon by Grantee and Grantor, for the purpose of evaluating such proposal or delivers to a Grantor a written waiver of such inspection. If Grantee does not give the Grantor a written request for such inspection within sixty (60) days after Grantee has received a Request for Approval, Grantee shall be deemed to have waived such inspection for such proposal. The provisions of this Subsection 13.3 shall not apply to any proposed activity that is prohibited by the terms of this Agreement.

13.4 Conditions. Grantee may approve or deny all or any portion of the activity set forth in a Request for Approval, or grant its approval subject to conditions, or any combination thereof. Such conditions may include the expiration of such approval to activity conducted within a certain period of time or prior to conveyance of the Premises. If an activity is conditionally approved, such activity shall not be undertaken except in compliance with such condition(s) and the failure to conform to such condition(s) shall be a breach of this Agreement. Approval as to any activity shall under no circumstances be construed to waive the requirement for approval for any other activity or for a duplication of the same activity at a later time or affecting any other portion of the Premises.

14. DISPUTE RESOLUTION.

14.1 Submittal. Grantor agrees that if any dispute shall arise between it and Grantee concerning the terms or conditions of this Agreement or their application in any instance, Grantor and Grantee shall, submit such dispute for resolution by arbitration in Boston, Massachusetts, by the American Arbitration Association, its

successor, or other arbitral forum as mutually agreed by Grantor and Grantee (the "Arbitration Association"), and such arbitration shall be submitted, commenced, held and determined in accordance with the Commercial rules and regulations of the Arbitration Association, as hereby modified. The provisions of this Section 14 shall not, however, limit the provisions of Section 15, and if Grantor shall submit any such dispute to arbitration as aforesaid and Grantee shall elect to seek injunctive relief or otherwise litigate the subject matter of such dispute, Grantee shall give notice of such election to the Arbitration Association. In such circumstances, the arbitration shall be recessed or adjourned if the outcome of the action brought by Grantee may render the arbitration moot. Once arbitrated, the decision of arbitration shall be binding and enforceable in any court of competent jurisdiction, subject to Subsection 15.2 hereof.

14.2 Appointment and Procedure. In the arbitration of any dispute involving Sections 2, 3, 4, 5, 7, 8, 9 or 17.1 hereof, all arbiters shall have a bachelor's or graduate degree in architecture, art history or historic preservation and at least ten (10) years' experience in the field of preservation of historically significant structures or artifacts. Each party shall nominate a qualified arbiter by notice to the Arbitration Association and the other party within thirty (30) days of the initial demand for arbitration, describing such qualifications. All challenges to a proposed arbiter's qualifications shall be submitted to the Arbitration Association within ten (10) days thereafter and all such challenges shall be decided by the Arbitration Association. The two (2) arbiters appointed by the parties shall name a third neutral arbiter within ten (10) days after such challenge period expires. Within thirty (30) days of the appointment of the third arbiter, the panel of arbiters shall take evidence and argument and close the hearing, and they shall decide the matter and issue their decision within thirty (30) days after close of the hearing. Without limiting the generality of this Section, the fees and expenses of arbitration charged by the Arbitration Association shall be borne equally between Grantee and Grantor unless the arbiters determine that some other division shall under the circumstances be more equitable and such determination of the arbiters shall be conclusive and binding upon the parties. Notwithstanding anything to the contrary in this Subsection 14.2, if Grantor shall fail to name a qualified arbiter in the time allotted, there will be only one arbiter, appointed by Grantee.

14.3 Communications. The provisions of this Subsection 14.3 shall not limit the generality of any other provision of this Agreement. If Grantee elects to give Grantor written notice that Grantor has failed to perform or observe any restriction, agreement or condition in this Agreement contained on its part to be performed or observed (a "Violation Letter"), Grantor may respond in writing within thirty (30) days of the giving of such notice, disputing the existence of such failure and demanding arbitration thereof (an "Objection Letter"). Grantee may record notice of such Violation Letter with the Registry. Notwithstanding the provisions of Subsection 14.1, Grantor may not thereafter demand arbitration of the subject matter of the Violation Letter unless Grantor's Objection Letter

includes such demand for arbitration. If Grantor does not timely deliver an Objection Letter to Grantee, Grantor shall conclusively be deemed to agree with the contents of the Violation Letter and to waive all right thereafter to dispute the existence of such failure. If an arbitration finds that the failure that is the subject of a Violation Letter does not exist, the arbitrators may require Grantee to record with the Registry a rescission or extinguishment of any notice of such Violation Letter recorded with the Registry. Whether or not Grantor delivers an Objection Letter to Grantee, if the activity that gave rise to the Violation Letter remains in progress, Grantor shall immediately cease such activity.

15. ENFORCEMENT.

15.1 General. If Grantor shall fail to perform or observe any restriction, agreement or condition in this Agreement contained on its part to be performed or observed, Grantor acknowledges that such a failure will cause Grantee irreparable harm, and Grantee shall have the right to enforce this Agreement by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, including, without limitation, relief requiring restoration of the Premises to its condition prior to the time of the injury complained of (Grantor agreeing that Grantee has no adequate remedy at law if Grantor shall fail to perform or observe any restriction, agreement or condition contained in this Agreement). The foregoing shall be in addition to, and not in limitation of, any other rights and remedies available to Grantee.

15.2 Venue and Jurisdiction. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. Grantor hereby irrevocably consents and agrees that any legal action, suit or proceeding arising out of or in any way in connection with this Agreement may be instituted or brought in a court of appropriate jurisdiction in the Commonwealth of Massachusetts, or in the courts of any other jurisdiction wherein Grantee's business office(s) may be located, as Grantee may elect. By execution and delivery of this Agreement, Grantor irrevocably accepts and submits to the non-exclusive jurisdiction of any such court and to service of any summons, complaint and/or legal process by registered or certified United States mail, postage prepaid, to Grantor at the Premises, such method of service to constitute, in every respect, sufficient and effective service of process in any legal action or proceeding. The parties shall not seek a trial by jury in any lawsuit, proceeding, counterclaim or any litigation procedure based upon or arising out of this Agreement or the dealings or the relationship between Grantee and Grantor, or any person claiming by, through or under Grantor.

15.3 Self Help. If Grantor shall fail to perform or observe any restriction, agreement or condition in this Agreement contained on its part to be performed or observed, other than an obligation to pay money, and shall not cure such default within seven (7) days after notice from Grantee specifying the failure, Grantee may, at its option, without waiving any other remedy or any claim for damages for breach of

this Agreement, at any time thereafter apply for and obtain in its own name or in Grantor's name such permits and approvals as may be necessary to cure such failure, enter upon the Premises, and cure such failure for the account of Grantor, and any amount paid or any contractual liability incurred by Grantee in so doing shall be deemed paid or incurred for the account of Grantor, Grantor agreeing to reimburse Grantee promptly therefor and save Grantee harmless therefrom. Grantee may cure any such failure as aforesaid prior to the expiration of said waiting period, but after notice to Grantor, if the curing of such failure prior to the expiration of said waiting period is reasonably necessary to protect the Premises or any Protected Features. Without limiting the generality of this Subsection 15.3, Grantor's obligation to reimburse Grantee as aforesaid shall be entitled to the status of a contract pursuant to Massachusetts General Laws, Chapter 254, as amended from time to time (sometimes known as the Mechanics' Lien Law) and in order to cause this Agreement to constitute a Notice of Contract or such other notice as is necessary to afford Grantee the right to file a claim pursuant thereto, notice is hereby given that by virtue of this Agreement between Grantor and Grantee, as contractor for the purposes of this Subsection 15.3, Grantee may furnish labor and material or rental equipment, appliances or tools for the erection, alteration, repair or removal of a building, structure, or other improvement on the Premises as set forth in this Section.

- 15.4 Costs and Expenses.** Grantor shall indemnify and hold harmless Grantee, and shall pay to Grantee on demand, all costs and expenses, including but without limitation attorneys' disbursements and fees, incurred by Grantee in connection with enforcement of this Agreement. If Grantor is required pursuant to this Agreement to pay a sum of money to Grantee, the obligation to pay such sum constitutes a lien upon the Premises for the amount of such sum until it is paid, and if Grantor shall fail to pay all or any portion of such sum within thirty (30) days of Grantee's written demand therefor, Grantor shall also pay to Grantee interest on the unpaid amount an annual rate equal to the lesser of five percent (5%) or the judgment interest rate then in effect under the laws of the Commonwealth of Massachusetts.
- 15.5 Mortgage Protection.** Any lien which may arise pursuant to this Section 15 shall be subject and subordinate to a first mortgage of record held by a bank, saving and loan association, trust company, credit union, insurance company, pension fund or other institutional lender to the extent of the principal amount secured by such mortgage and disbursed as of the date such notice of lien is recorded.
- 15.6 No Waiver.** Failure of Grantee to complain of any act or omission on the part of Grantor, no matter how long the same may continue, shall not be deemed to be a waiver by Grantee of any of its rights hereunder. No waiver by Grantee at any time, express or implied, of any breach of any provision of this Agreement shall be deemed a waiver of a breach of any other provision of this Agreement or a consent to any subsequent breach of the same or any other provision. No waiver

by Grantee at any time of the requirements for submittal of a Request for Approval or issuance of a recordable approval, pursuant to Subsection 13.2, for an activity described under Section 5 shall be deemed a waiver of such requirements as to such activity at any other time or as to any other activity. No payment by Grantor or acceptance by Grantee of a lesser amount than shall be due from Grantor to Grantee shall be deemed to be anything but payment on account, and the acceptance by Grantee of a check for a lesser amount with an endorsement or statement thereon or upon a letter accompanying such check that such lesser amount is payment in full shall not be deemed an accord and satisfaction, and Grantee may accept such check without prejudice to recover the balance due or pursue any other remedy. Any and all rights and remedies which Grantee may have under this Agreement or by operation of law, either at law or in equity, upon any breach shall be distinct, separate and cumulative and shall not be deemed inconsistent with each other, and no one of them, whether exercised by Grantee or not, shall be deemed to be in exclusion of other, any two or more or all of such rights and remedies being exercisable at the same time.

15.7 Estoppel Certificate. Grantee agrees to deliver to Grantor and/or to any holder of a mortgage on the Premises identified by Grantor a statement to Grantee's knowledge whether Grantor is in compliance with this Agreement, not later than thirty (30) days after the later of the date (i) Grantee has received a written request for such statement from Grantor, or (ii) Grantee either inspects the Premises, as mutually and reasonably agreed upon by Grantee and Grantor, for the purpose of responding to such request or delivers to a Grantor a written waiver of such inspection. If Grantee does not give the Grantor a written request for such inspection within fifteen (15) days after Grantee has received such request from Grantor, Grantee shall be deemed to have waived such inspection for such request.

16. EXTINGUISHMENT. Grantor and Grantee acknowledge the possibility that circumstances may arise in the future to render the purpose of this Agreement impossible to accomplish. In addition, both parties recognize that the possibility of condemnation and casualty always exists. In the event such circumstances do in fact arise, the parties agree that those provisions of this Agreement which are rendered impossible of performance by such circumstances, condemnation or casualty, may be extinguished by judicial proceedings in a court of competent jurisdiction and in compliance with the applicable requirements of Massachusetts General Laws chapter 184, section 32, as it may be amended from time to time, including approvals by the City of Newburyport and the Massachusetts Historical Commission following public hearings to determine that such extinguishment is in the public interest. All other provisions of this Agreement shall remain in full force and effect unless and until this Agreement is terminated or extinguished in compliance with said requirements.

17. **TRANSFERS.**

17.1 **Subdivision and Leasing.** The Premises shall not be subdivided for conveyance or lease, provided that this Section shall not be deemed to prohibit the leasing of the Thomas Emery House or Carriage Barn for uses permitted by this Agreement. For the purposes of this Agreement, the definition of "to subdivide" shall include to cause any portion of the land less than the entirety thereof to be divided, conveyed or made conveyable as a distinct parcel apart from the remainder of the land, including, to submit a plan which shows the land as other than one unitary lot for the preliminary or final approval or endorsement of any governmental authority for such a division, or to cause any such plan (whether or not approved or endorsed by a governmental authority) to be filed or recorded with any land records office or registry. Any lease or occupancy agreement of the Premises or any portion thereof shall be in writing and shall include the following notice in capitalized letters: "This Lease is subject to a Preservation Restriction Agreement granted to the Society for the Preservation of New England Antiquities D. B.A. Historic New England, a copy of which is attached hereto, which substantially restricts construction, alteration and other modifications to protected features inside and outside the Premises subject to this Lease. Notwithstanding any other provision of this Lease, no such activity shall be undertaken without prior review of such restrictions and strict compliance therewith. Any failure to comply with such restrictions may, at Landlord's sole discretion, be deemed a default under this Lease."

17.2 **Insertion in Subsequent Instruments.** Grantor shall insert a reference to this Agreement, 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 entering into any such deed or other legal instrument, Grantor shall give written notice to Grantee of same. Failure by Grantor to comply with the requirements of this Subsection 16.2 shall not affect the validity, enforceability or priority of this Agreement or any lien arising hereunder.

17.3 **Written Acceptance.** Before taking legal possession of the Premises or any portion thereof, each new Grantor of the Premises shall indicate its acceptance of these preservation restrictions contained herein by a letter to Grantee. Such acceptance shall include a promise to maintain at all times and in good condition, the significant historical, architectural, scenic and environmental characteristics of the Premises covered by these restrictions. Failure by any new Grantor to so indicate, and failure by Grantee to demand such indication, shall not affect the validity, enforceability or priority of this Agreement or any lien arising hereunder.

17.4 **Restrictions Run with the Land.** Notwithstanding anything to the contrary contained in Section 15 above, the burden of this Agreement shall constitute a binding servitude, shall run with the land in perpetuity and thus not subject to the

limitations on the enforceability of restrictions in G.L. c. 184, §§31-33, and, in any event, shall bind and run with the Property for a period of no less than ninety-nine (99) years from the recording hereof.

17.5 Assignment. All of the rights and restrictions enforceable by Grantee pursuant to this Agreement shall be assignable by Grantee for preservation purposes only and without consideration, to any governmental body or any entity described in Section 170(b)(1)(A) of the Internal Revenue Code of 1986 as amended whose purposes include preservation of structures or sites of historic or architectural significance in perpetuity. Any such non-governmental entity must also be qualified to hold preservation restrictions under Massachusetts General Law, Chapter 184, Section 32.

18. NOTICES. Every notice, request, demand, consent, waiver or other communication which either party hereto may be required to give to the other party pursuant to this Agreement, shall be in writing and shall be given either by postage prepaid registered or certified U.S. mail with return receipt requested or by a national overnight delivery service with acknowledgment of receipt required--if to Grantor, then to Grantor at the Premises, and if to Grantee, then to the Historic New England Preservation Easement Program, Historic New England, 185 Lyman Street, Waltham, Massachusetts 02452-5645. Each party may change its address set forth herein by written notice to such effect to the other party. Such notice, etc., shall be deemed given as of the sooner of the date of signed receipt or the date when delivery was first attempted.

19. SUBORDINATION OF PRIOR INTERESTS.

19.1 Prior Liens. Grantor represents and warrants to Grantee that the Premises are subject to no mortgages, liens, leases, restrictions, easements or encumbrances prior in right to this Agreement other than those as set forth more particularly in Exhibit E attached hereto.

19.2 Homestead. Each of the individuals who constitute Grantor hereby subordinates all of his rights of homestead and of any and all of his beneficiaries, affirms under the penalties of perjury that there is no person entitled to claim the benefit of homestead rights in the Premises other than Kemble Widmer and Elizabeth Widmer.

20. MISCELLANEOUS. The following provisions in this Section 20 shall govern the effectiveness, interpretation and duration of this Agreement:

20.1 Counterparts. This Agreement, with all exhibits hereto, is executed in three (3) identical counterparts. After execution hereof, one (1) such counterpart shall be held by each of Grantor and Grantee, and one (1) such counterpart shall be recorded immediately at the Registry.

- 20.2 **Strict Construction.** Any rule of strict construction designed to limit the breadth of restrictions on alienation or use of property shall not apply in the construction or interpretation of this Agreement, and this Agreement shall be interpreted broadly to effect its purposes, and the restrictions herein contained.
- 20.3 **Grantor.** This Agreement shall extend to and be binding upon the Grantor, and all persons hereafter claiming under or through the party executing this Agreement as "Grantor" and all successors in title to the Premises, and the word "Grantor" when used herein shall include all such persons, whether or not such persons have signed this Agreement or have an interest in the Premises at the time of execution of this Agreement or thereafter. A person who ceases to hold title to the Premises after having been a Grantor shall cease to have any liability hereunder to Grantee except that such person shall remain jointly and severally liable with the successors as Grantor for any monetary liability hereunder to Grantee that accrued during the time of such person's ownership.
- 20.4 **Amendment.** For purposes of furthering the preservation of the Thomas Emery House and Carriage Barn and of furthering the other purposes of this Agreement, and of meeting changing conditions, Grantor and Grantee are free to amend jointly the terms of this Agreement in writing in accordance with the requirements of Massachusetts General Laws, Chapter 184, Sections 31-33, and such amendment shall become effective upon recording at the Registry.
- 20.5 **Validity of Agreement.** This Agreement is made pursuant to Massachusetts General Laws, Chapter 184, Sections 31-33, but the invalidity of such statutes or any part thereof shall not affect the validity and enforceability of this Agreement according to its terms, it being the intent of the parties to agree and to bind themselves, their heirs, successors, administrators and assigns in perpetuity to each clause of this Agreement whether it be enforceable by reason of any statute, common law or private agreement either in existence now or at any time subsequent hereto. This Agreement may be re-recorded at any time by any person if the effect of such re-recording is to make more certain enforcement of this Agreement or any part thereof. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement or any ancillary or supplementary agreement relating to the subject matter herein.
- 20.6 **Captions.** The captions used as headings for the various Sections and Subsections of this Agreement are used only as matter of convenience for reference, and are not to be considered a part of this Agreement or used in determining the intent of the parties to this Agreement.
- 20.7 **No Warranty.** The approval by Grantee of any action by Grantor, including without limitation, the approval of the design of any alteration or construction, shall not constitute a warranty, representation or acknowledgment that any action

taken in conformity with such approval shall comply with any law, regulation, order, ordinance, code or by-law or shall be suitable for any particular purpose, and Grantor shall be solely responsible for its own actions.

- 20.8 Time.** Where a specific number of days are stated for an activity to occur, time is of the essence. If any act required under this Agreement becomes due on a Saturday, Sunday or legal holiday in the Commonwealth of Massachusetts, then such act shall be due on the immediate following business day.
- 20.9 Grantee's Use of Information.** During inspection of the Property and at other times reasonably agreed upon by the Grantor, including preparation of the baseline documentation, Grantee may make photographs, drawings, or other representations documenting the significant historical, cultural, and architectural character and features of the Property and may use such images and materials to promote the easement program and otherwise in support of its educational and charitable purposes, including reproduction in magazines, newsletters, or other publicly available publications.
- 20.10 Notice from Government Authorities.** Except as expressly indicated in this Agreement otherwise, 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.

[signatures on following page]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement under seal as of the date first written above.

WITNESS

SOCIETY FOR THE PRESERVATION
OF NEW ENGLAND ANTIQUITIES
D.B.A. HISTORIC NEW ENGLAND

Carl R. Nold, President and CEO

COMMONWEALTH OF MASSACHUSETTS

County of Suffolk, ss.

On this ___ day of _____, 2020, before me, the undersigned notary public, personally appeared Carl R. Nold, President and CEO, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose as President and CEO of Historic New England, a corporation.

Notary Public

My commission expires:

WITNESS

SOCIETY FOR THE PRESERVATION
OF NEW ENGLAND ANTIQUITIES
D.B.A. HISTORIC NEW ENGLAND

Randy J. Parker, Treasurer

COMMONWEALTH OF MASSACHUSETTS

County of Suffolk, ss.

On this ___ day of _____, 2020, before me, the undersigned notary public, personally appeared Randy J. Parker, Treasurer, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose as Treasurer of Historic New England, a corporation.

Notary Public

My commission expires:

WITNESS

GRANTOR

Kemble Widmer II, Trustee
The Kemble Widmer II Revocable Trust

COMMONWEALTH OF MASSACHUSETTS

County of Essex, ss.

On this ___ day of _____, 2020, before me, the undersigned notary public, personally appeared Kemble Widmer II, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Notary Public

My commission expires:

APPROVAL OF PRESERVATION RESTRICTIONS

Pursuant to General Laws, Chapter 184, Section 32

**Thomas Emery House
272 High Street
Newburyport, Massachusetts**

The undersigned Mayor of the City of Newburyport, Massachusetts hereby certify that the foregoing Preservation Restrictions on the premises, with all improvements there, shown as Lot 1 on a plan entitled "272 High Street Subdivision" dated November 17, 1999, and prepared by Riverside Engineering Services, said plan being duly recorded with Essex South Registry of Deeds in Plan Book 339, Plan 74, and being more particularly described in that certain Deed, recorded with the Registry in Book 24960, Page 588, known as the Thomas Emery House, so called, located at 272 High Street, Newburyport, Massachusetts and owned by the Kemble Widmer II Revocable Trust of Newburyport, Massachusetts have been approved pursuant to Massachusetts General Laws, Chapter 184, Section 32.

In approving these restrictions, the City of Newburyport assumes no responsibility, nor accepts any liability for enforcement.

Donna D. Holaday, Mayor

COMMONWEALTH OF MASSACHUSETTS

County of Essex ss.

On this ___ day of _____, 2020, before me, the undersigned notary public, personally appeared Donna D. Holaday, Mayor, to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose as Mayor of the City of Newburyport.

Notary Public

My commission expires:

APPROVAL OF PRESERVATION RESTRICTIONS

Pursuant to General Laws, Chapter 184, Section 32

Thomas Emery House, 272 High Street, Newburyport, Massachusetts

The undersigned Clerk of the City of Newburyport, Massachusetts, hereby certifies that the foregoing Preservation Restrictions granted by the Kemble Widmer II Revocable Trust to the Society for the Preservation of New England Antiquities D.B.A. Historic New England on the Thomas Emery House located at 272 High Street, Newburyport, Massachusetts, consisting of approximately 0.27 acres of land, with all improvements thereon, shown as Lot 1 on a plan entitled "272 High Street Subdivision" dated November 17, 1999, and prepared by Riverside Engineering Services, said plan being duly recorded with Essex South Registry of Deeds in Plan Book 339, Plan 74, and being more particularly described in that certain Deed recorded with the Registry in Book 24960, Page 588, have been approved by the City Council of the City of Newburyport by a vote of ____ in favor and ____ opposed at its regularly scheduled meeting that was held on _____, _____, 2020, pursuant to Massachusetts General Laws, Chapter 184, Section 32.

In approving these restrictions, the City of Newburyport assumes no responsibility, nor any liability for enforcement.

Richard Burke Jones
City Clerk
City of Newburyport

COMMONWEALTH OF MASSACHUSETTS
County of Essex, ss.

On this _____ day of _____, 2020, before me, the undersigned notary public, personally appeared Richard Burke Jones, City Clerk, City of Newburyport, proved to me through satisfactory evidence of identification, which was _____ to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose as City Clerk of the City of Newburyport.

Notary Public

My commission expires:

APPROVAL OF PRESERVATION RESTRICTIONS

Pursuant to General Laws, Chapter 184, Section 32

**THOMAS EMERY HOUSE
272 HIGH STREET
NEWBURYPORT, MASSACHUSETTS**

The undersigned Executive Director and Clerk of the Massachusetts Historical Commission, hereby certifies that the foregoing preservation restrictions on the premises, with all improvements there, shown as Lot 1 on a plan entitled "272 High Street Subdivision" dated November 17, 1999, and prepared by Riverside Engineering Services, said plan being duly recorded with Essex South Registry of Deeds in Plan Book 339, Plan 74, and being more particularly described in that certain Deed, recorded with the Registry in Book 24960, Page 588, known as the Thomas Emery House, located at 272 High Street, Newburyport, Massachusetts, have been approved pursuant to Massachusetts General Laws, Chapter 184, Section 32.

Brona Simon, Executive Director and Clerk
Massachusetts Historical Commission

COMMONWEALTH OF MASSACHUSETTS

County of Suffolk, ss.

On this ___ day of _____, 2020, before me, the undersigned notary public, personally appeared Brona Simon, Executive Director and Clerk, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose as Executive Director and Clerk for the Massachusetts Historical Commission.

Notary Public

My commission expires:

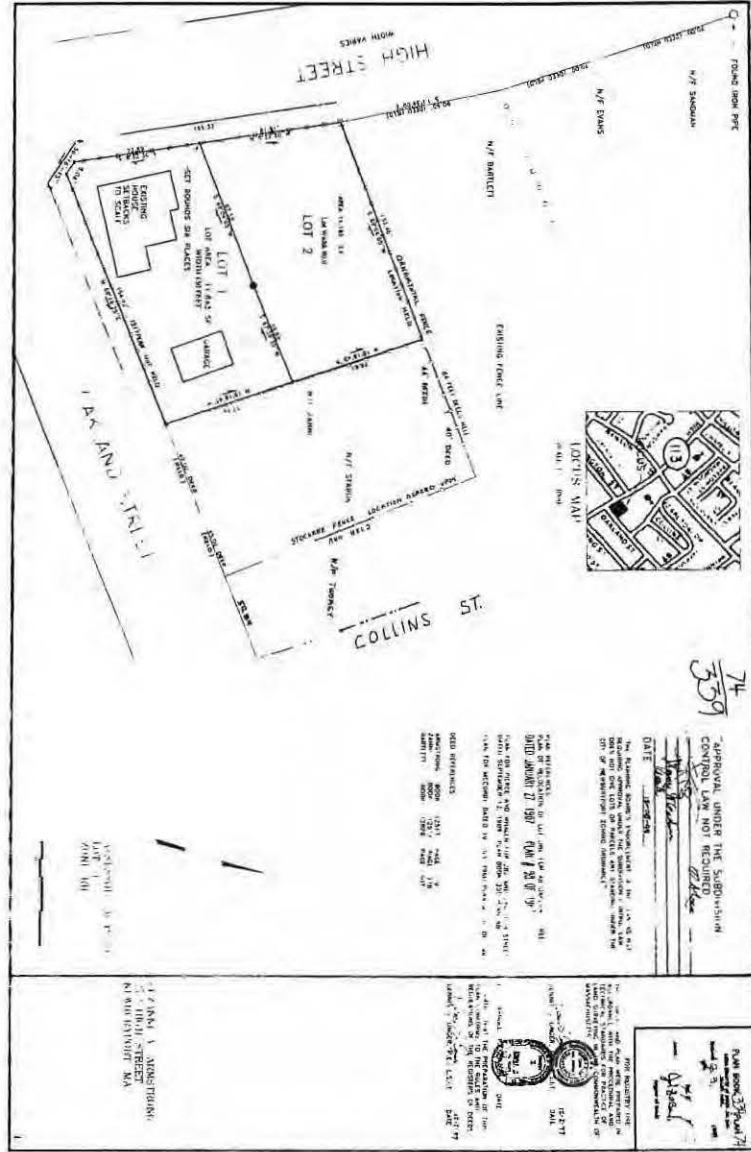
EXHIBIT A

DESCRIPTION OF PREMISES

The land and buildings located at 272 High Street, Newburyport, Essex County, Massachusetts and being shown as Lot 1 on a plan titled "272 High Street Subdivision" dated November 17, 1999, and prepared by Riverside Engineering Services, said plan being duly recorded with Essex South District Registry of Deeds in Plan Book 339, Plan 74. Lot 1 Contains 11,843 square feet, more or less, according to said plan. Meaning and intending hereby to convey the same premises as conveyed to Kemble Widmer II by Suzanne V. Armstrong by deed dated April 30, 2002 and recorded with the Essex County Registry of Deeds at Book 18651, page 314.
Source: Essex South Registry of Deeds, Book 24960, Page 588.

EXHIBIT A-1

"272 HIGH STREET SUBDIVISION"
DATED NOVEMBER 17, 1999, PREPARED BY RIVERSIDE ENGINEERING SERVICES



Source: Essex South District Registry of Deeds in Plan Book 339, Plan 74

EXHIBIT B


PHOTOGRAPHER'S AFFIDAVIT

Andrew Barr, being first duly sworn, states on oath as follows:

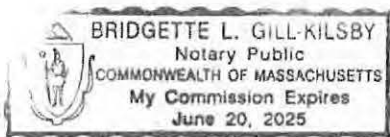
1. This affidavit is attached to a set of sixty-four (64) photographs printed from original 4x5 negatives developed from the film exposed by me on October 14, 15, and 16, 2019. Each photograph bears a letter-number symbol in the lower left hand corner on the reverse side, Historic New England negative numbers 56687-A to 56750-A.
2. Each such exposure was made with a Cambowide 4x5 technical camera with no filter, using Ilford HP5 400 film at normal exposure and shutter speed settings.
3. Each such negative was developed by William Harting of Plymouth, MA in a normal manner without manipulation. No negative was created by more than one exposure and each such negative was delivered to Historic New England for permanent safekeeping.
4. Manufacturers' specifications and recommendations were followed with respect to all photographic materials used, with respect to film exposure, negative-developing, photograph printing, and with respect to the care and maintenance of all such materials and final products.

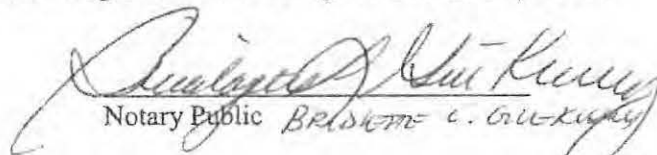
FURTHER AFFIANT SAYETH NOT.

12-10-19
Date


Andrew Barr

On this 10 day of DECEMBER, 2019, before me, the undersigned notary public, personally appeared Andrew Barr, proved to me through satisfactory evidence of identification, which were MAR, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.




Notary Public BRIDGETTE L. GILL-KILSBY
My commission expires: JUN 20, 2025

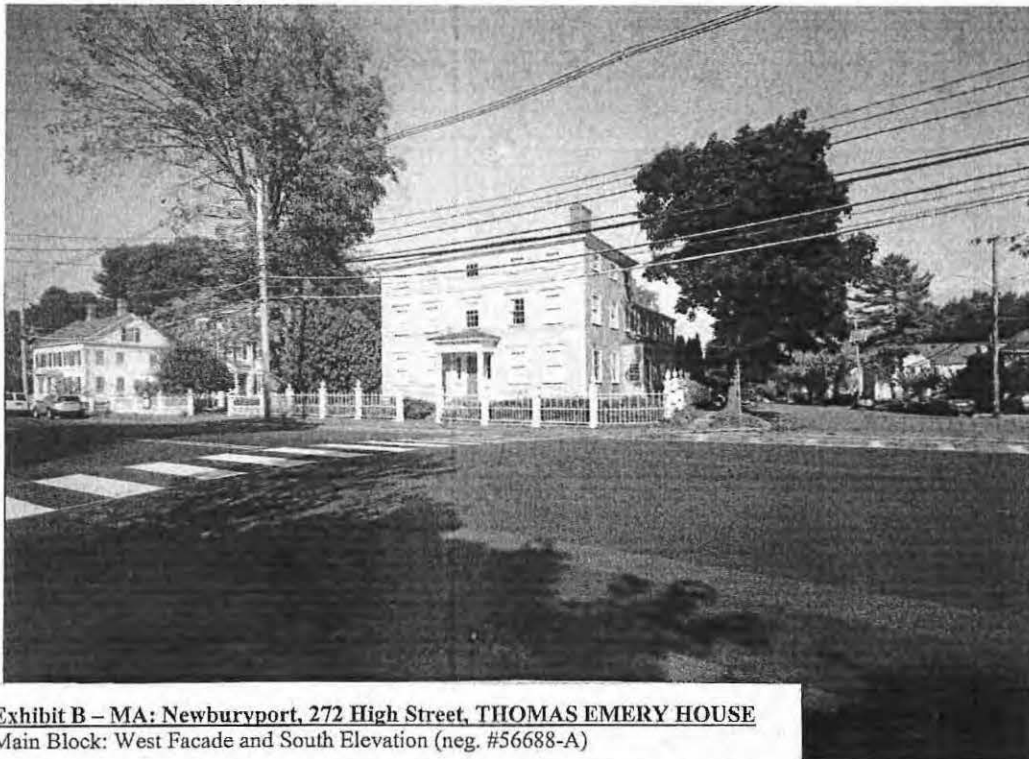


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: West Facade and South Elevation (neg. #56688-A)

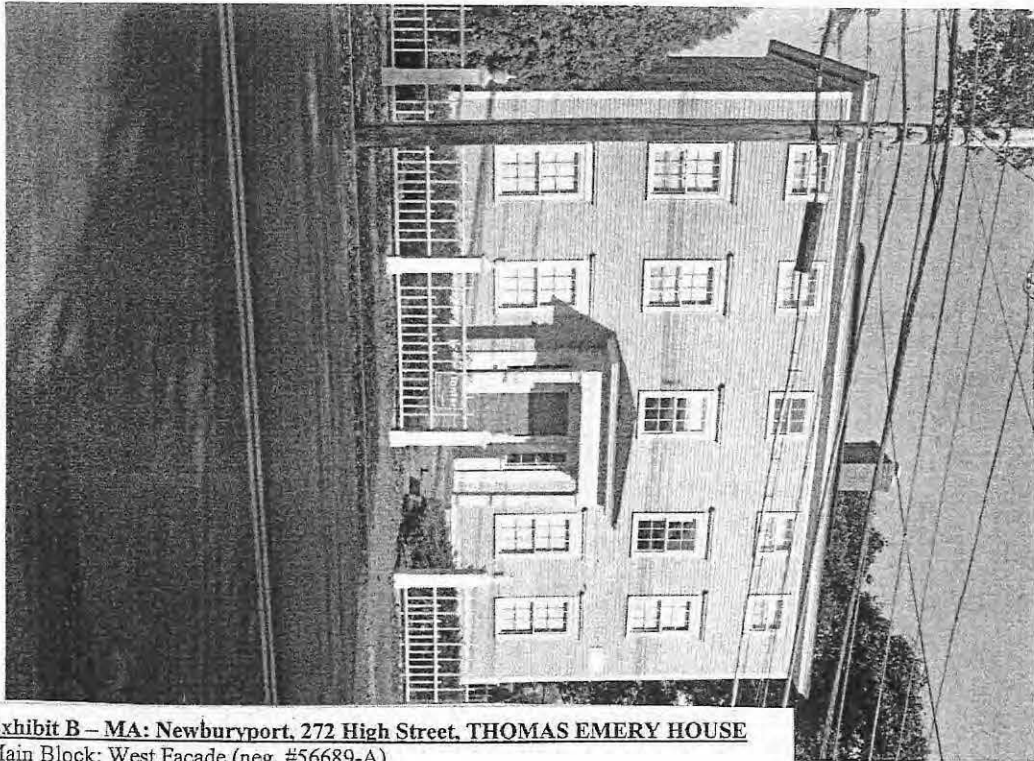


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: West Facade (neg. #56689-A)



Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block and Rear Ell: South Elevation (neg. #56690-A)

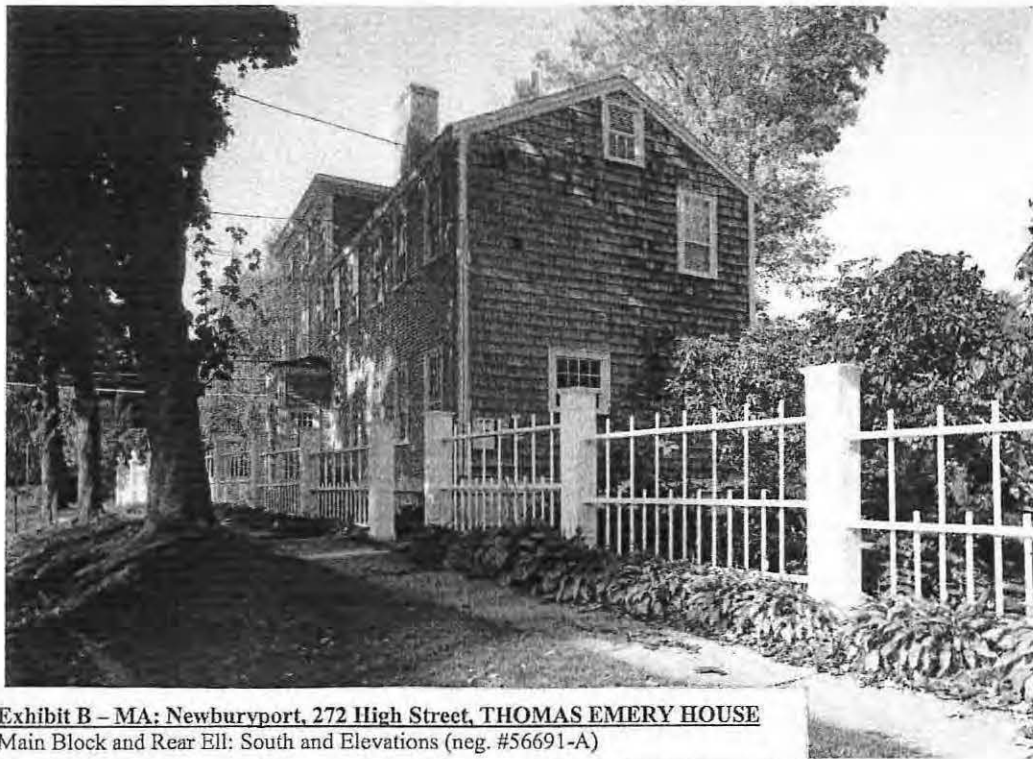


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block and Rear Ell: South and Elevations (neg. #56691-A)



Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block, Rear Ell, Porch: East and North Elevations (neg. #56692-A)



Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block, Rear Ell, Porch: East and North Elevations (neg. #56693-A)

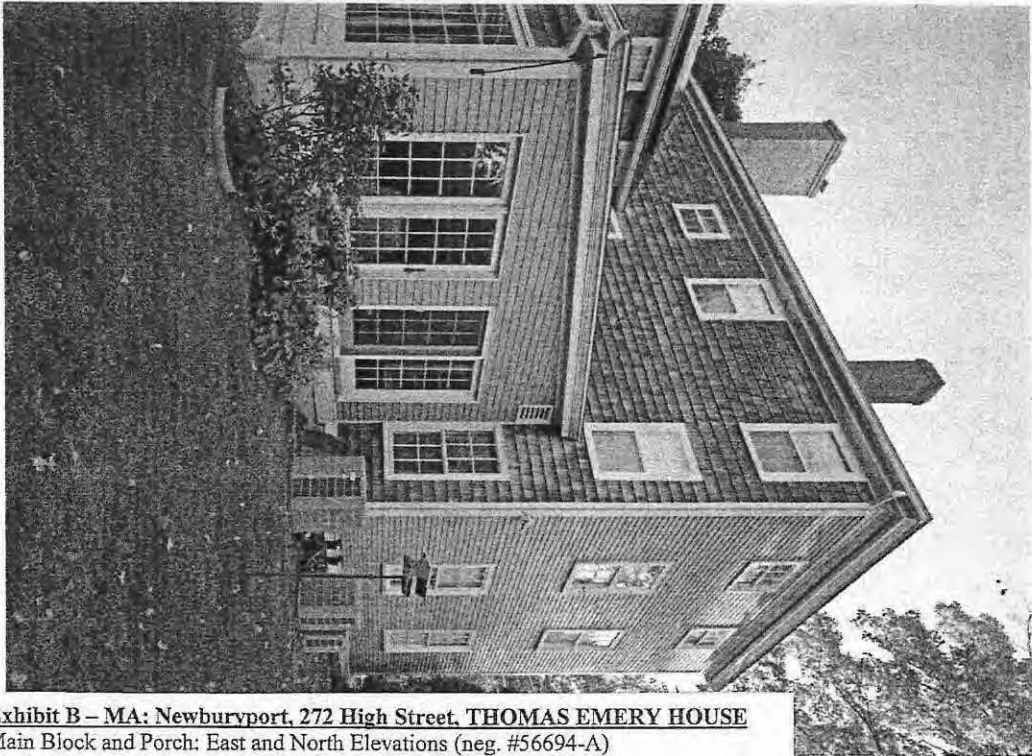


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block and Porch: East and North Elevations (neg. #56694-A)

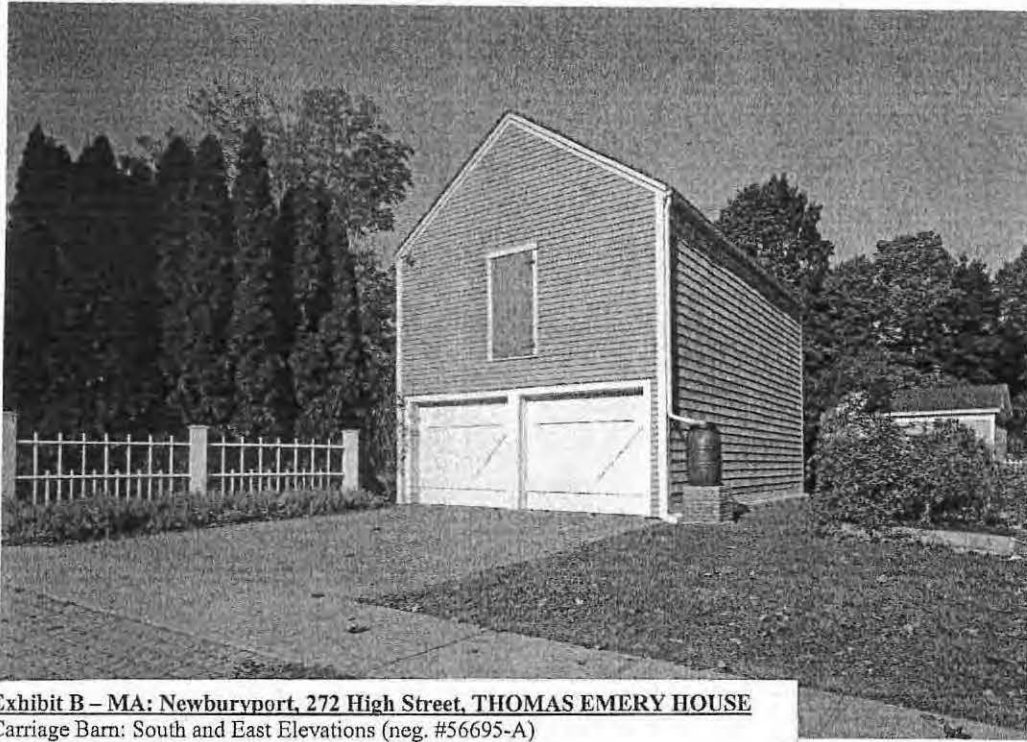


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Carriage Barn: South and East Elevations (neg. #56695-A)

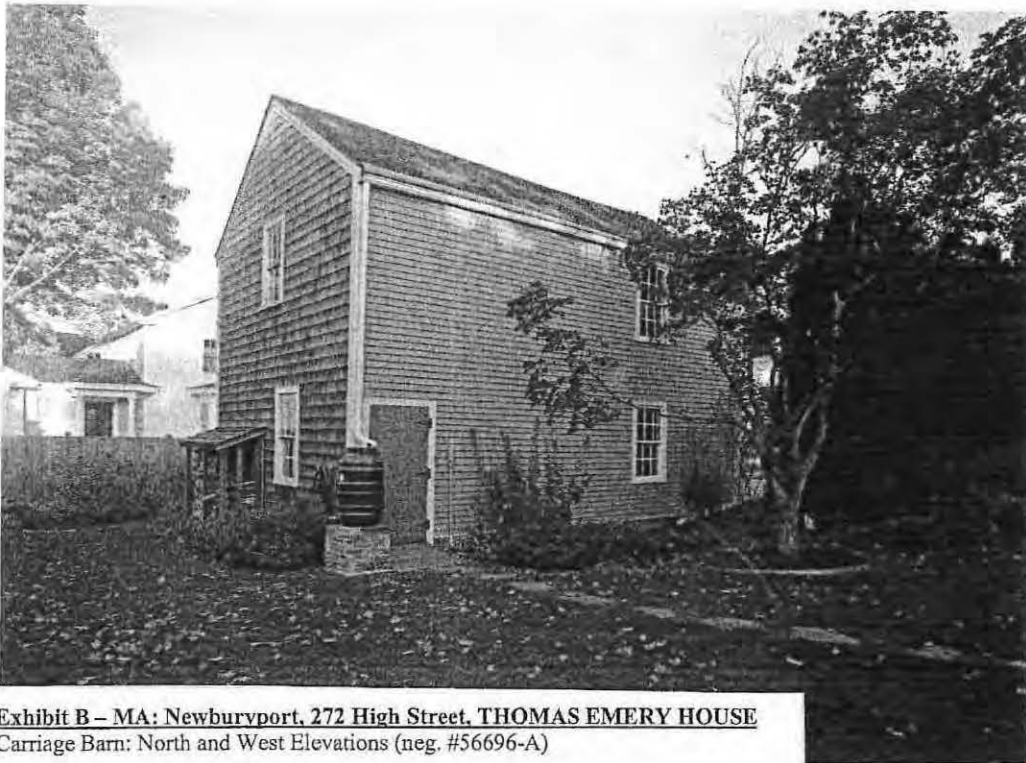


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Carriage Barn: North and West Elevations (neg. #56696-A)

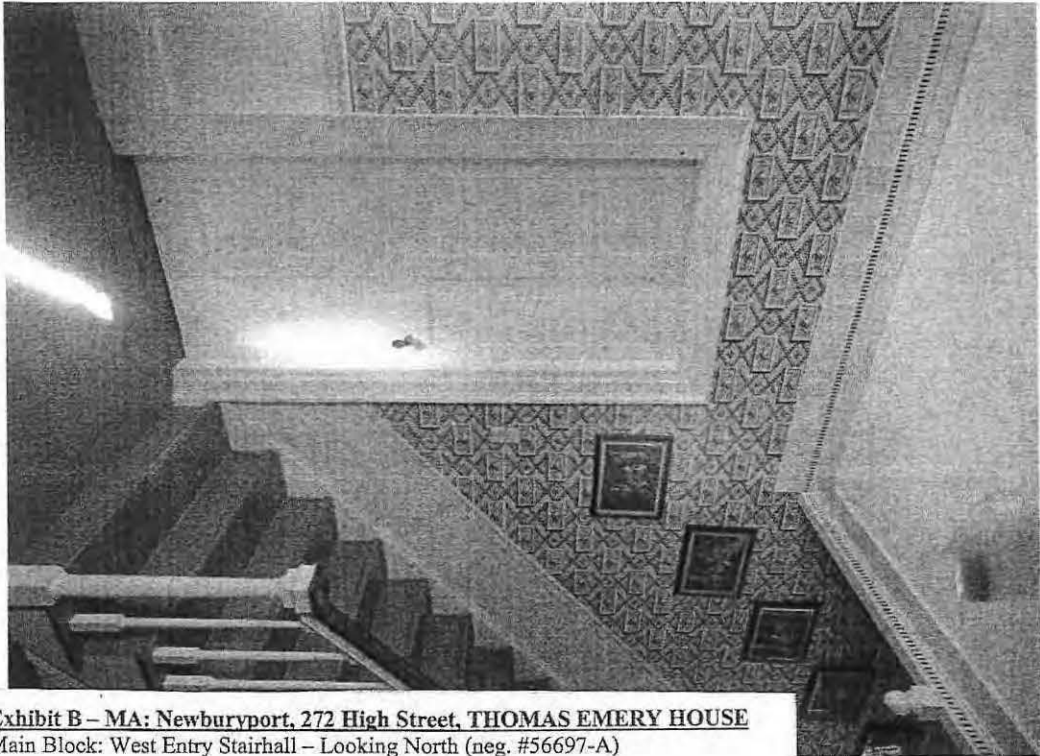


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: West Entry Stairhall – Looking North (neg. #56697-A)

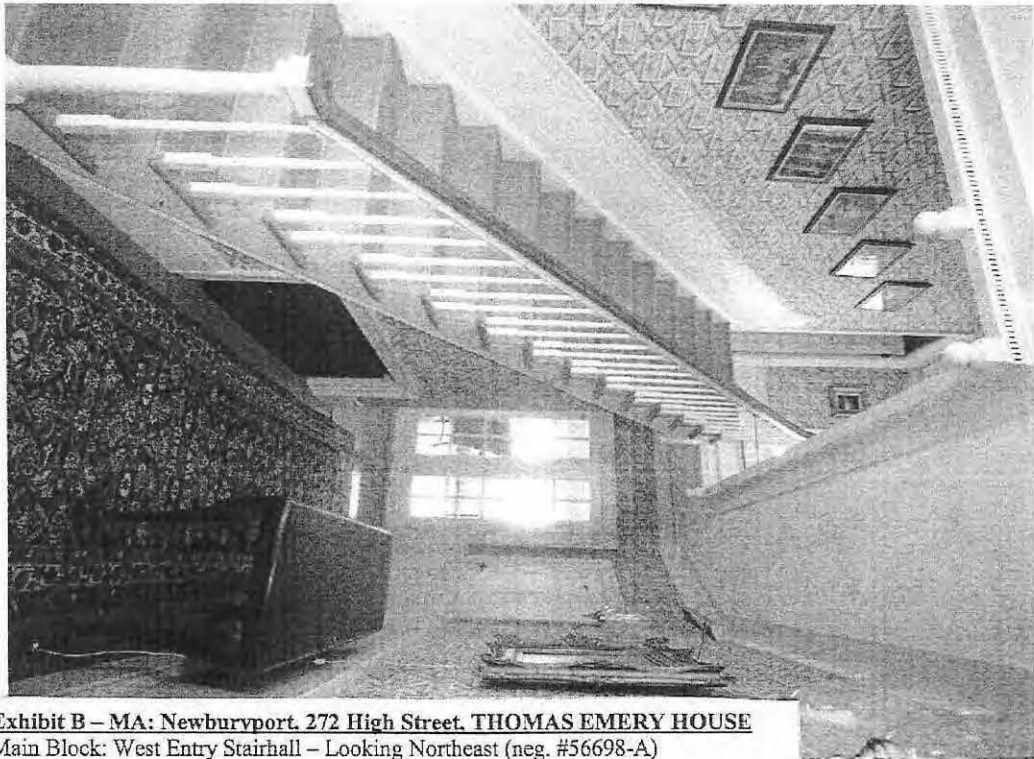


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: West Entry Stairhall – Looking Northeast (neg. #56698-A)

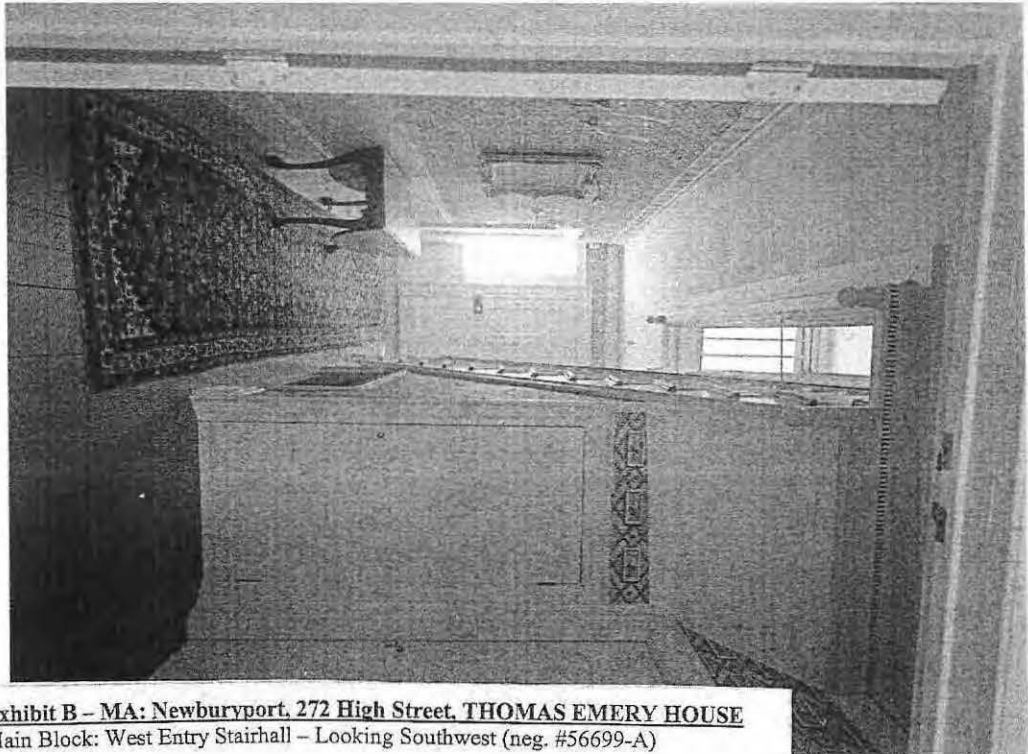


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: West Entry Stairhall – Looking Southwest (neg. #56699-A)

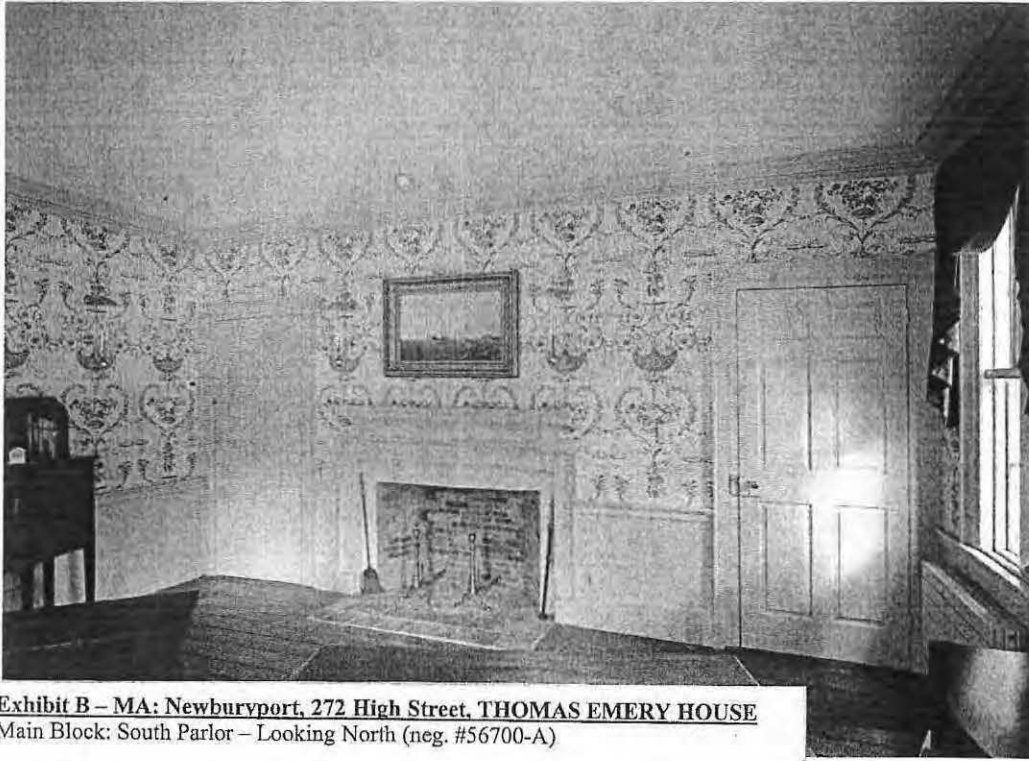


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: South Parlor – Looking North (neg. #56700-A)

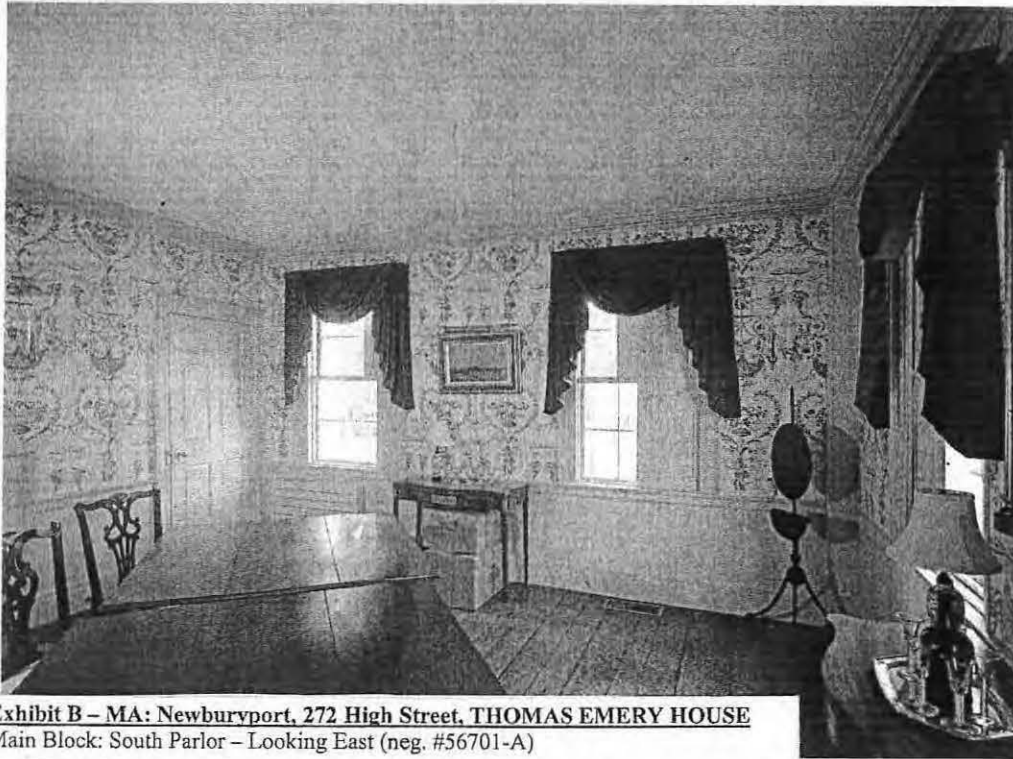


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: South Parlor – Looking East (neg. #56701-A)

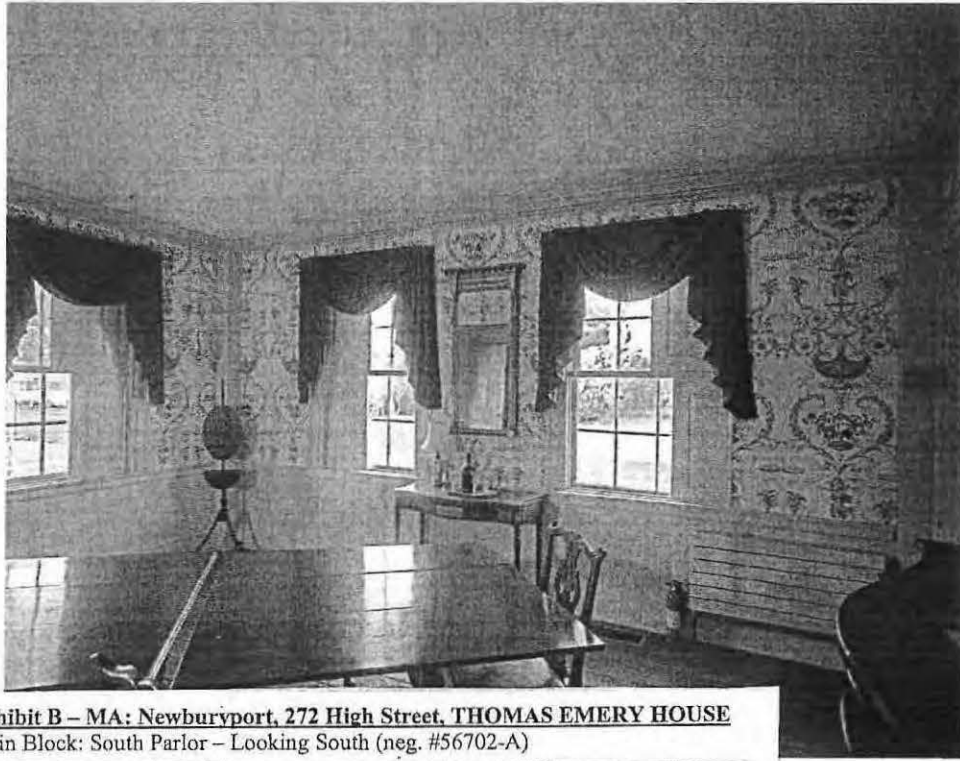


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: South Parlor – Looking South (neg. #56702-A)

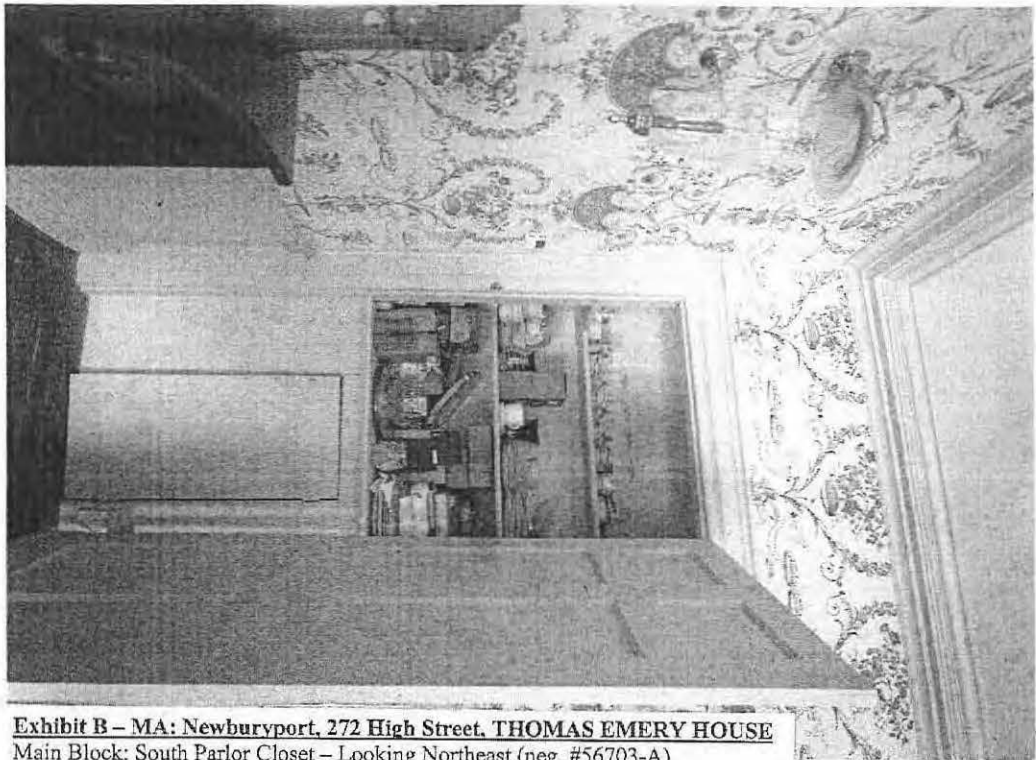


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: South Parlor Closet – Looking Northeast (neg. #56703-A)

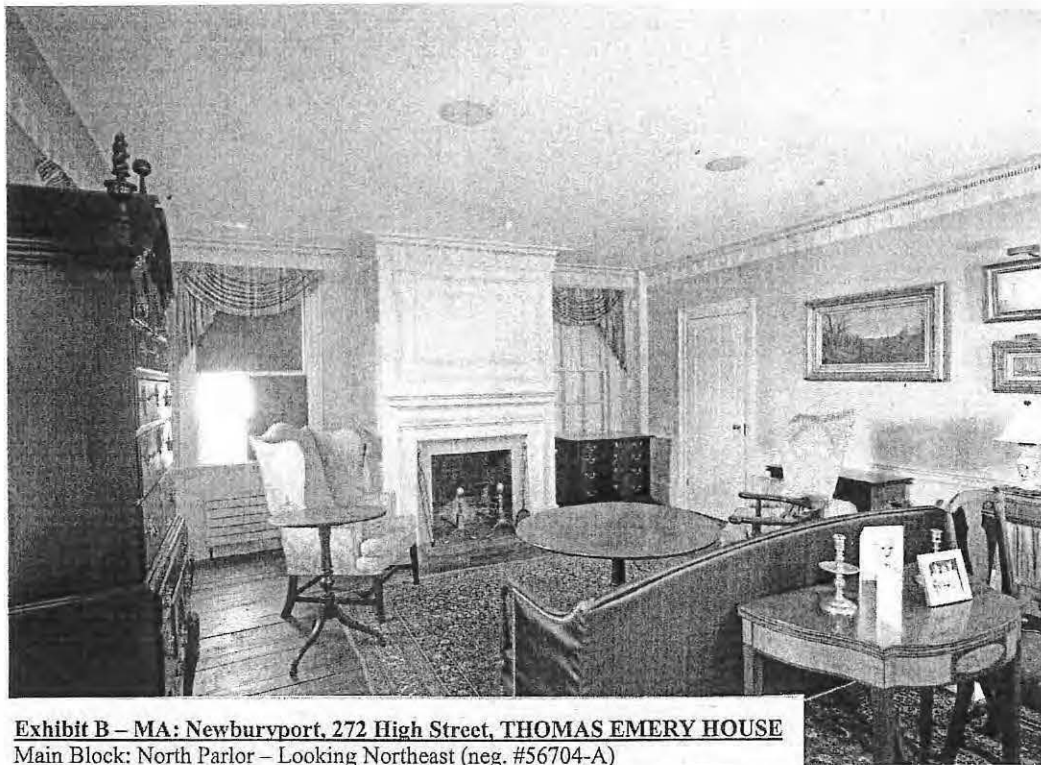


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: North Parlor – Looking Northeast (neg. #56704-A)

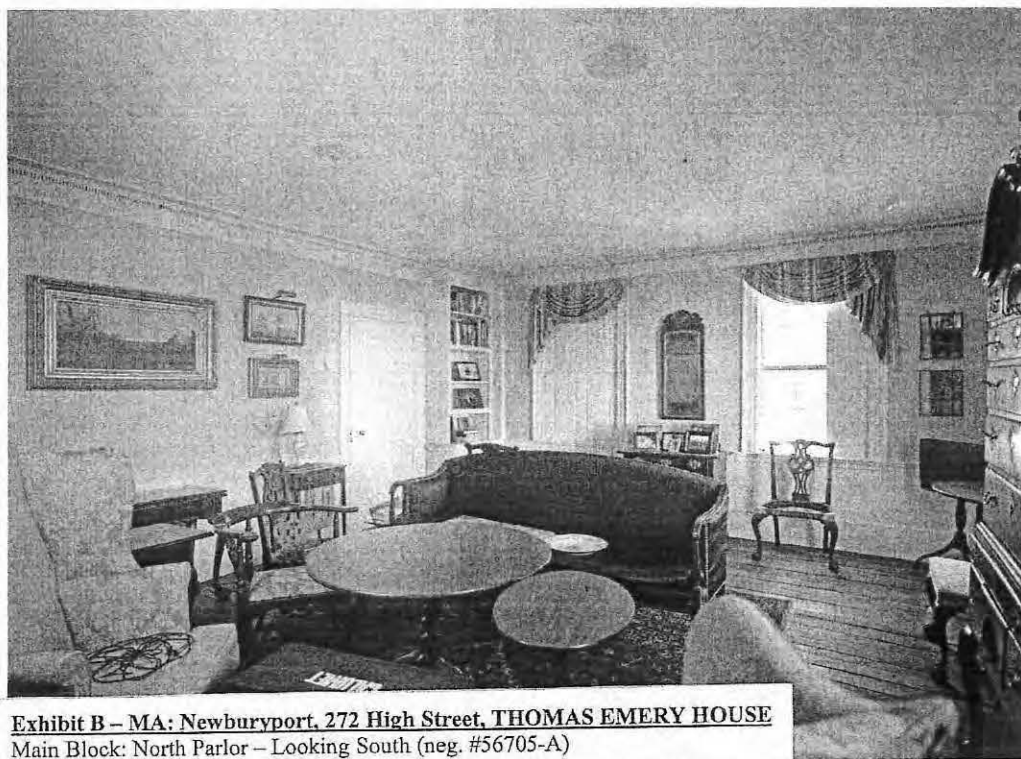


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: North Parlor – Looking South (neg. #56705-A)

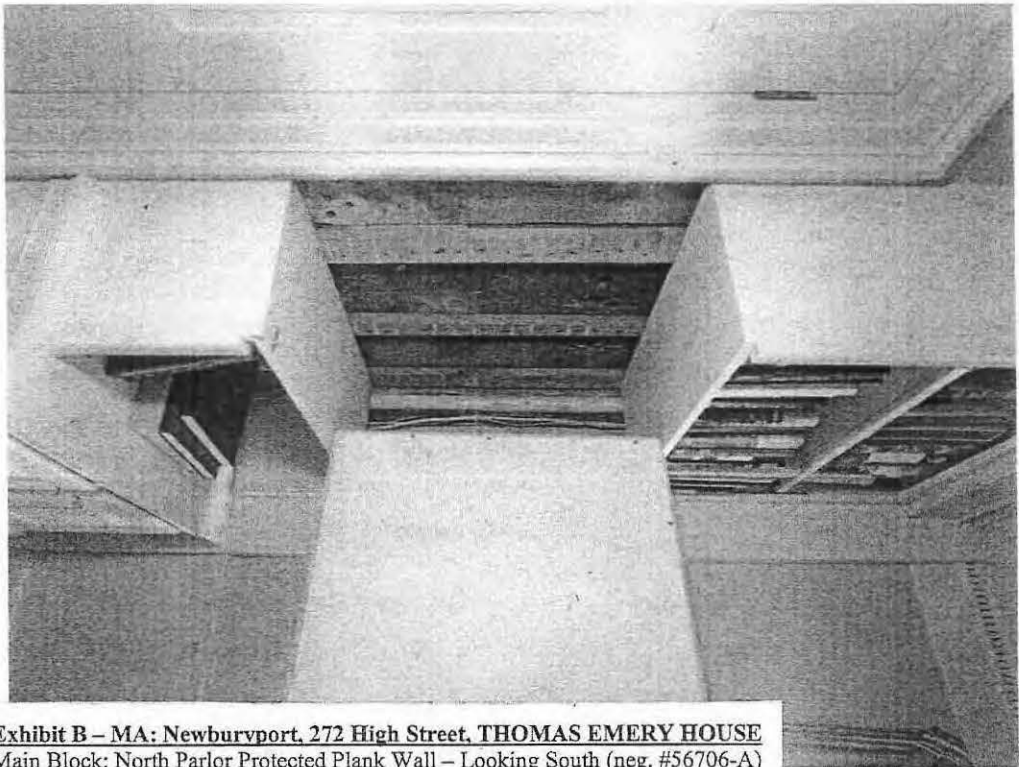


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: North Parlor Protected Plank Wall – Looking South (neg. #56706-A)

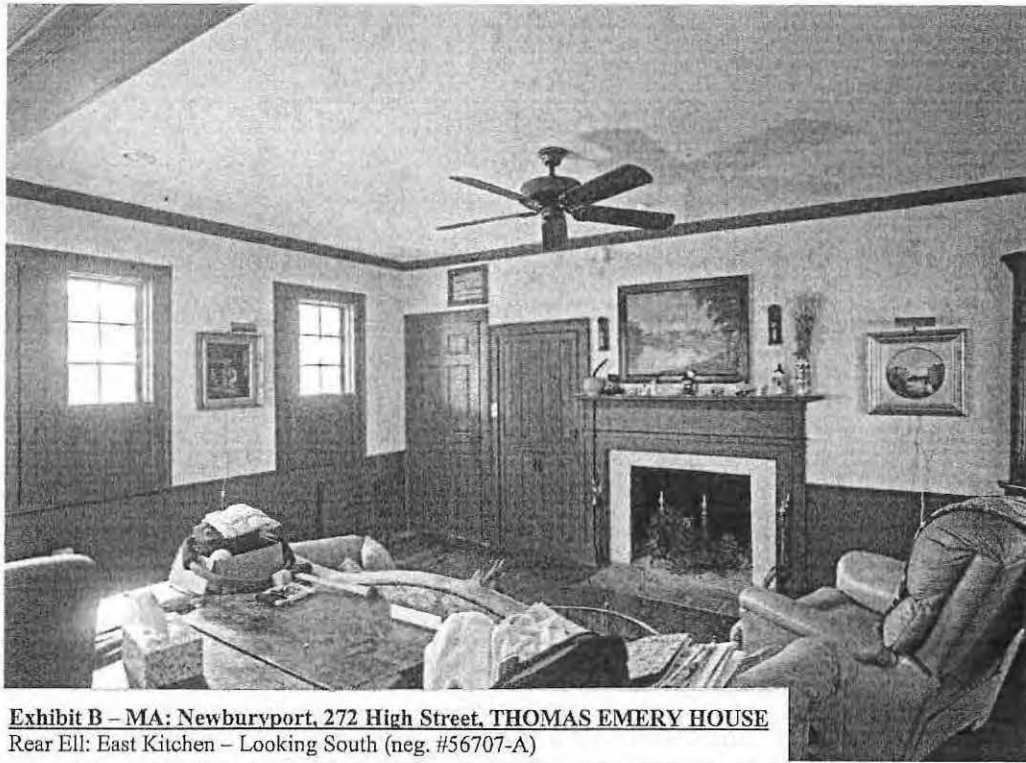


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Rear Ell: East Kitchen – Looking South (neg. #56707-A)

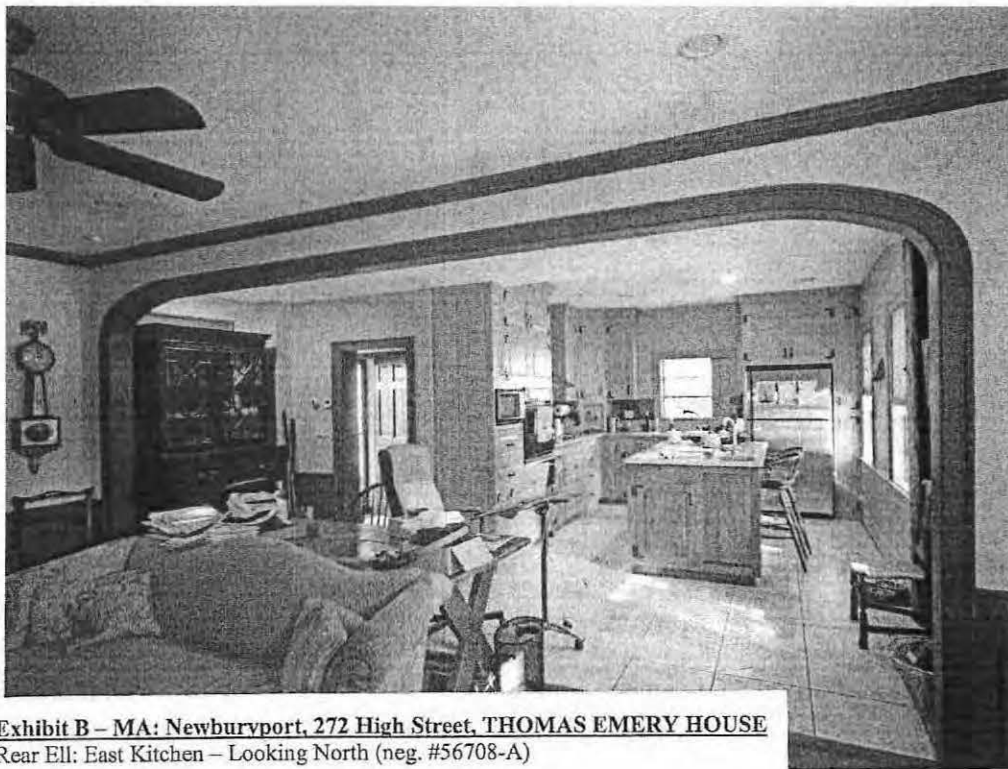


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Rear Ell: East Kitchen – Looking North (neg. #56708-A)

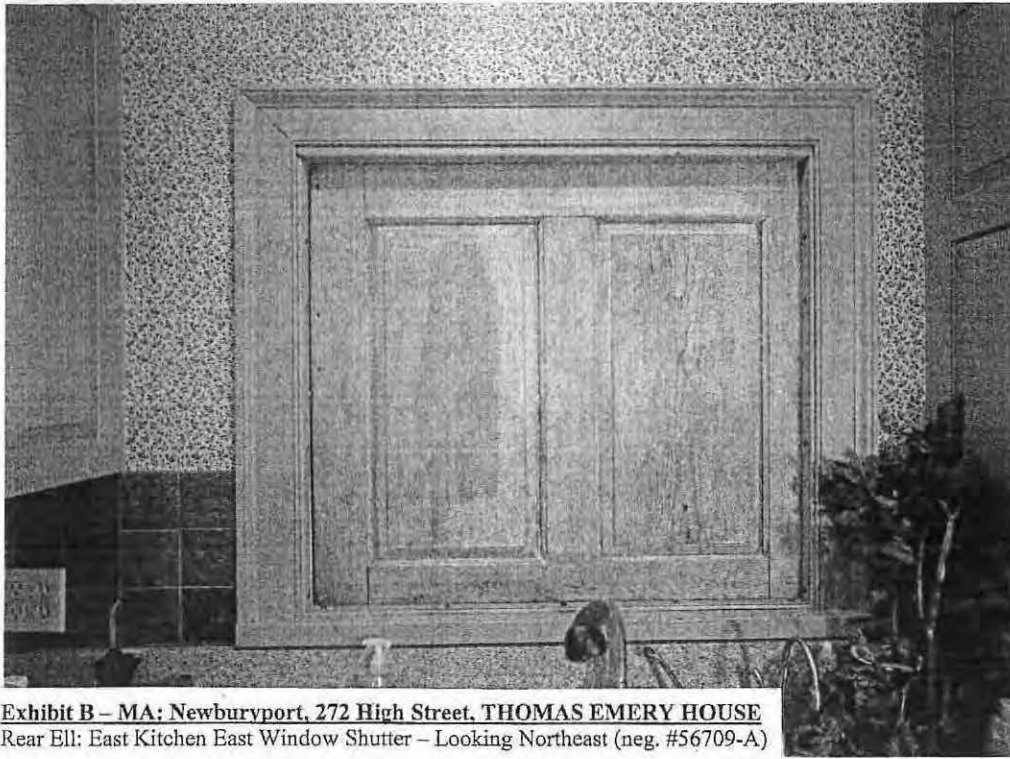


Exhibit B – MA: Newburyport, 272 High Street. THOMAS EMERY HOUSE
Rear Ell: East Kitchen East Window Shutter – Looking Northeast (neg. #56709-A)

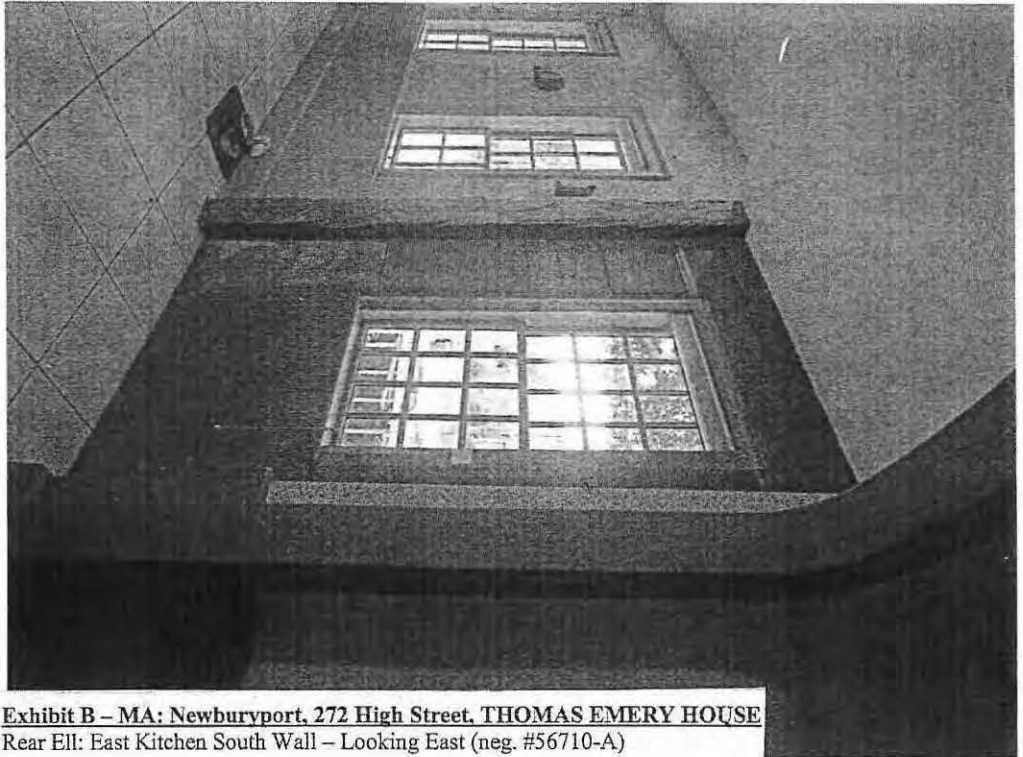


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Rear Ell: East Kitchen South Wall – Looking East (neg. #56710-A)

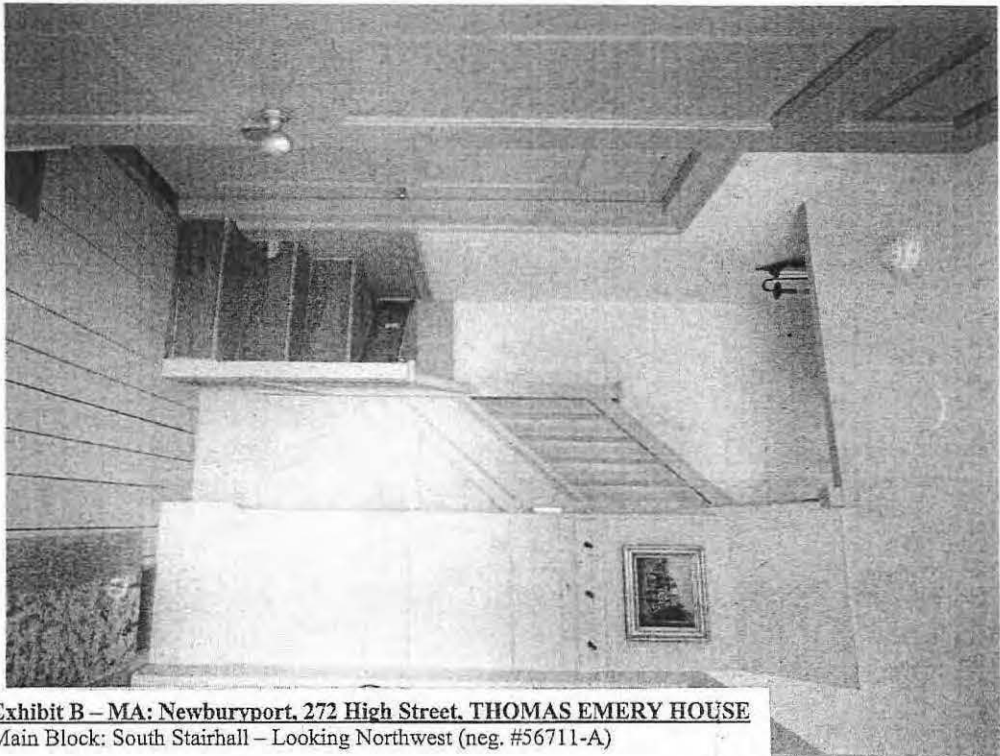


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: South Stairhall – Looking Northwest (neg. #56711-A)

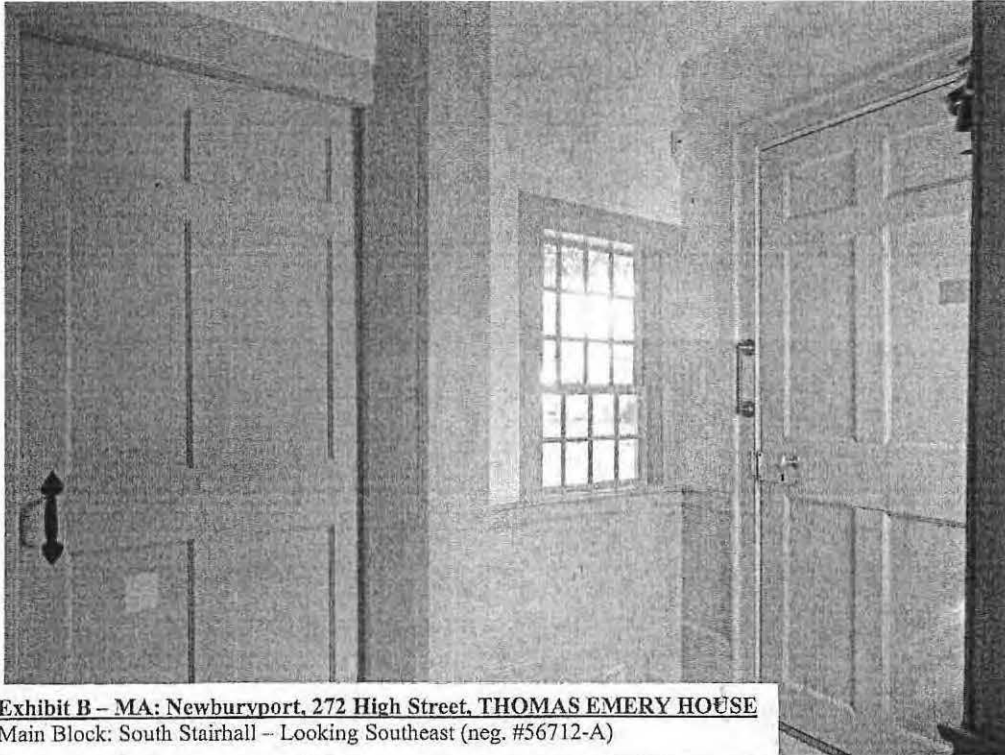


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: South Stairhall – Looking Southeast (neg. #56712-A)

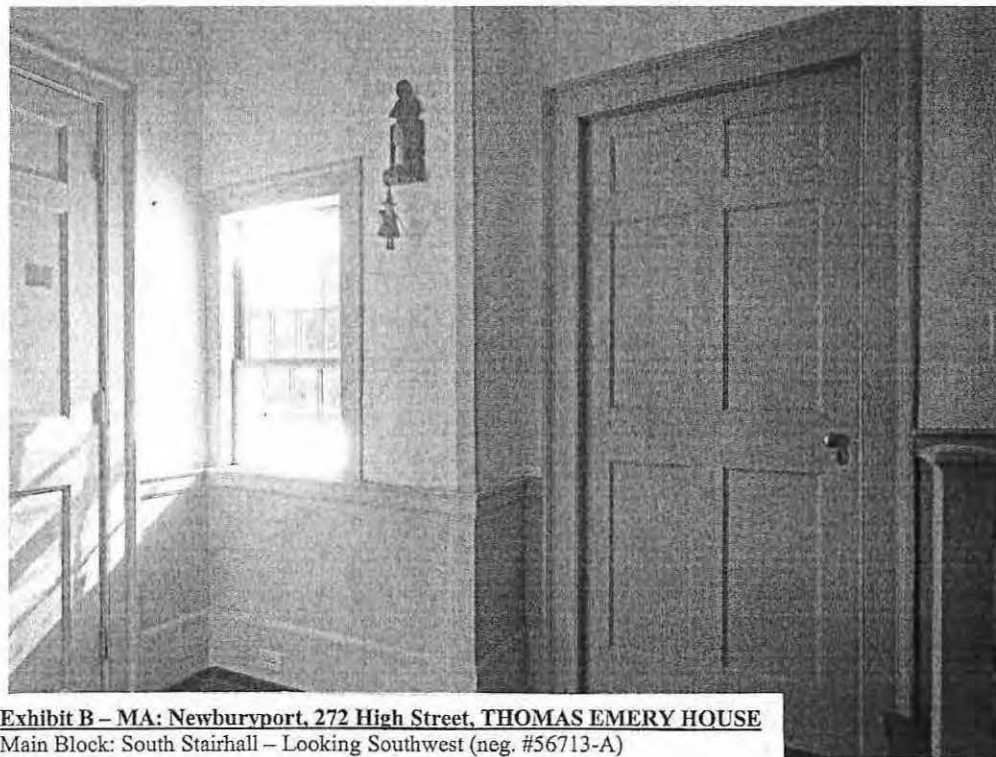


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: South Stairhall – Looking Southwest (neg. #56713-A)

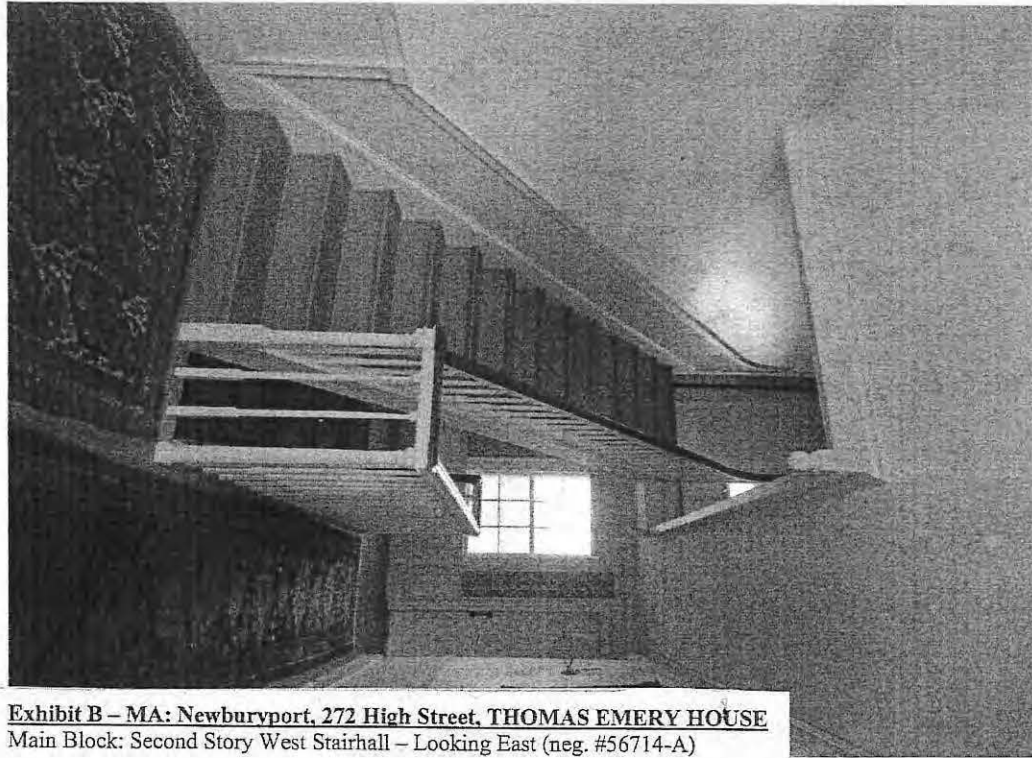


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: Second Story West Stairhall – Looking East (neg. #56714-A)

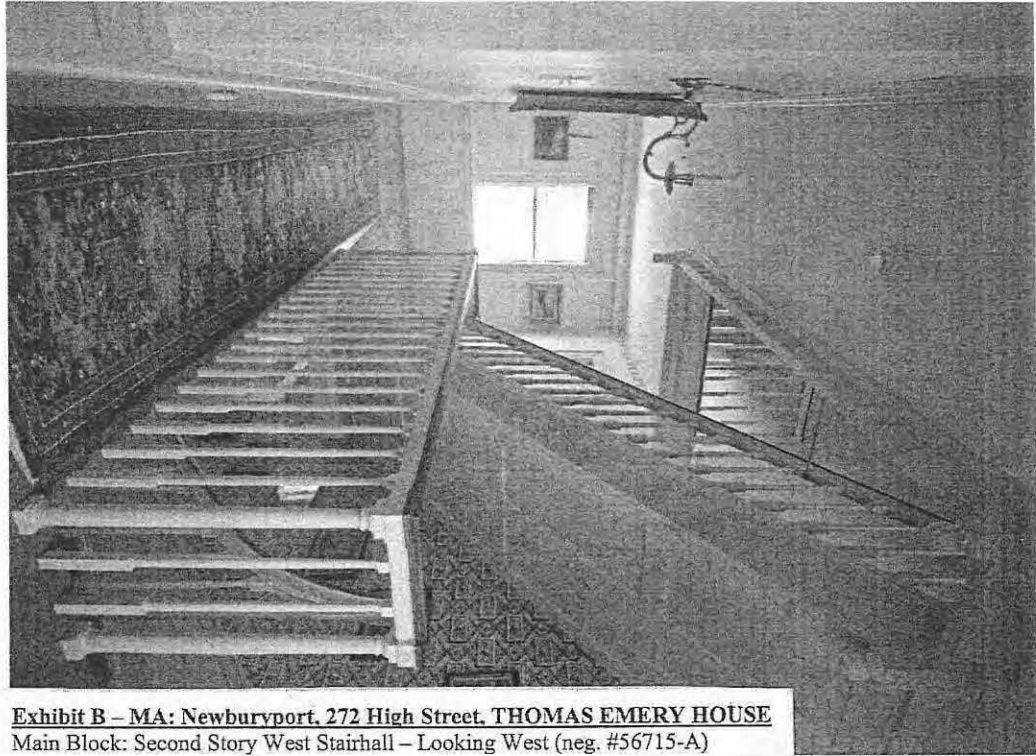


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: Second Story West Stairhall – Looking West (neg. #56715-A)

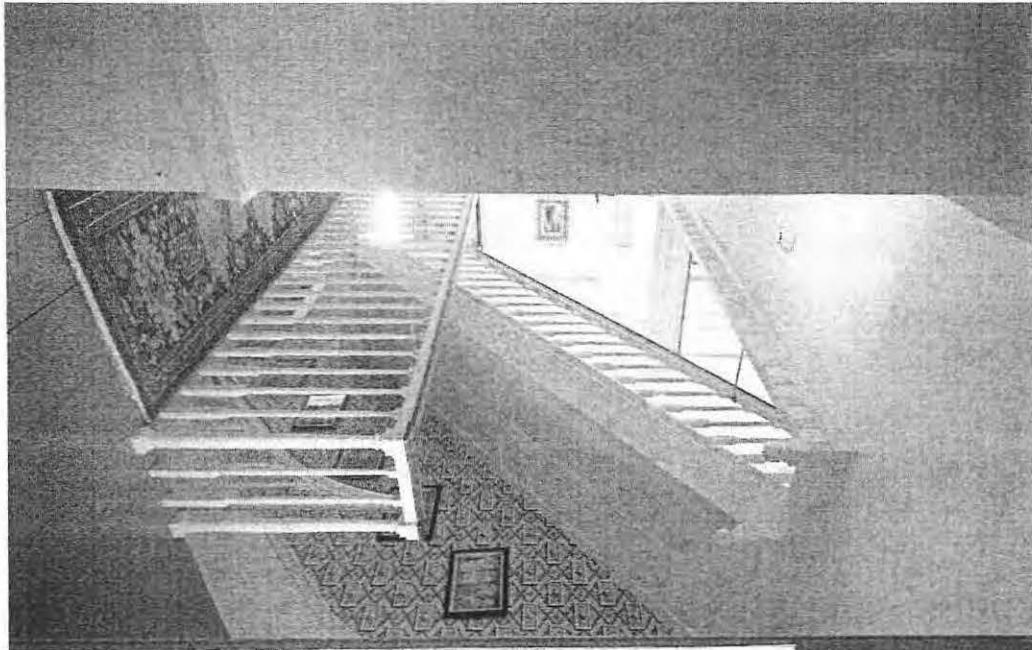


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: Second Story West Stairhall – Looking Northwest (neg. #56716-A)

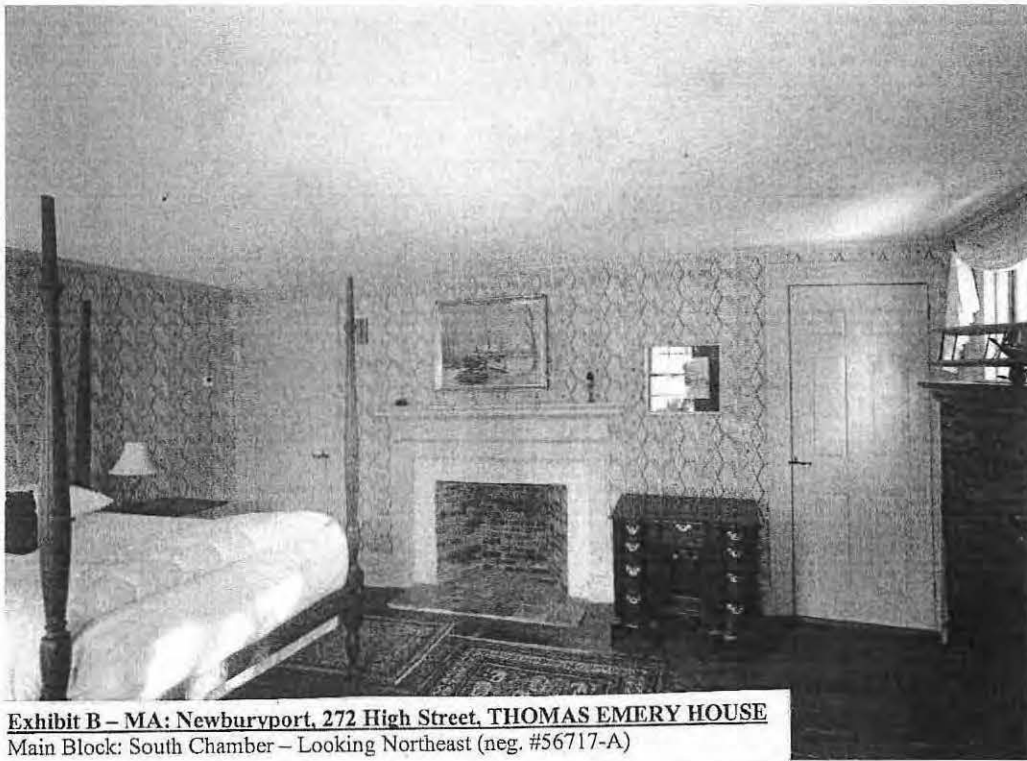


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: South Chamber – Looking Northeast (neg. #56717-A)

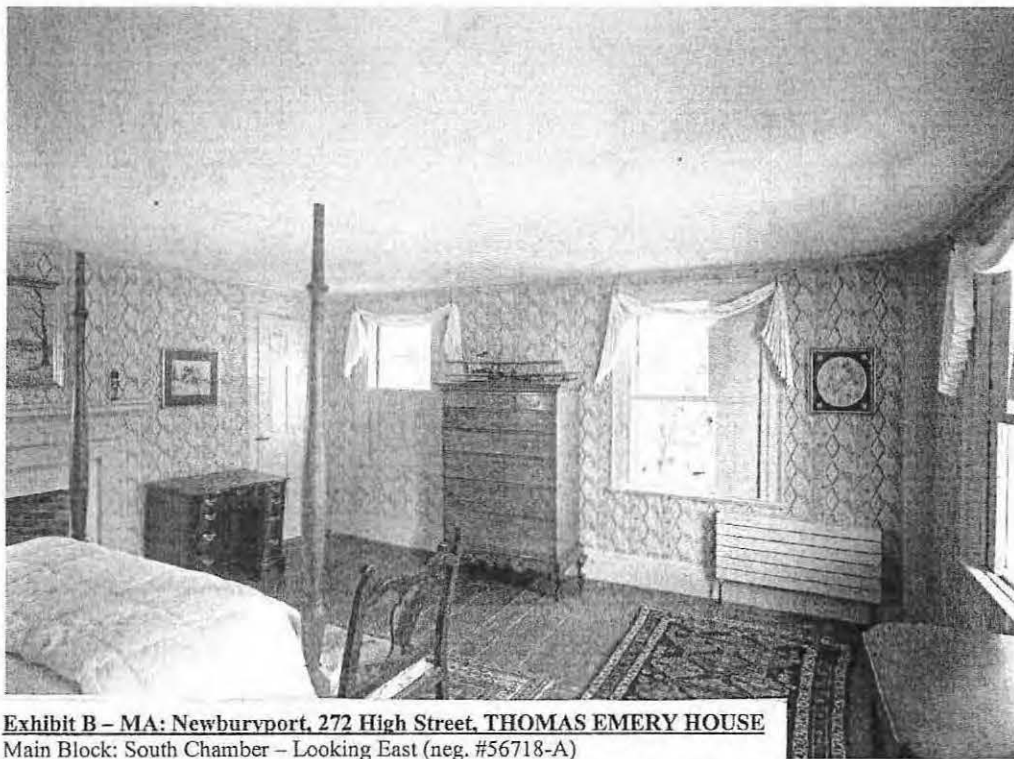


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: South Chamber – Looking East (neg. #56718-A)

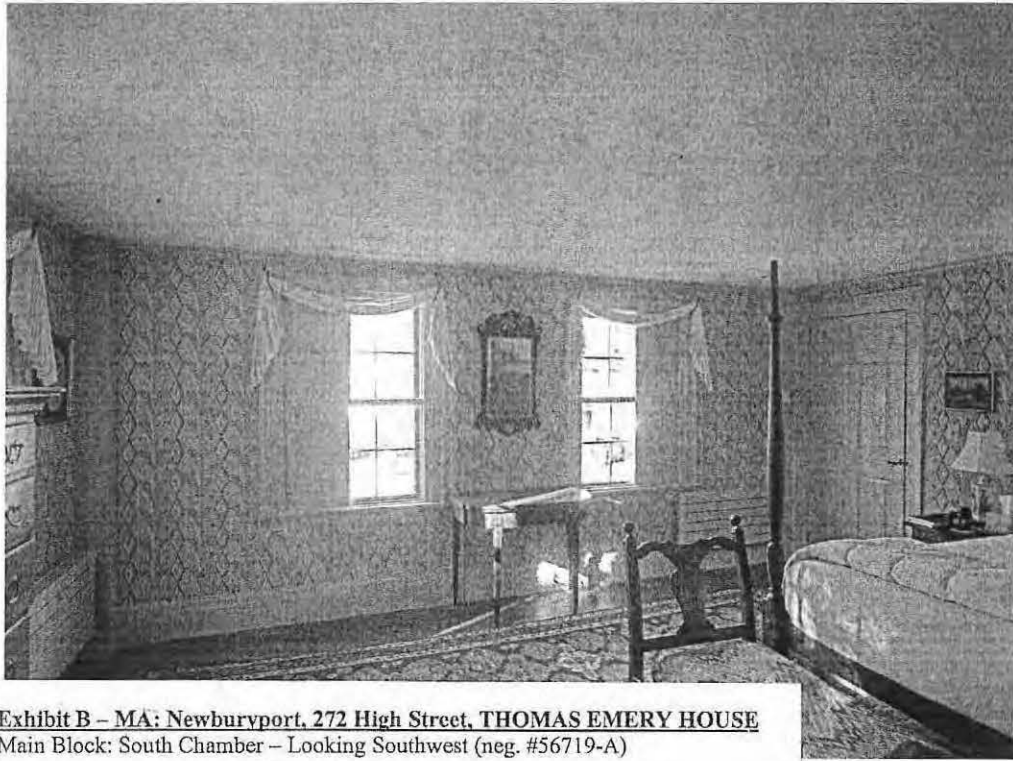


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: South Chamber – Looking Southwest (neg. #56719-A)

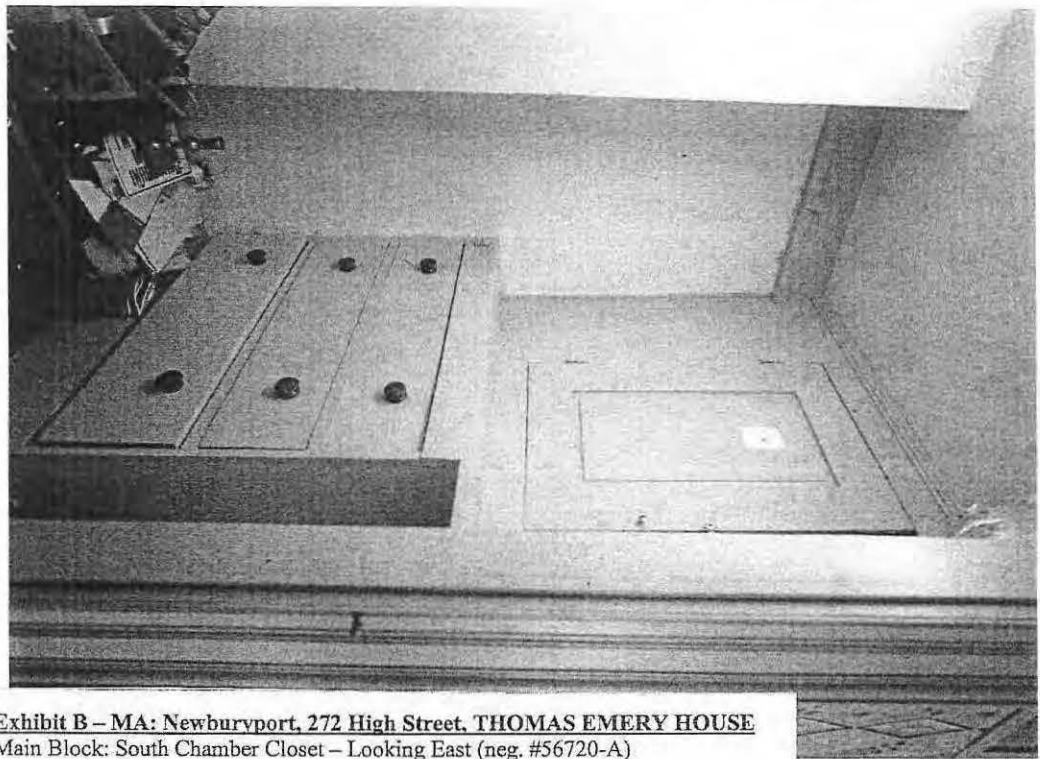


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: South Chamber Closet – Looking East (neg. #56720-A)

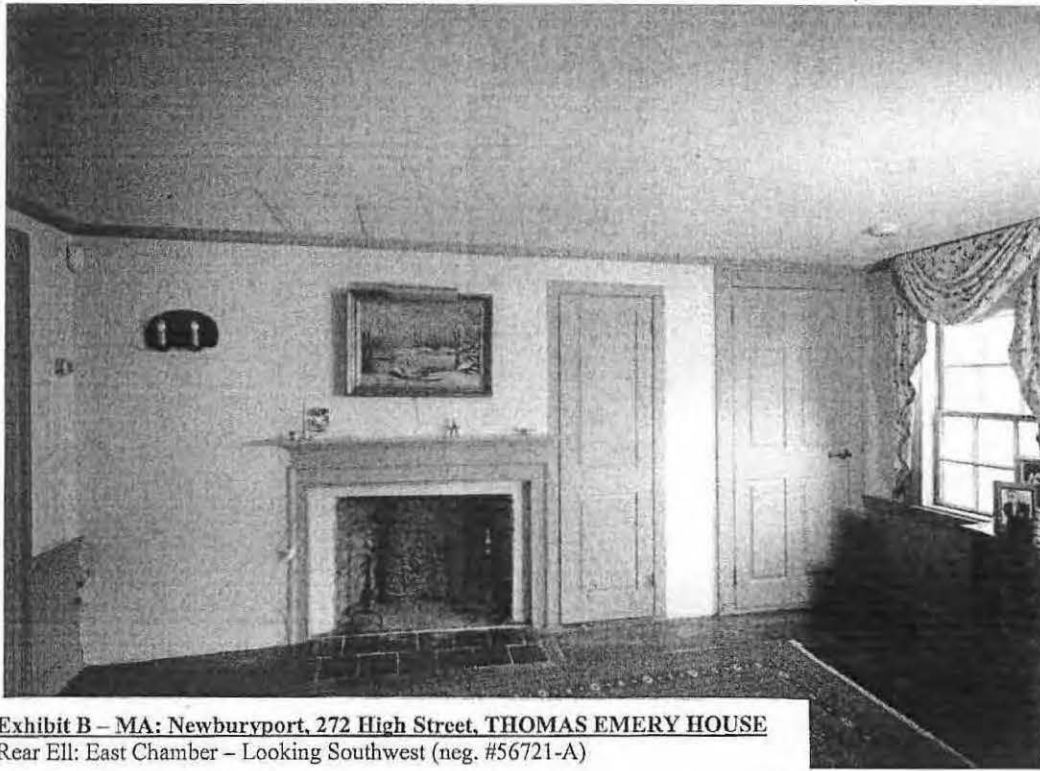


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Rear Ell: East Chamber – Looking Southwest (neg. #56721-A)

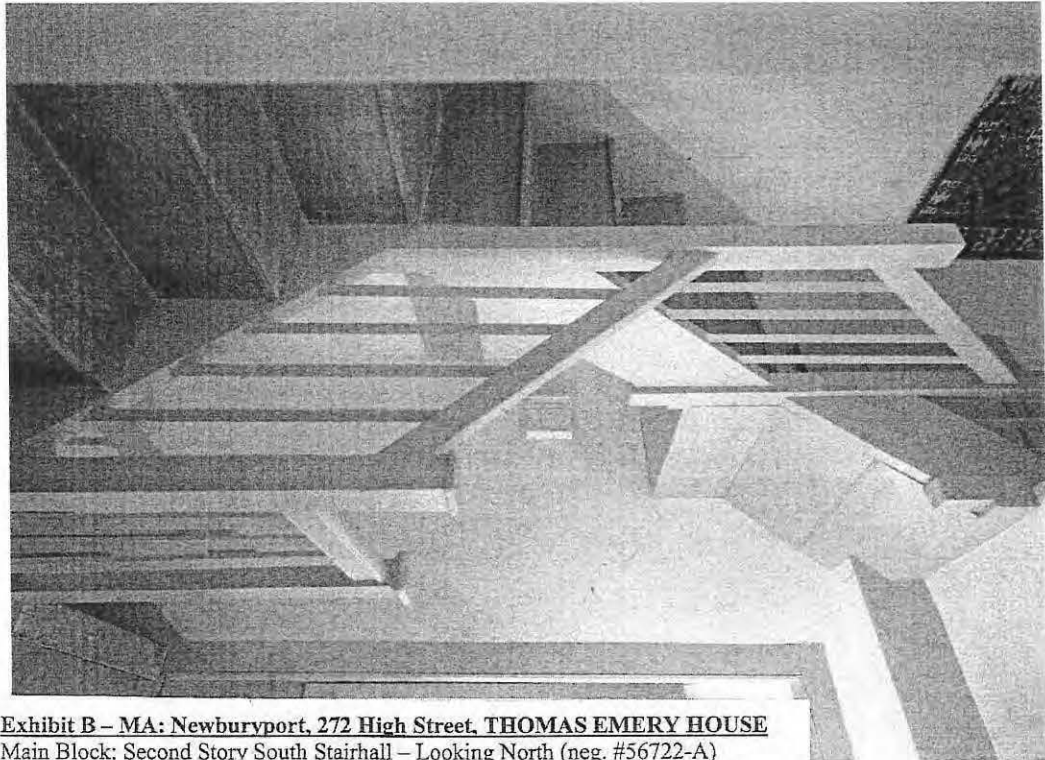


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: Second Story South Stairhall – Looking North (neg. #56722-A)

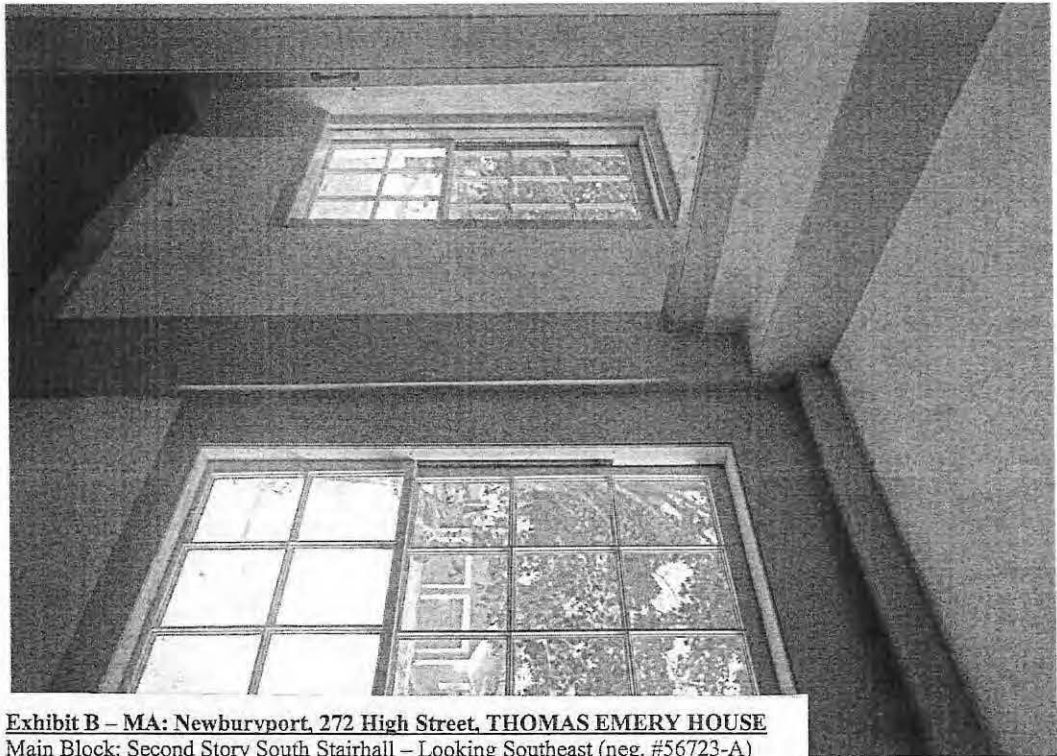


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: Second Story South Stairhall – Looking Southeast (neg. #56723-A)

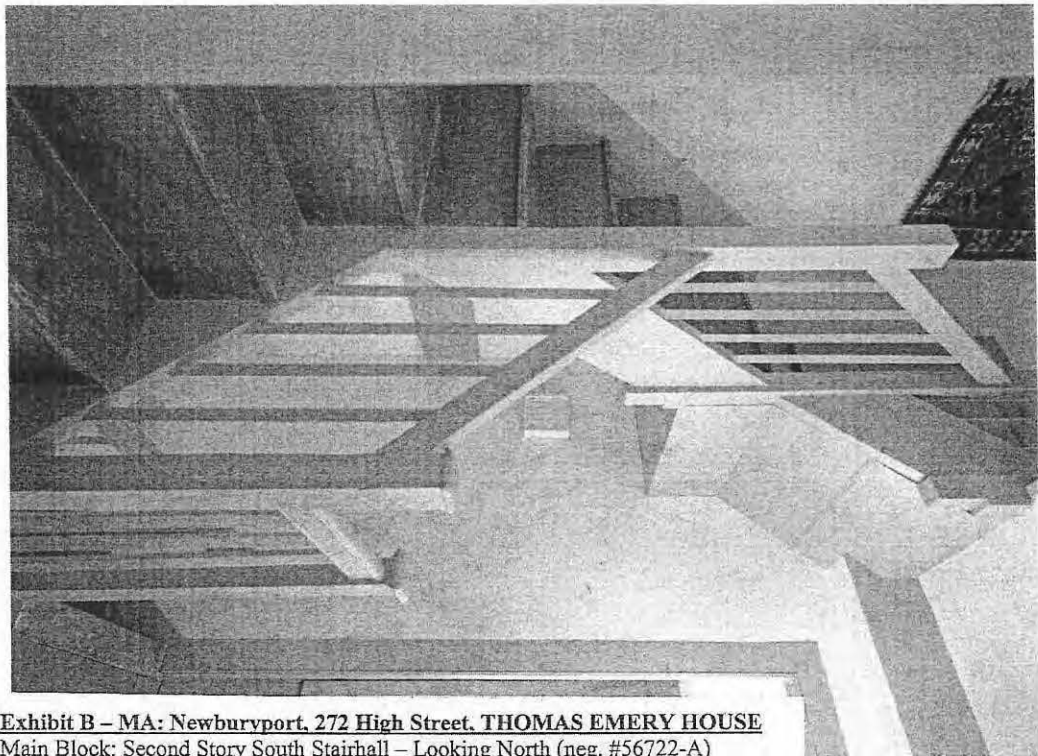


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: Second Story South Stairhall – Looking North (neg. #56722-A)

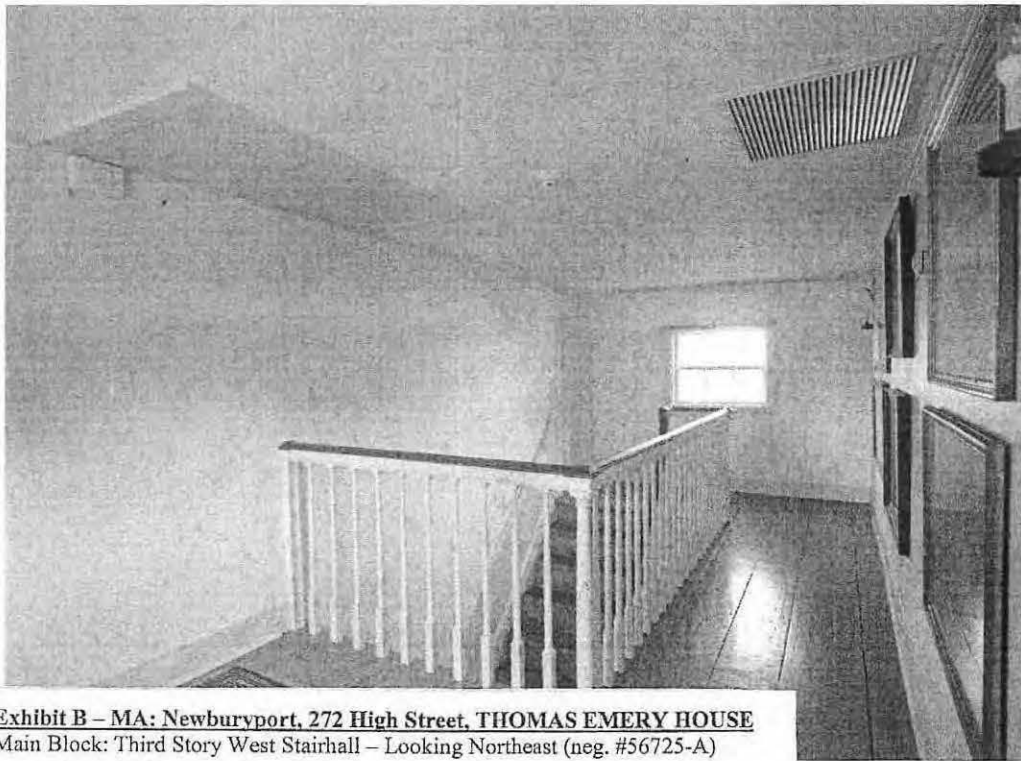


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: Third Story West Stairhall – Looking Northeast (neg. #56725-A)

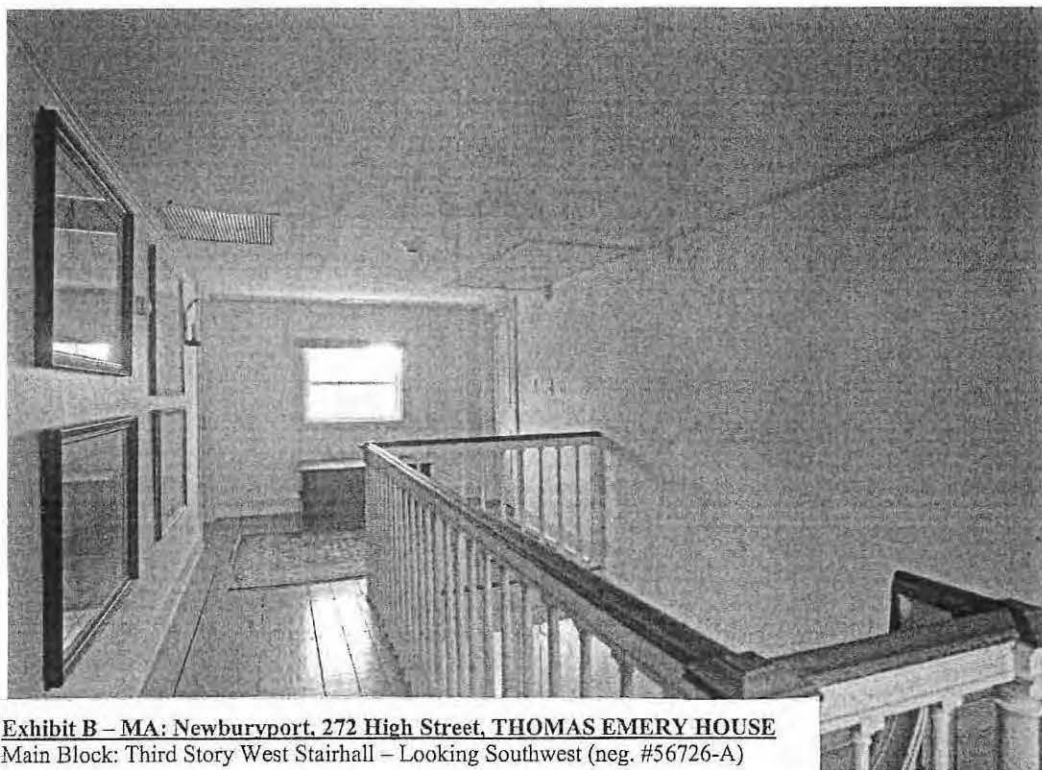


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: Third Story West Stairhall – Looking Southwest (neg. #56726-A)

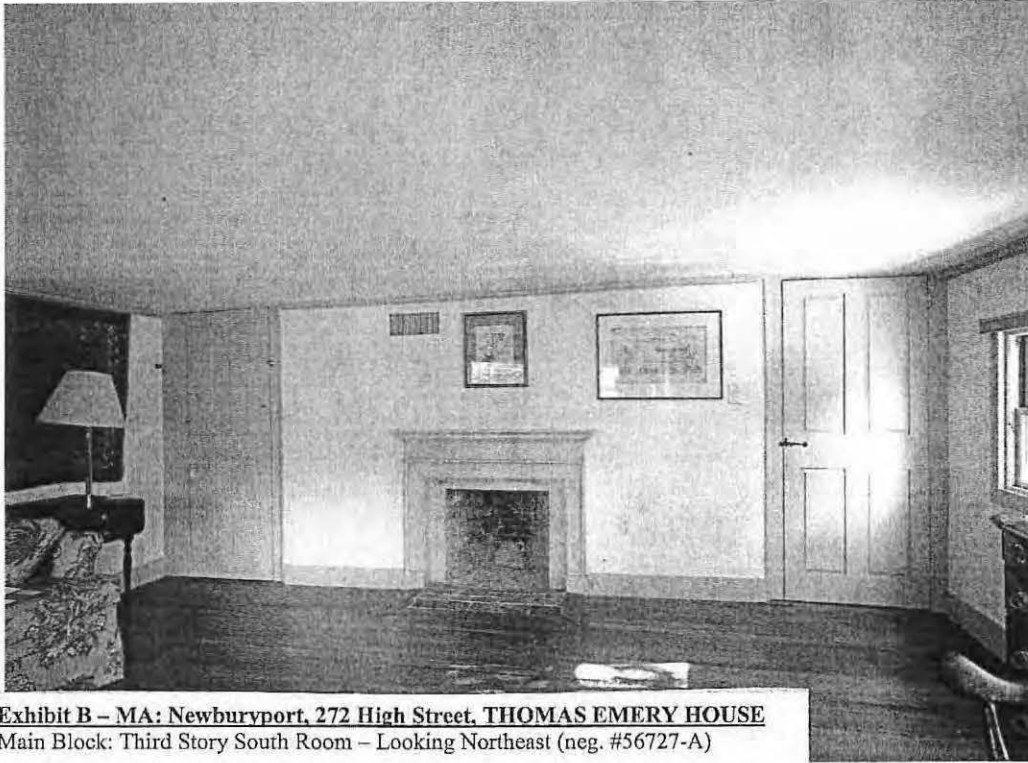


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: Third Story South Room – Looking Northeast (neg. #56727-A)

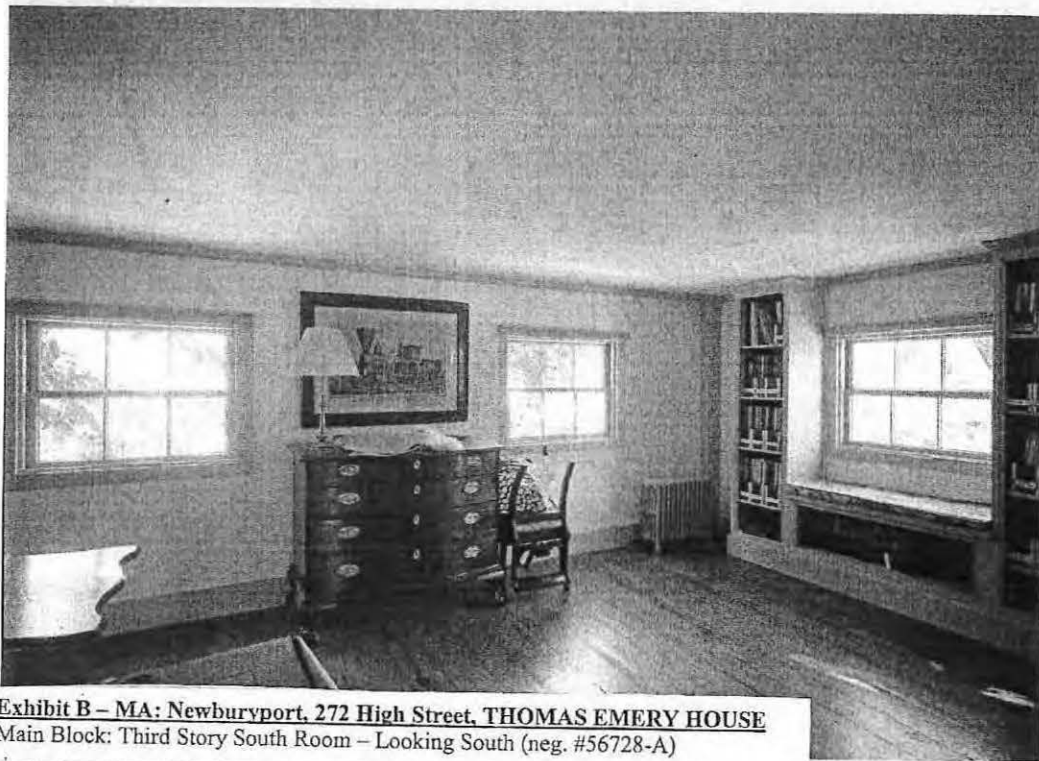


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: Third Story South Room – Looking South (neg. #56728-A)

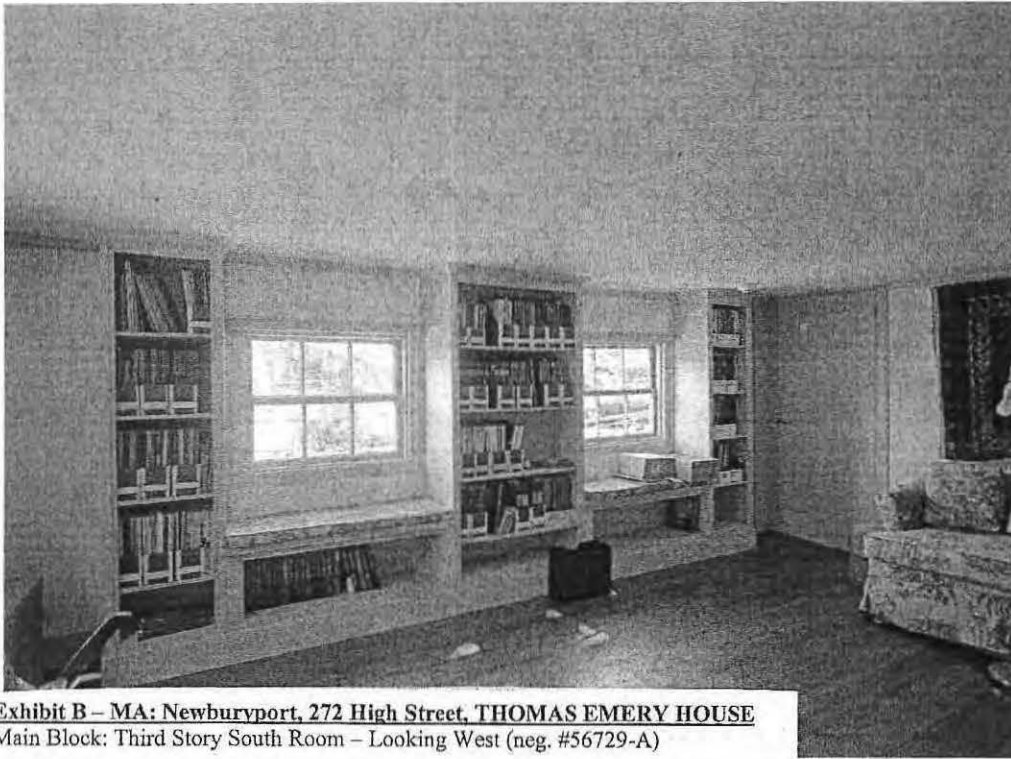


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: Third Story South Room – Looking West (neg. #56729-A)

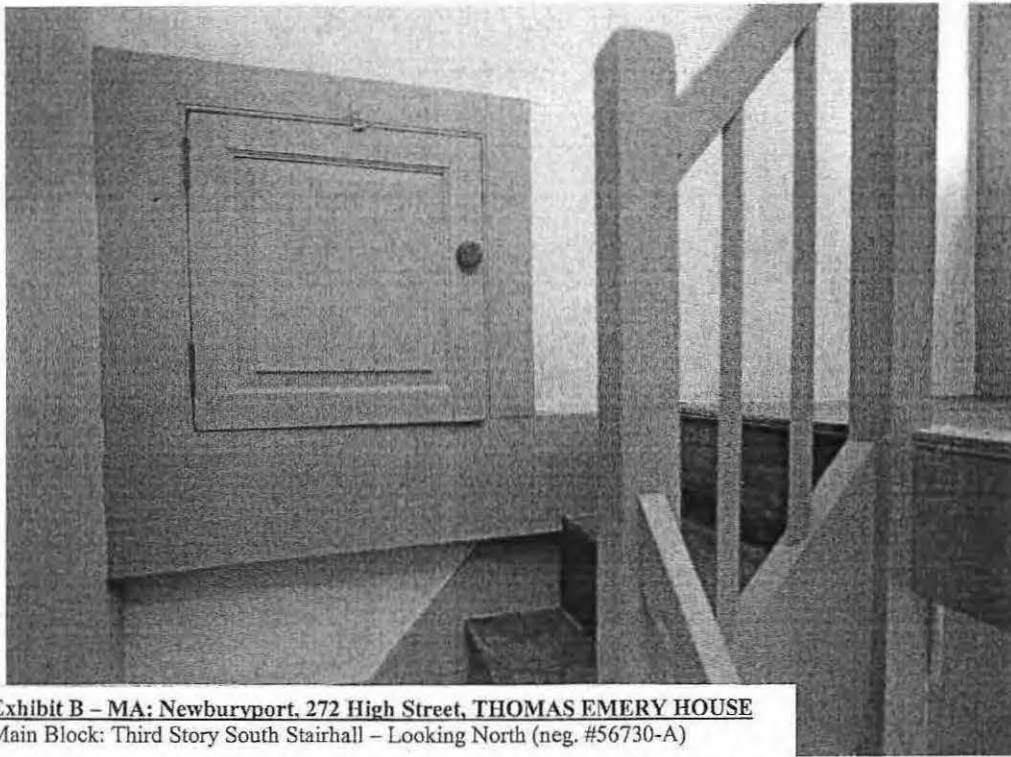


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: Third Story South Stairhall – Looking North (neg. #56730-A)

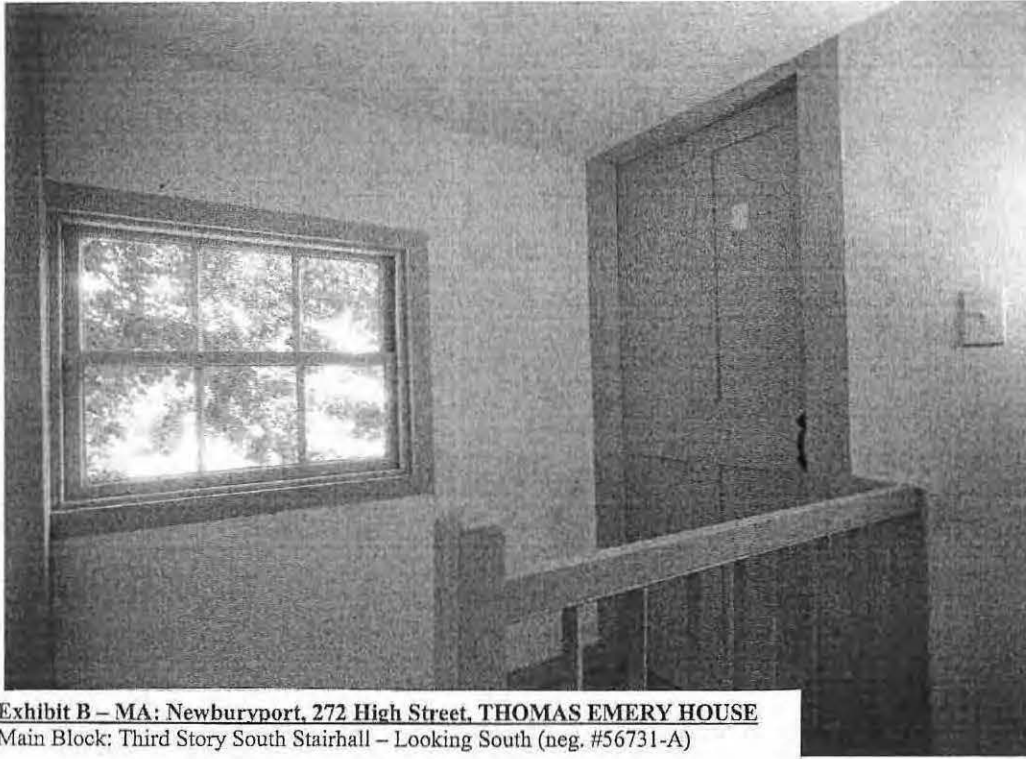


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: Third Story South Stairhall – Looking South (neg. #56731-A)

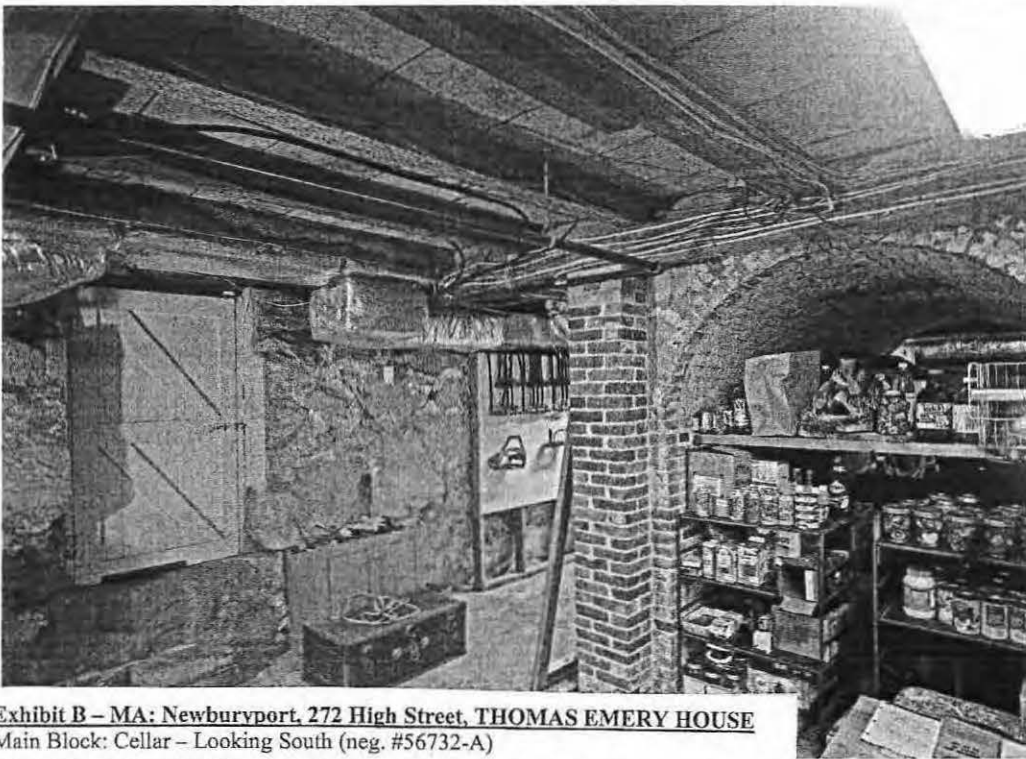


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: Cellar – Looking South (neg. #56732-A)



Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: Cellar – Looking Southwest (neg. #56733-A)

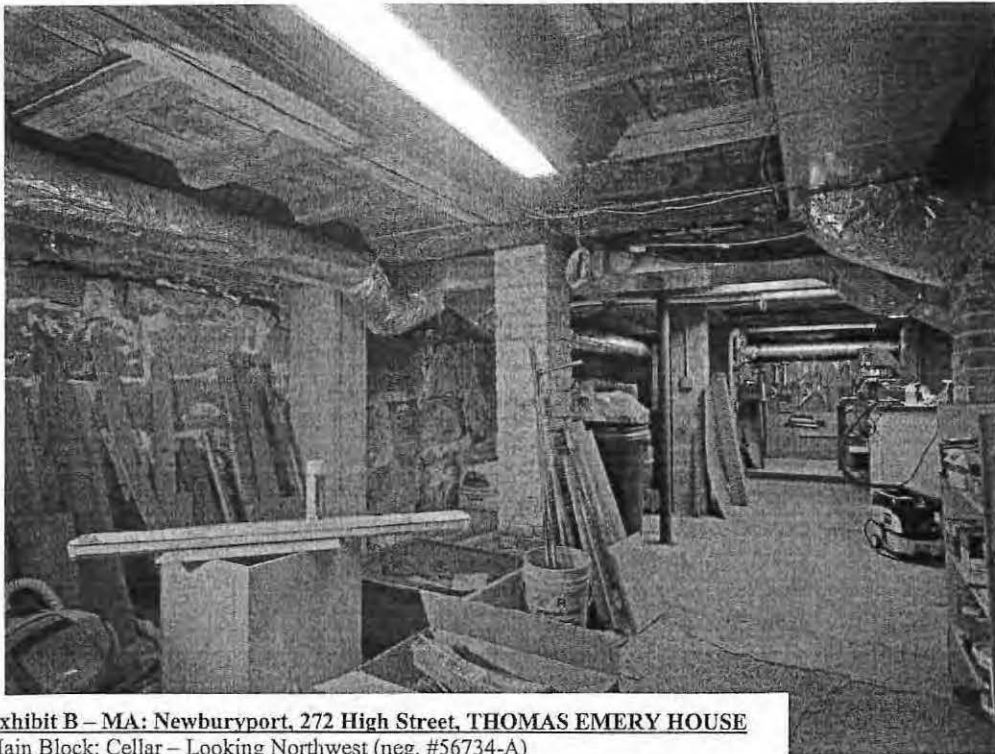


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: Cellar – Looking Northwest (neg. #56734-A)

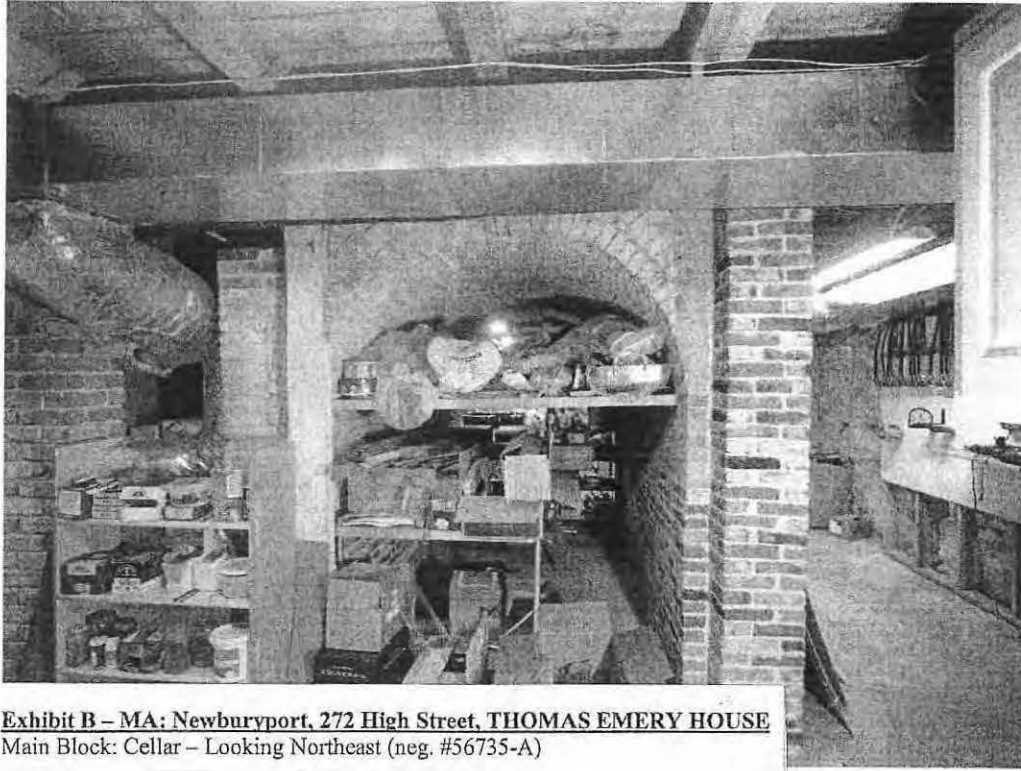


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: Cellar – Looking Northeast (neg. #56735-A)

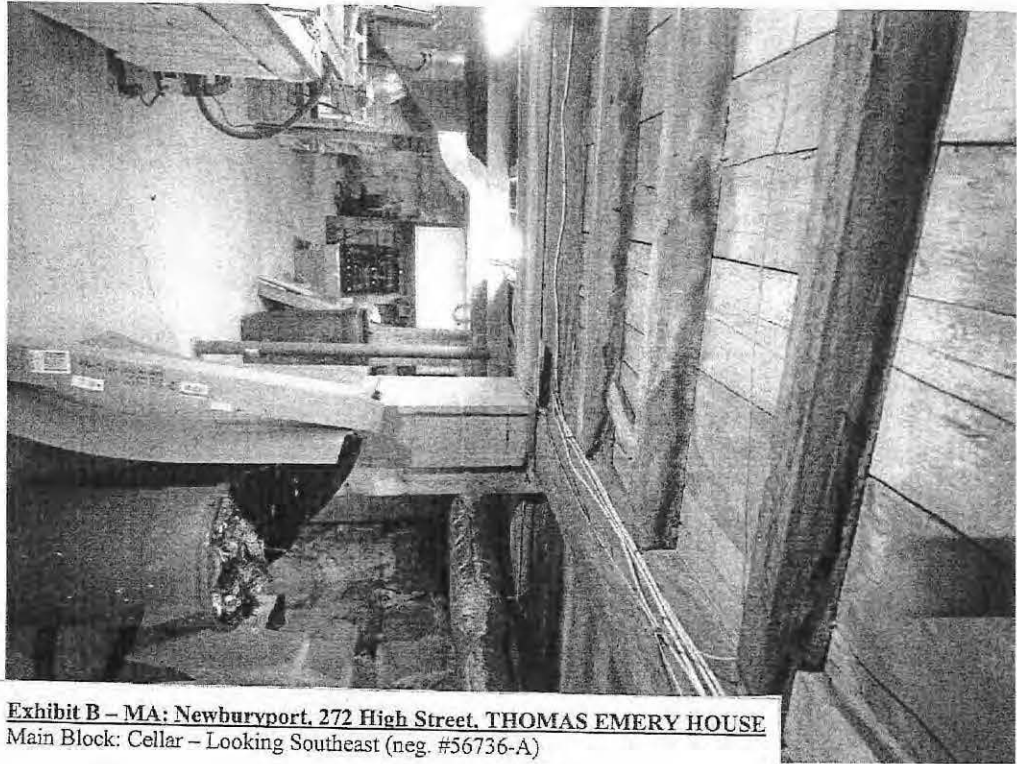


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: Cellar – Looking Southeast (neg. #56736-A)

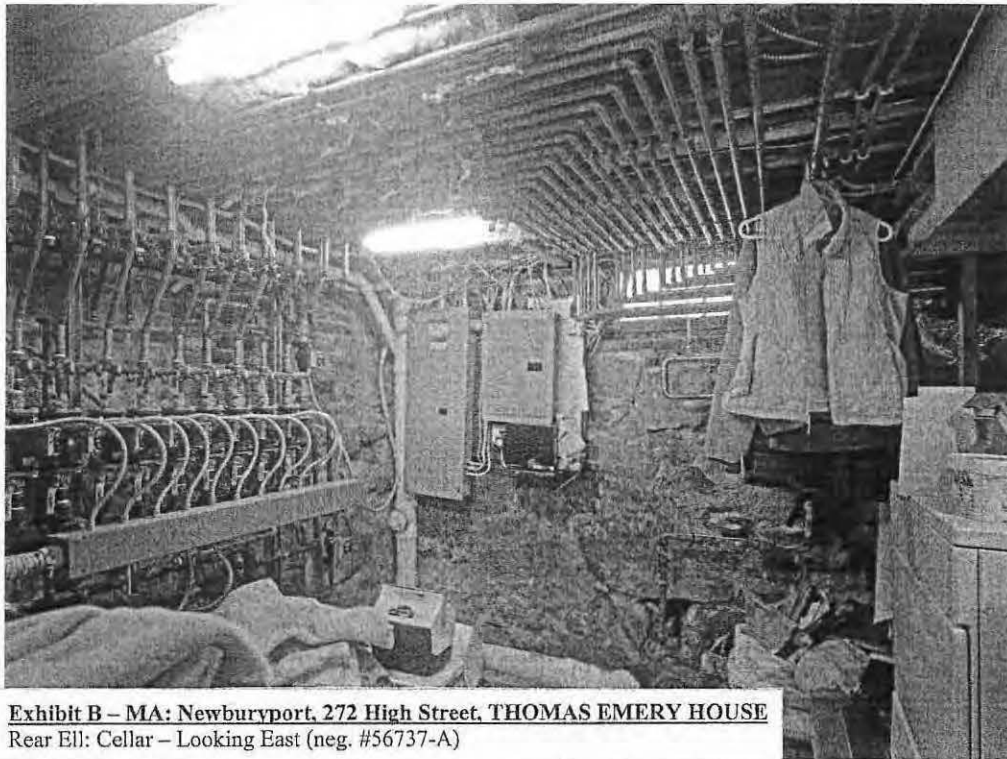


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Rear Ell: Cellar – Looking East (neg. #56737-A)

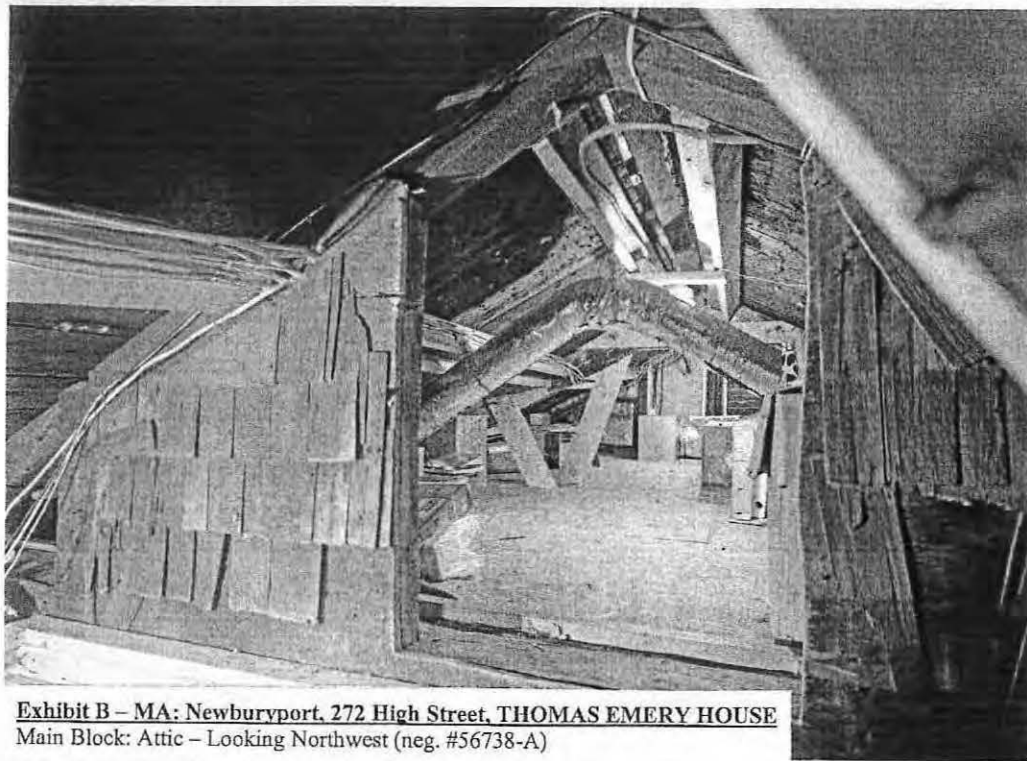


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: Attic – Looking Northwest (neg. #56738-A)

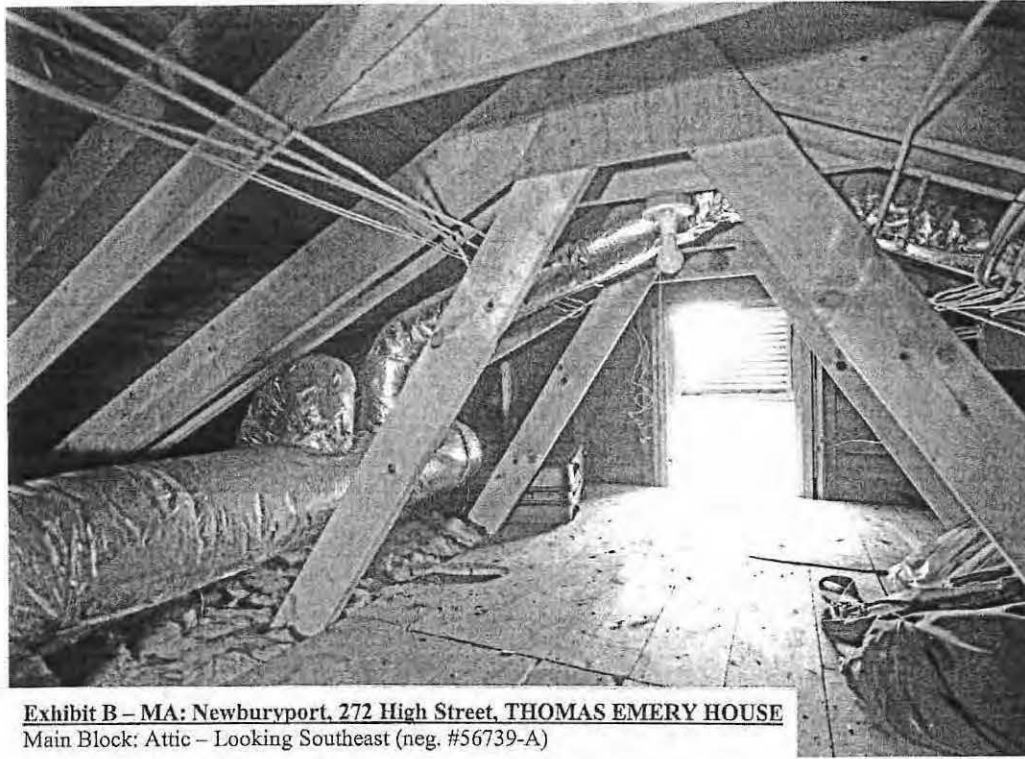


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Main Block: Attic – Looking Southeast (neg. #56739-A)

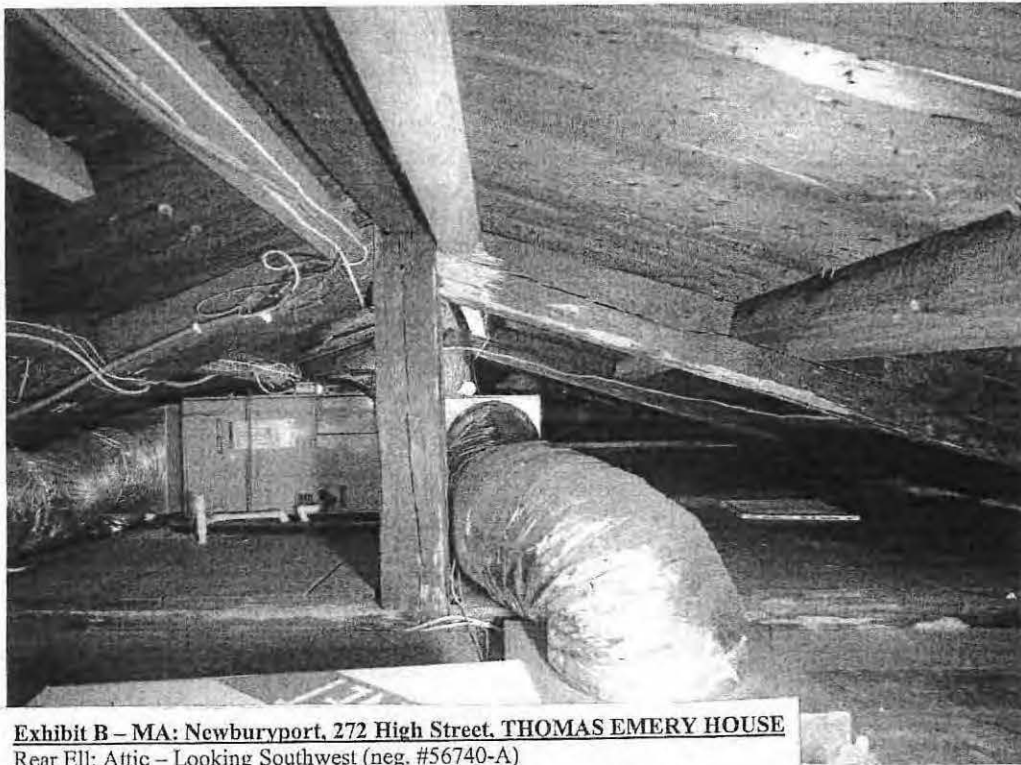


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Rear Ell: Attic – Looking Southwest (neg. #56740-A)

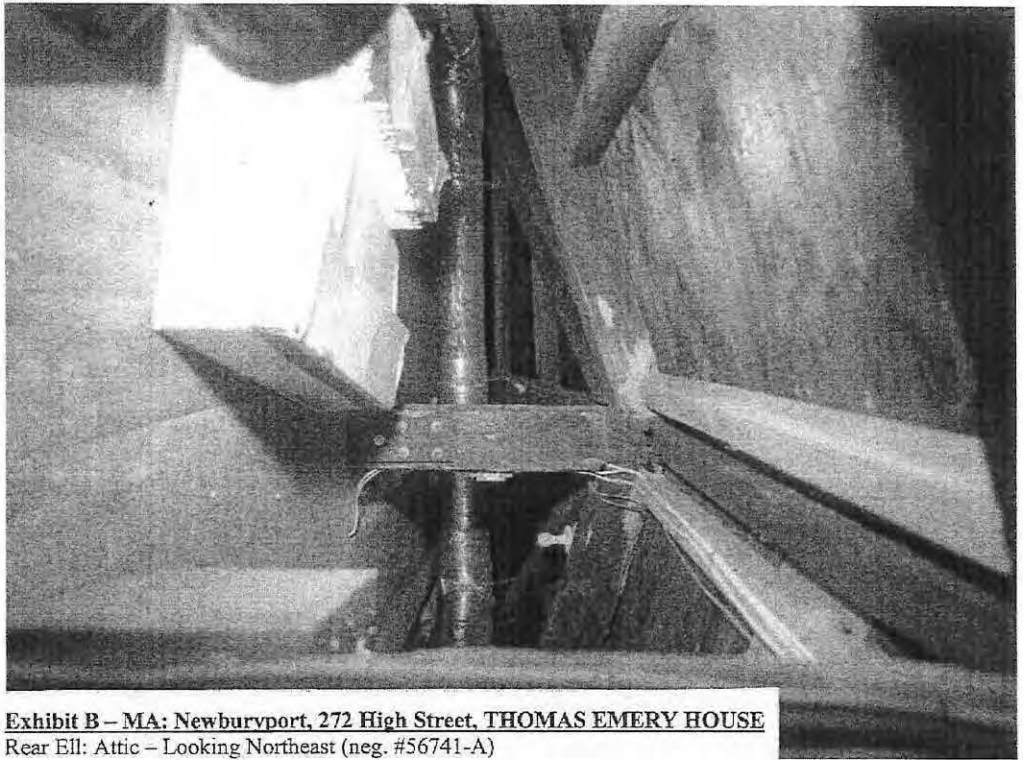


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Rear Ell: Attic – Looking Northeast (neg. #56741-A)

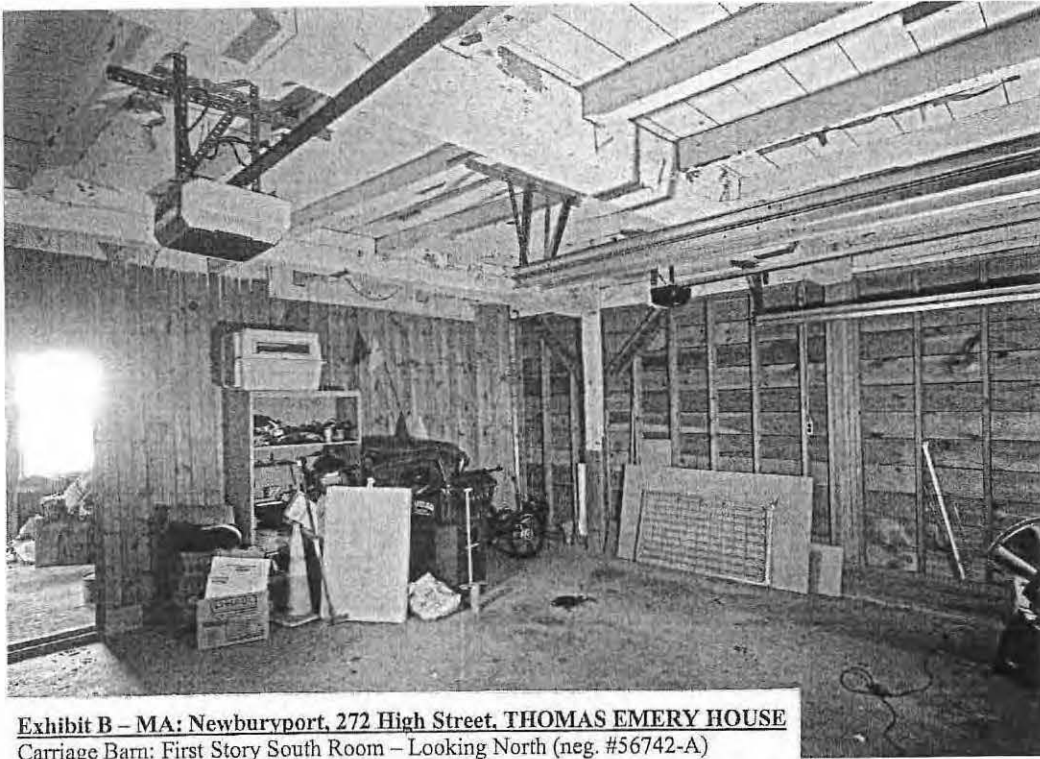


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Carriage Barn: First Story South Room – Looking North (neg. #56742-A)

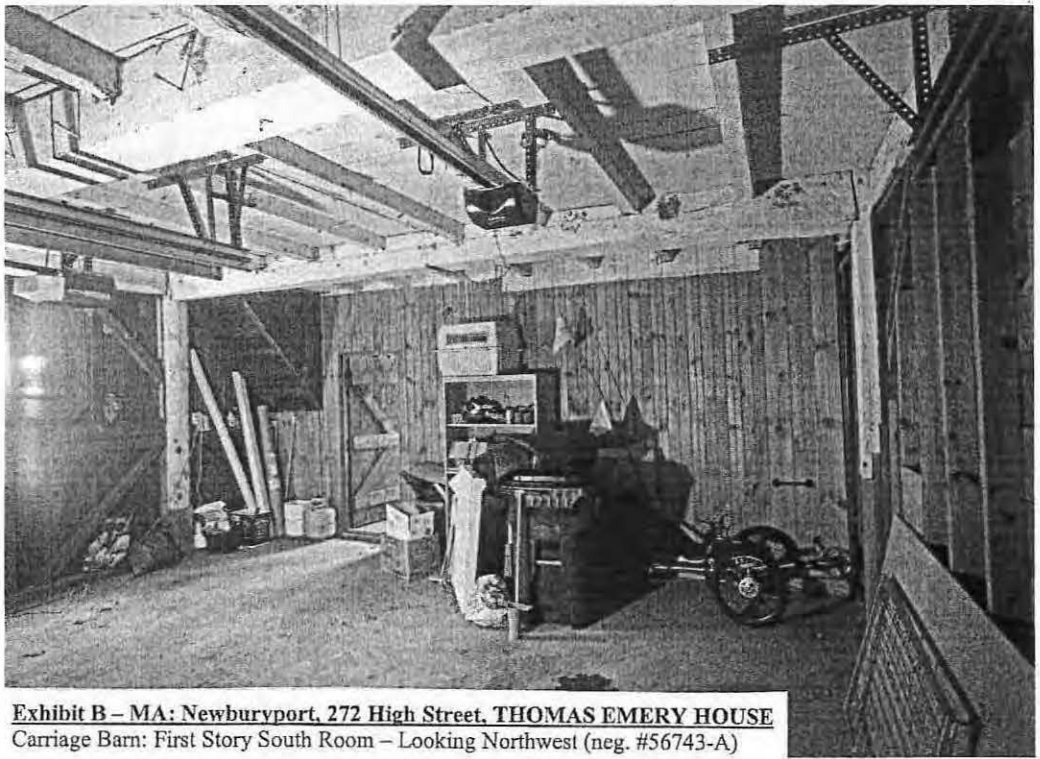


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Carriage Barn: First Story South Room – Looking Northwest (neg. #56743-A)

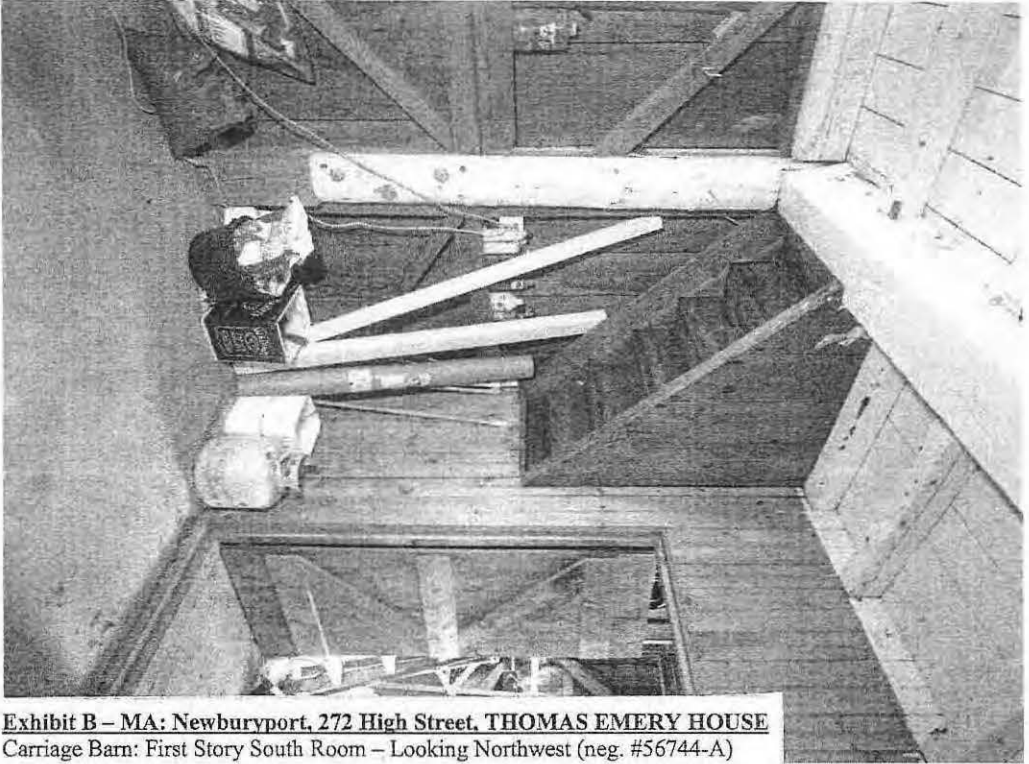


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Carriage Barn: First Story South Room – Looking Northwest (neg. #56744-A)

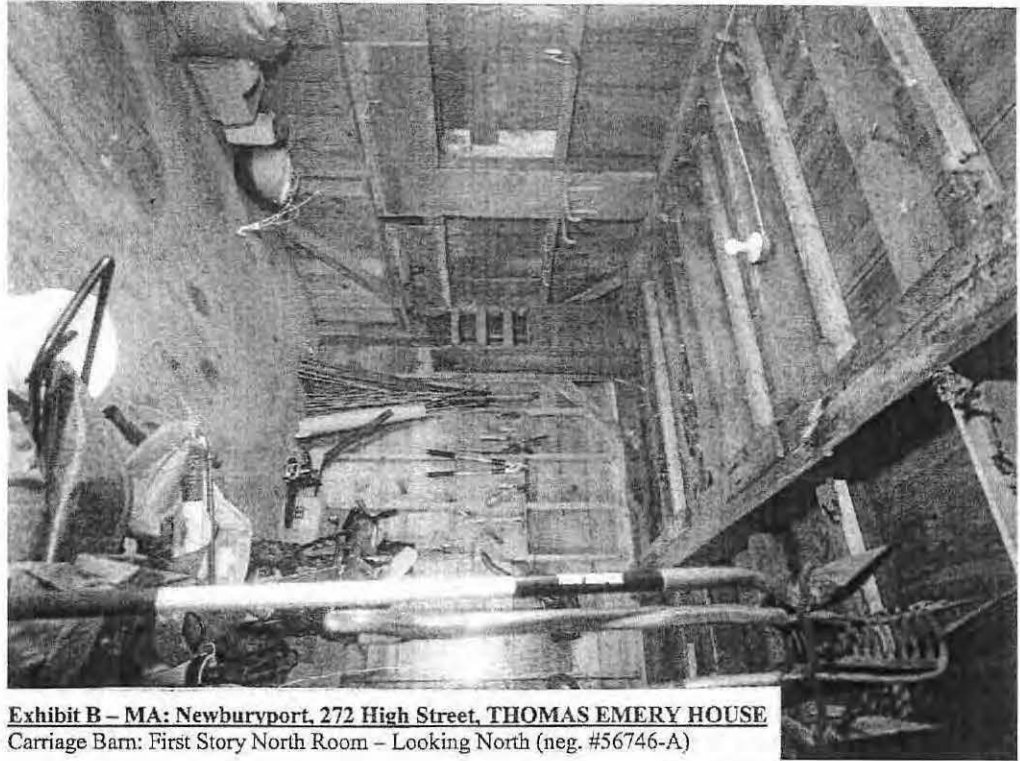


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Carriage Barn: First Story North Room – Looking North (neg. #56746-A)

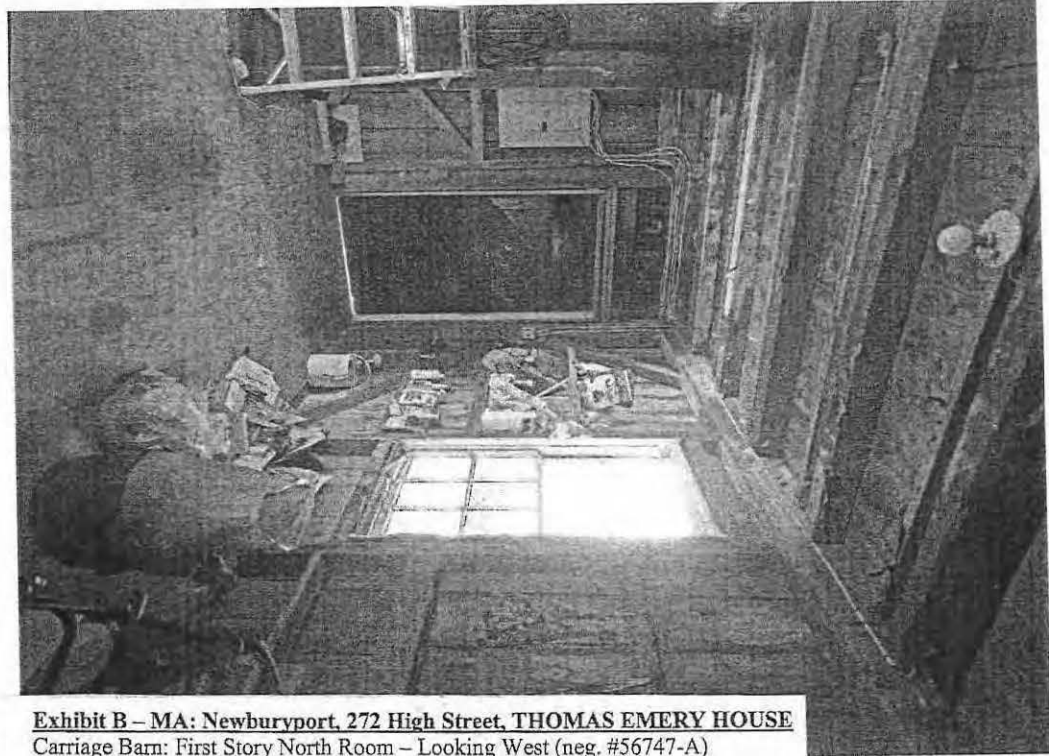


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Carriage Barn: First Story North Room – Looking West (neg. #56747-A)

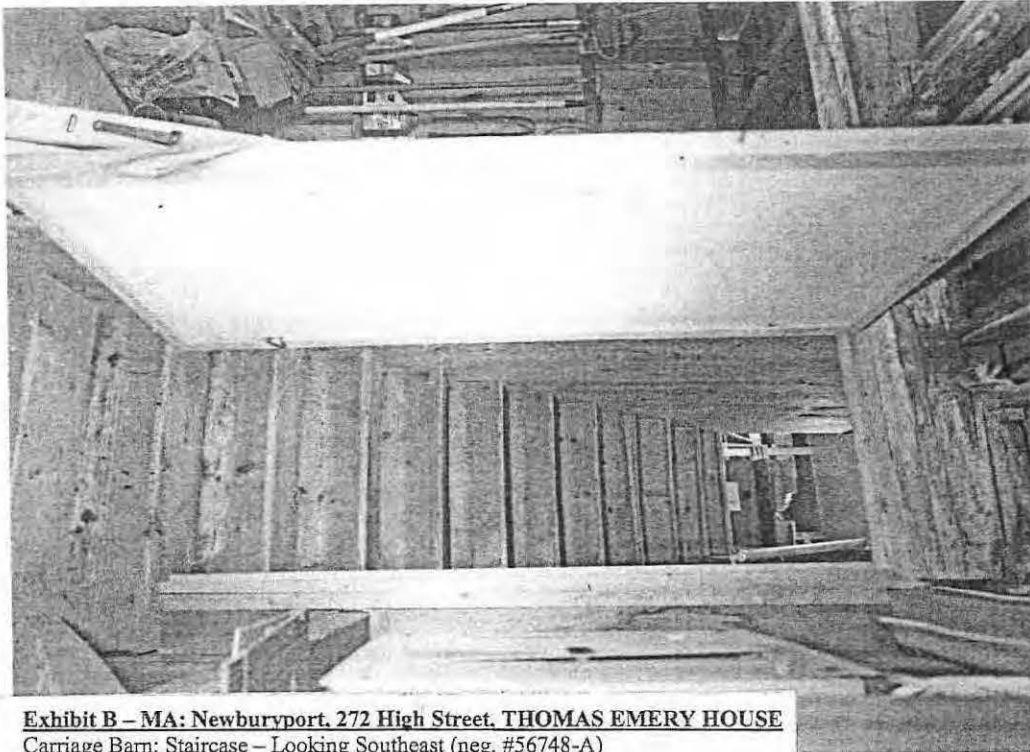


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Carriage Barn: Staircase – Looking Southeast (neg. #56748-A)

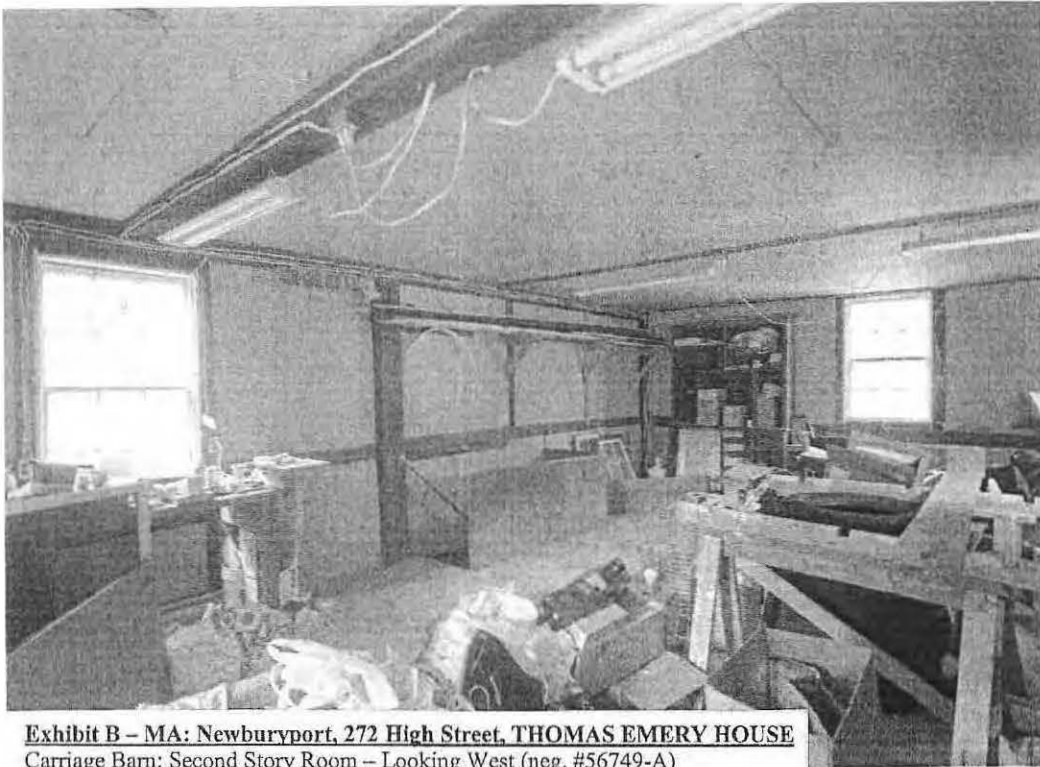


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Carriage Barn: Second Story Room – Looking West (neg. #56749-A)

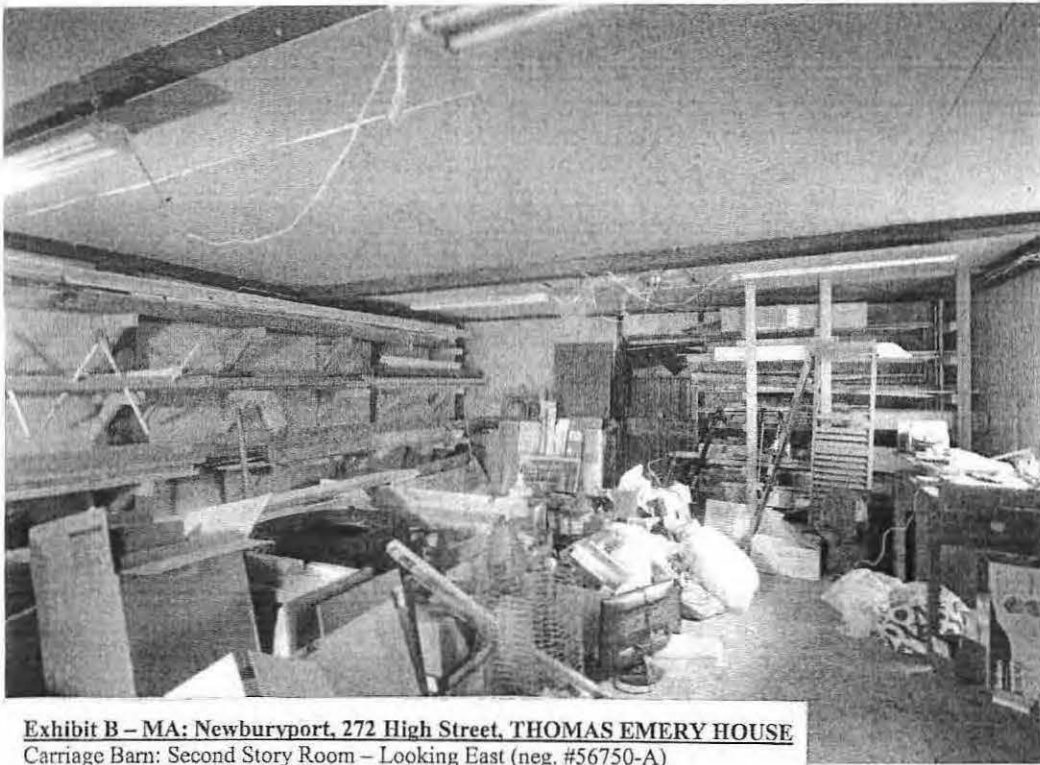


Exhibit B – MA: Newburyport, 272 High Street, THOMAS EMERY HOUSE
Carriage Barn: Second Story Room – Looking East (neg. #56750-A)

EXHIBIT C
FLOOR PLANS
FIRST STORY
(Not to scale)

EMERY HOUSE
272 HIGH STREET
NEWBURYPORT, MA

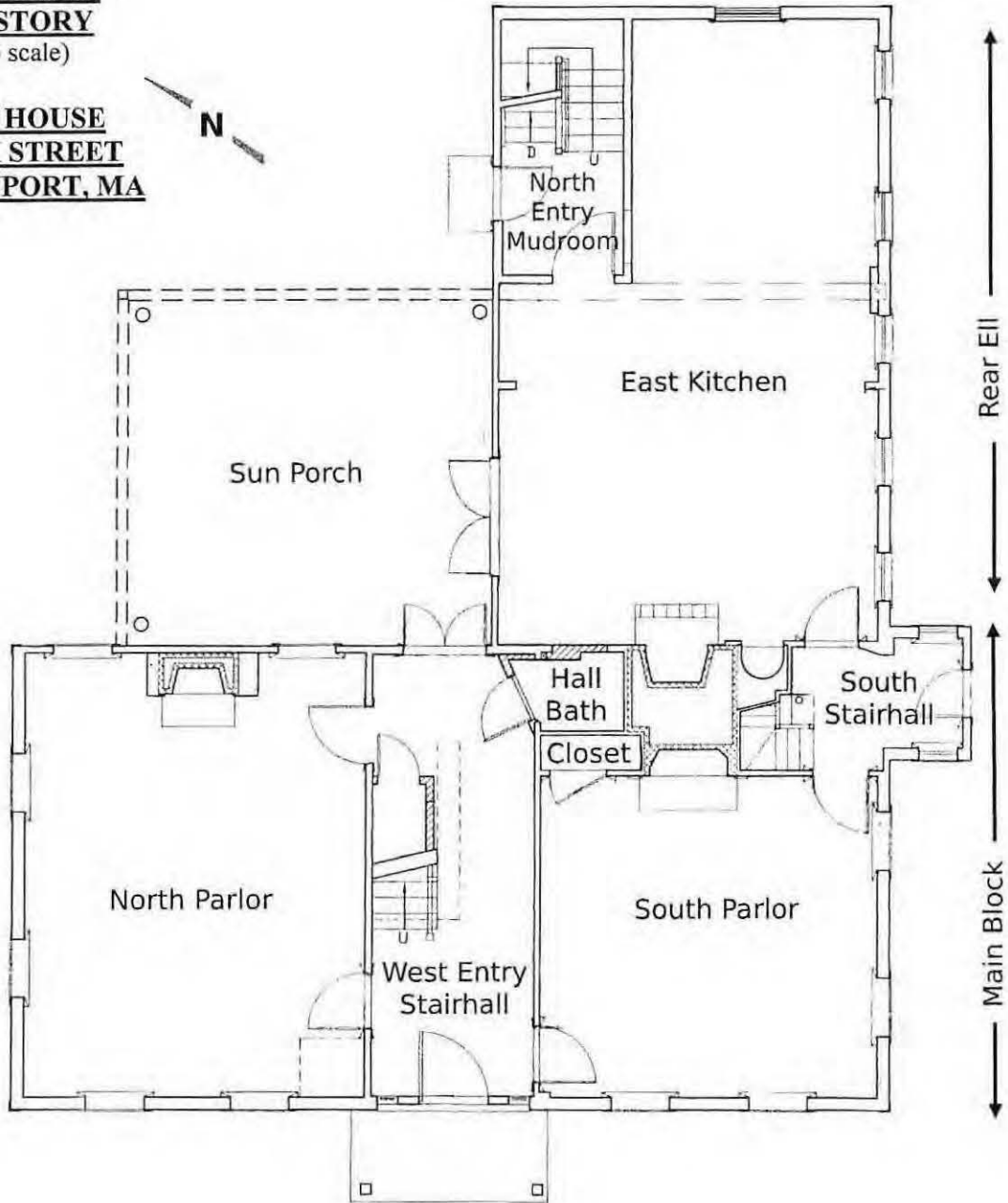


EXHIBIT C
FLOOR PLANS
SECOND STORY
(Not to scale)

EMERY HOUSE
272 HIGH STREET
NEWBURYPORT, MA

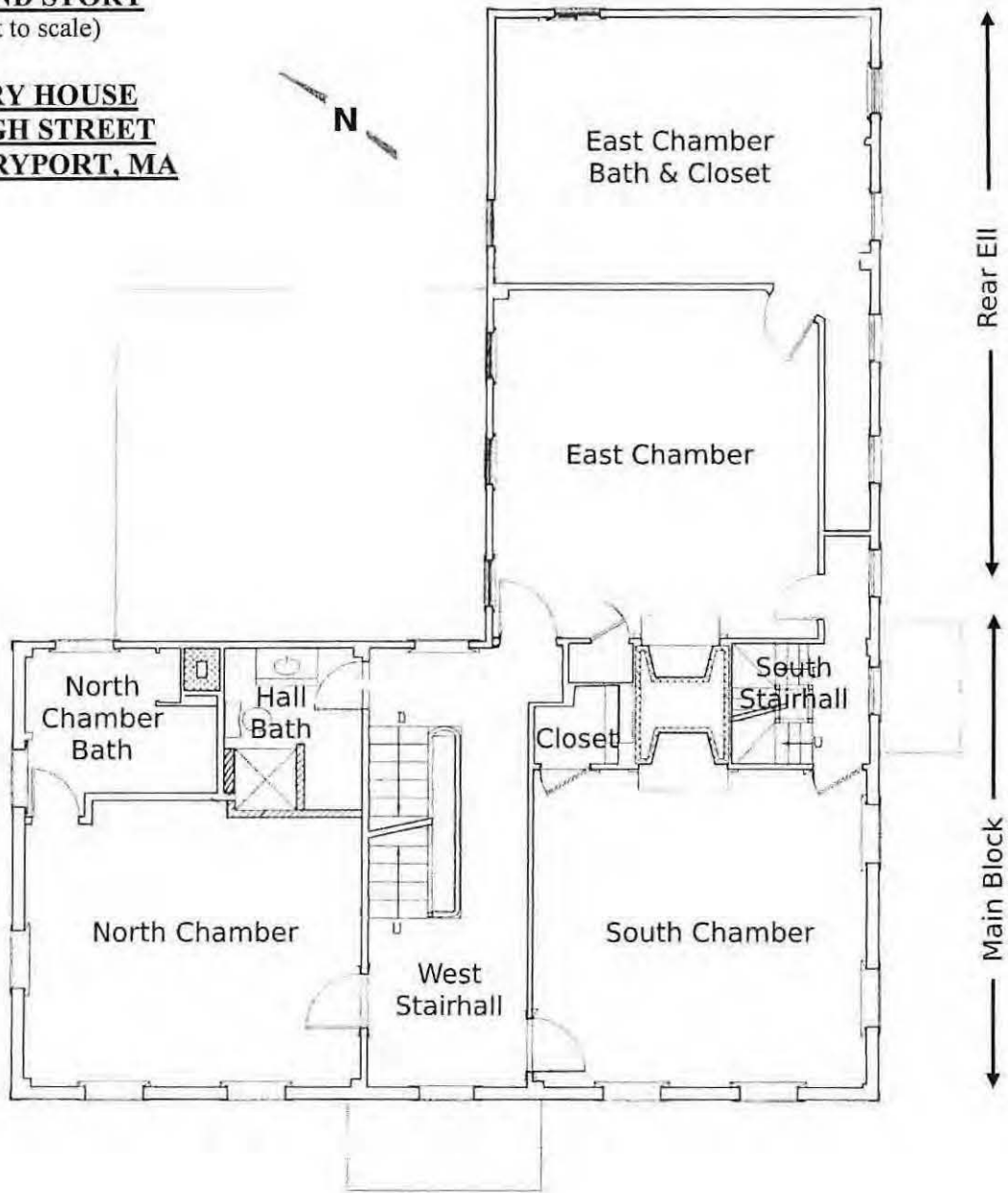


EXHIBIT C
FLOOR PLANS
THIRD STORY

(Not to scale)

EMERY HOUSE
272 HIGH STREET
NEWBURYPORT, MA

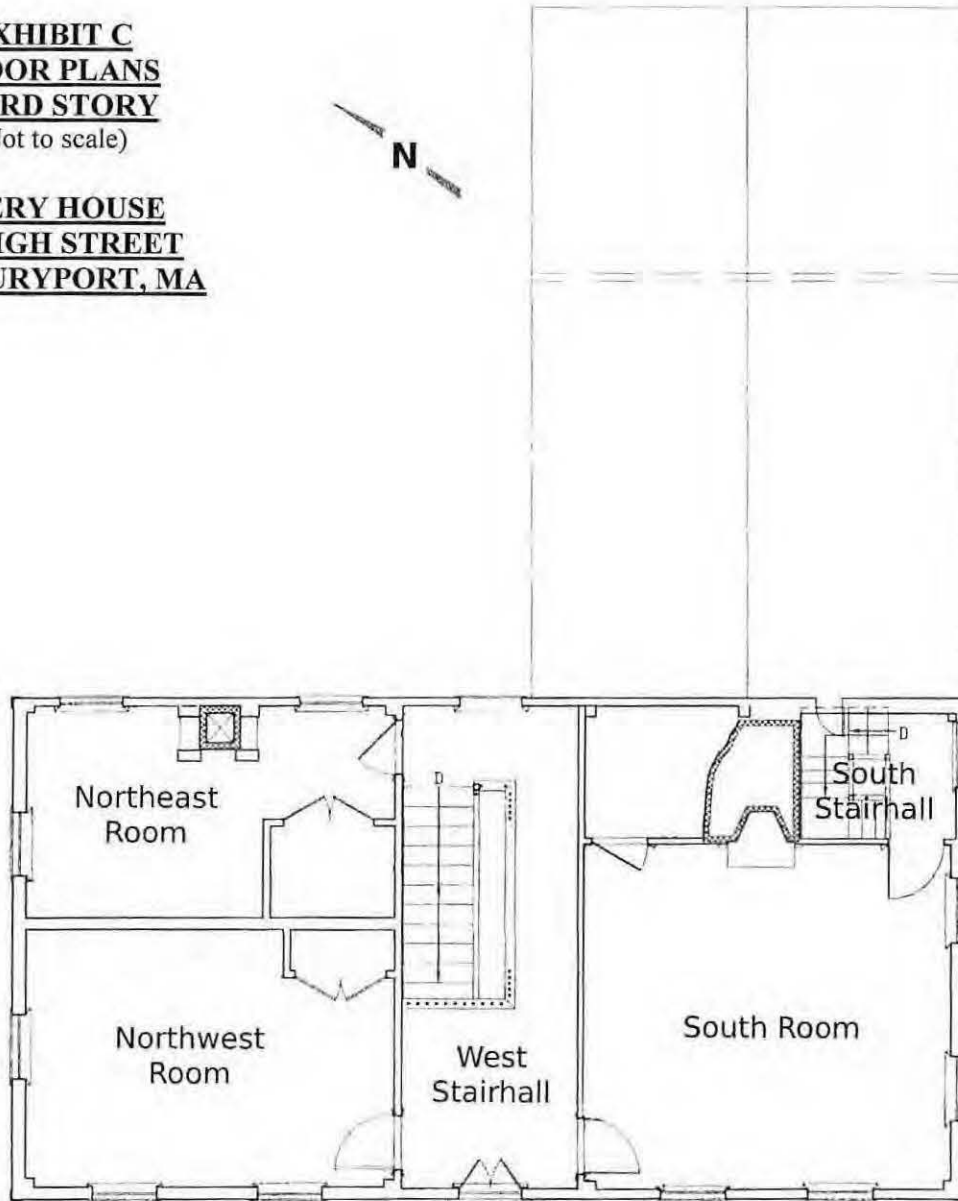


EXHIBIT D
SITE PLAN

EMERY HOUSE
272 HIGH STREET
NEWBURYPORT, MA

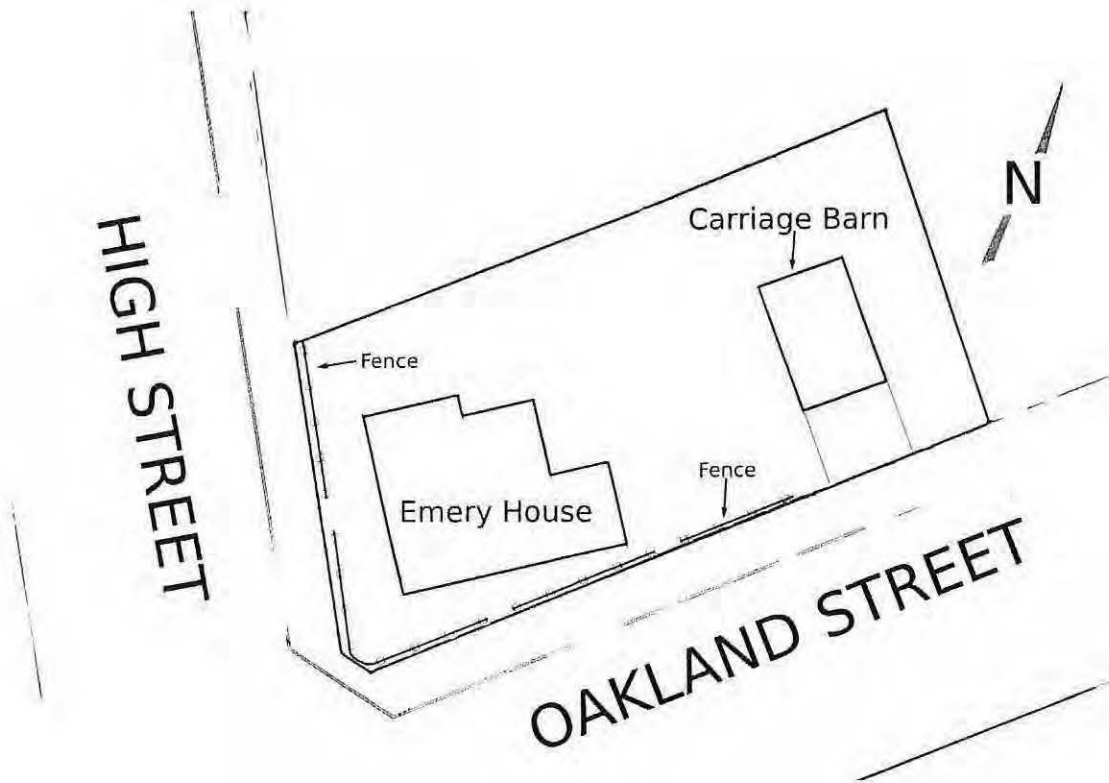


EXHIBIT E

PRIOR LIENS

Subject to a Preservation Restriction Agreement recorded in Book 25243, Page 420 at the Southern Essex District Registry of Deeds.

psd

ORDR215_10_13_2020

CITY OF NEWBURYPORT



IN CITY COUNCIL

October 13, 2020

ORDERED:

Be it ordained by the City Council of the City of Newburyport as follows:

THAT the City Council of the City of Newburyport hereby approve and authorize the acceptance of a Preservation Restriction between the City, acting through the Newburyport Historical Commission, and the Central Congregational Church UCC, for the property located at 14 Titcomb Street (a.k.a. Central Congregational Church); and

Further, that the Mayor of the City of Newburyport, the City Council President and City Clerk are hereby authorized to sign the subject Preservation Restriction as may be required, to act on behalf of the City and enter into any and all instruments, including acceptance of said Preservation Restriction in accordance with Massachusetts General Laws Chapter 184, and to take any other actions necessary to execute this acceptance and the associated Preservation Restriction accordingly.

Councilor Heather L. Shand

PRESERVATION RESTRICTION AGREEMENT

Between

Central Congregational Church, UCC

and the

CITY OF NEWBURYPORT, MASSACHUSETTS

BY AND THROUGH THE NEWBURYPORT HISTORICAL COMMISSION

THIS PRESERVATION RESTRICTION is made this ___ day of _____ 2020 (this "Restriction") by and between Central Congregational Church UCC, 14 Titcomb Street, (P. O. Box 372), Newburyport, MA ("Grantor"), and the CITY OF NEWBURYPORT ("Grantee"), a municipality duly organized under the laws of the Commonwealth of Massachusetts and located in Essex County, Massachusetts, to be managed and enforced by its agent, the NEWBURYPORT HISTORICAL COMMISSION (the "Commission"), located at 60 Pleasant Street, Newburyport, Massachusetts, 01950.

WHEREAS, the Grantor is the owner in fee simple of certain real property located at 14 Titcomb Street, Newburyport, Massachusetts (hereinafter referred to as "the Property"), being that same Property conveyed by the Central Congregational Society to Grantor in a deed recorded with the Essex South Registry of Deeds on March 2, 1927 in Book 2713, Page 387 ("Parcel 1") and from Mary Cortes to the Grantor in a deed recorded on May 6, 1963 recorded in the Essex South Registry of Deeds Book 5058 Page 52 ("Parcel 2") in Exhibit A, attached hereto and incorporated herein by reference, said Property improved by one (1) principal building thereon, referred to hereinafter as "the Building", described as follows:

The Building at 14 Titcomb Street consists of two connected parts. The portion of the Building which includes the Steeple tower and the Sanctuary with the main entrance facing east, toward Titcomb Street was constructed in 1861 (the "1861 Portion"). The rear addition of the Building housing classrooms and administrative offices was later added in 1910 (the "1910 Portion").

The present appearance of the 1861 Portion corresponds to the reconstruction of the church in 1861 after it was largely destroyed by fire that same year. The new church was constructed reusing the brick walls although the entrances and windows were redesigned in the Italianate style rather than the Gothic style of the original building. The rectangular 1861 Portion is covered with a slate gabled roof. The steeple tower is at the East Elevation, and contains the main entrance to the sanctuary. This East Elevation contains a variety of features including a transom, door-side lights and semi-circular arched stained glass windows. The Italianate style is evident in the wide eaves and decorative and functional corbels, brackets and broken-pediment rakes.

The Steeple tower is 157 feet tall measuring from the ground to the tip of the spire, which is topped by a gold plated globe and weathervane with cardinal points indicator. The steeple houses four clock faces- one on each side- with Roman numerals. The hands and minute markers are gold leafed.

The Building rests on a granite foundation and the red brick is laid in a stretcher bond alternating nine courses of stretchers, to a single course alternating headers and stretchers, all laid in red mortar.

Characteristic of the Italianate style, the eaves of the 1861 Portion display a broad overhang accented by brackets and cornice moldings which are paired at the corners, with single brackets in between. The North and South elevations of the 1861 Portion contain three two-story-tall, stained glass windows with

stone sills and semi-circular arches with brick corbelled hoods. Each window contains two narrow arched panels topped by a centered circular pane. These are protected by storm windows. The stained glass windows date to 1910. Single windows of the same design are located on the East elevation of the Sanctuary flanking the Steeple tower.

The Building's main entrance on the East elevation of the 1861 Portion is set in a deeply recessed, arched opening, with the wood-paneled, double main entrance doors flanked by multi-pane side-lights and set under a semi-circular fan transom. The side walls of the entry recess are wood panels and the arched ceiling is constructed of narrow wood slats. The front stoop is granite paved, with wrought iron railings. Foot traffic approaches the stoop and entrance from either side: a concrete handicap ramp leads to the south side and has a stairway to Titcomb Street and to the north side granite steps with concrete landings connect to the front sidewalk.

Above the entrance the large, two story tall, arched stained glass window is filled with four narrow vertical panels of colored leaded glass and is protected by an outer storm window. The opening is capped by a brick lintel.

The first stage of the brick Steeple tower is punctuated by a pair of round-arched stained glass windows. A keystone arch in brick is centered on the façade. The second stage of the steeple is also square in plan with chamfered corners. The steeple façade displays three stories of stained glass windows, with higher openings being unglazed. Each side of the octagonal wooden belfry is punctuated by three open arches with large consoles at the corners. Resting on the belfry is an octagonal drum and a shingled spire.

Inserted low in the front wall to the left of the front door is a marble tablet reading "Congregational Society. Founded 1768. Erected 1826 on the site of the old church". This marble memorial stone was restored to the building in 1959 after an absence of nearly 100 years. The stone was formerly placed above the entrance of the church but was omitted when the church was rebuilt after the 1861 fire.

The 1910 Portion of the Building was added to the worship space to accommodate a larger, merged congregation. It houses offices, classrooms, rest rooms, social hall and two parlors. The exterior walls are brick laid in a stretcher bond alternating eight courses of stretcher to a single course alternating headers and stretchers with beige mortar in parts, red in others. The West Elevation displays evidence of a redesign which is defined by newer bricks and mismatched gray mortar. All window sills are granite, some are painted white.

The 1910 Portion is two stories high covered by a sloping, single-plane lean-to roof on the South section and a gable roof with the ridge line running East-West on the North section.

Second-story windows are all set in slightly arched openings, with six-over-six, double-hung sash.

There are entrances on the East, North and West elevations.

The East Elevation extends a short wall from the South Elevation of the 1861 Portion. The East entrance is sheltered under a porch with shed roof supported by four posts, and with wood railing along the garden edge. The East facing porch entry from the pedestrian access ramp has a small, broken-pediment gable over it. The upper portion of the entry door is glass with a single row of side lights to the left, and a blind, semi-circular fan above. The door is flanked by a double casement window with wood trim set in a slightly arched opening. The two windows on the second story are six-over-six, double hung sash set in slightly arched openings.

On the South Elevation, four of the six windows on the first story are six-over-six, double-hung sash set in semi-circular arched openings. A triple-wide, six-paned, casement window located nearest the southeast corner is set in a slightly arched opening. The sixth window is located in a former entry

opening that has been partially walled off on the interior. The windows at this former entrance are made up of the upper part of the old door, with a stationary semi-circular topped window filling the top section. The six windows on the second floor are six-over-six, double-hung sash set in slightly arched openings. The upper southwest corner of this elevation has some areas of damage from the removal of an old fire escape. Some bricks and mortar are missing or broken, especially around windows.

On the West Elevation, the entry is accessed by a concrete ramp and a stairstep with wrought iron railings. There are seven windows on both the first and second stories. An additional window is located midway between the floors to light a stairway. This window matches the second story windows, with six-over-six, double-hung sash set in slightly arched openings. There is a single attic window, which also matches those on the second story. The first story windows are all six-over-six, double-hung sash set in semi-circular arched openings.

The North Elevation contains a single door with a semi-circular transom window. The entry is accessed by two granite steps. There are four six-over-six, double-hung sash windows set in semi-circular arched openings to the west of the door. Five second story windows are consistent on configuration with the other second story windows of the 1910 Portion.

Twenty-two (22) original windows in the 1910 Portion of the Building have been replaced with similar but modern versions as follows: East Elevation, 1910 Portion: all three (3) windows; South Elevation, 1910 Portion: all twelve (12) windows - six (6) each on the ground and the second floor; West Elevation, 1910 Portion: all seven (7) windows on the ground floor. All remaining windows on the 1910 Portion, that is, nine (9) on the North Elevation and nine (9) on the West Elevation (those above the ground floor), are believed to be original to the 1910 construction.

The Building is more fully described in a series of documents included in the Baseline Documentation attached hereto and incorporated herein by this reference as Exhibits B, C, and D.

WHEREAS, the cultural, historical and architectural significance of the Building and Property emanates from its long associations as a house of worship and community meeting facility. The imposing Italianate architecture (designed by A.G. Perkins, with woodwork by Arthur Currier and masonry by Cashman Brothers) the Building contributes to the historic downtown streetscape providing an imposing edifice at the west end of Brown Square. The steeple seen from afar is a prominent feature of the city skyline and along with the other skyline profile landmarks which represent much of the historical development of Newburyport and more generally to the historic architectural character of the Newburyport Historic District, the Building and the Property being important to the public enjoyment and appreciation of their architectural and historical heritage; and

WHEREAS, the Building and the Property are a contributing resource to the Newburyport Historic District, listed in the State and National Registers of Historic Places on August 4, 1984, are historically significant for their architecture, associations and/or archeology, and qualify for the protections of perpetual preservation restrictions under Massachusetts General Laws, Chapter 184, sections 31, 32 and 33; and

WHEREAS, Grantor and Grantee recognize the architectural, historic and cultural values (hereinafter "preservation values") and significance of the Building and the Property, and have the common purpose of preserving the aforesaid preservation values and significance of the exterior of the Building and the Property; and

WHEREAS, the preservation values of the Building and the Property values are documented in a series of photographs and documents (hereinafter, "Baseline Documentation") incorporated herein and attached hereto as Exhibits A, B, C, D, which Baseline Documentation the parties agree provides an accurate representation of the Building as of the date hereof.

WHEREAS, the Baseline Documentation shall consist of the following:

- Legal Property Description attached hereto as Exhibit A;
- Newburyport Assessor's Parcel Map for Parcel 47-31 attached hereto as Exhibit B;
- Massachusetts Historical Commission Inventory Form B dated June 1999, attached hereto as Exhibit C;
- A set of twenty-three (23) photographs of the Building taken [November 2019 (12) and January 2020 (11)] attached hereto as Exhibit D.

WHEREAS, the Building is in need of preservation and restoration; and

WHEREAS, the Grantor, in further consideration of the grant of funds by the Newburyport Community Preservation Fund for the restoration and rehabilitation of the steeple agrees and desires to impose certain restrictions, obligations and duties upon itself, its successors and assigns, so as to maintain, protect and preserve the architectural and historical integrity of the Building;

WHEREAS, the preservation of the Building is important to the public for the enjoyment and appreciation of its architectural and historical heritage and serves the public interest in a manner consistent with the purposes of Massachusetts General Laws, Chapter 184, Sections 31, 32 and 33 ("Act"); and

WHEREAS, the Commission is authorized to accept preservation restrictions in the name of the City of Newburyport and the Commission is a governmental body duly organized under the laws of the Commonwealth of Massachusetts, including the General Laws, Chapter 40, Section 8D, authorized and directed by the Grantee to manage the Property and Building burdened by such restrictions and to administer and enforce this restriction;

NOW THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the Grantor does hereby irrevocably grant and convey to the Grantee in gross in perpetuity this Restriction over the exterior of the Building and the Property to be administered, managed and enforced by the Commission during the Term of this Restriction.

1. Purpose: It is the Purpose of this Restriction to assure that the architectural, historic and cultural features of the exterior of the Building will be retained and maintained forever substantially in their current condition or in a restored condition approved by the Commission for preservation purposes and to prevent any use or change of the Property or the exterior of the Building that will significantly impair or interfere with the Building's preservation values or alter views of the exterior of the Building.
2. Preservation Restriction: The Grantor grants the Grantee the right to forbid or limit:
 - a. Any alteration to the appearance, materials, workmanship, condition or structural stability of

the Building unless (i) clearly of minor nature and not affecting the characteristics which contribute to the architectural or historical integrity of the Building and the Property, or (ii) the Grantee has previously determined that it will not impair such characteristics after reviewing plans and specifications submitted by Grantor in accordance with the requirements of paragraph 7, which determination shall not be unreasonably withheld, or (iii) required by casualty or other emergency promptly reported to Grantee in accordance with requirements in paragraph 9. For the purposes of this Agreement, interpretation of what constitutes alterations of a minor nature and ordinary maintenance and repair is governed by the Restriction Guidelines, which are attached hereto as Exhibit E.

- b. Any other act or use that may be harmful to the historic preservation of the Building or the Property.
 - c. Notwithstanding anything to the contrary in this section 2, in the event the Grantor is required by law to make improvements to the Building or Property or is required in writing by its insurance carrier to make improvements to the Building or Property in order to avoid revocation of insurance and the Grantor has exhausted all methods of variance or appeal process related to either applicable law or insurance qualifications, the Grantee and the Grantor agree that the Grantee may not forbid or limit the Grantor's ability to make the improvements. Said changes or improvements shall comply with the Secretary of Interior's Standards for the Rehabilitation of Historic Buildings, and shall be designed in consultation with and subject to reasonable review by Grantee.
3. Grantor's Covenants: Covenant to Maintain: Subject to paragraph 2 and the terms and conditions of this Restriction and such other terms and conditions as the Commission may reasonably impose to accomplish the purposes of this Restriction, the Grantor covenants and agrees at all times to maintain the Building in the same structural condition and state of repair existing as of the date of this Restriction. Grantor's obligation to maintain shall require replacement, repair, and reconstruction by Grantor whenever necessary to preserve the exterior of the Building. Subject to the casualty provisions of paragraphs 9 and 10, this obligation to maintain shall require replacement, rebuilding, repair, and reconstruction of the Building whenever necessary in accordance with the policies and procedures of the Commission and in accordance with 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").
4. Grantor's Covenants: Prohibited Activities: The following acts or uses are expressly forbidden except as otherwise conditioned in this paragraph:
- a. The Building shall not be demolished, removed, or razed except as provided in Paragraphs 9 and 10;
 - b. The dumping of ashes, trash, rubbish, or any other unsightly or offensive materials is prohibited on the Property;
 - c. No above-ground utility transmission lines, except those reasonably necessary for the existing Building, may be created on the Property, subject to utility easements already recorded;
 - d. No additions and/or outbuildings may be attached to the Building or erected on the Property without prior approval of the Grantee, with the exception of temporary structures necessary for the maintenance, restoration or repair of the Building, including but not limited to containers for the temporary storage of construction debris, as approved by local permitting authorities;

and

- e. Moving the Building to another location shall be forbidden without prior approval of the Commission.
5. Conditional Rights Requiring Grantee Approval: Subject to Paragraphs 2 and 4, and the terms and conditions of this Restriction and such other terms and conditions as the Commission may reasonably impose to accomplish the purposes of this Restriction, the Grantor shall not alter the Building without prior express written approval of the Commission. Without said approval Grantor shall not make any changes to the Building, including the alteration, partial removal, construction, remodeling, or other physical or structural change, including permanent signs except those currently in existence, and any change in material or color or any change to the footprint, size, mass, ridge-line, and rooflines of the Building. Grantor shall similarly not make any alterations to the surrounding Property that would obscure the current view of the Building, such as the installation of permanent signage without approval of the Commission.

Activities by Grantor to maintain the Building and the Property, which are intended to be performed in accordance with the provisions of paragraph 3, and which are of a minor nature, shall not require the prior approval of the Commission. For the purposes of this section, interpretation of what constitutes ordinary maintenance of a minor nature is governed by Restriction Guidelines (Exhibit E) which are attached to this Agreement and hereby incorporated by reference.

6. Grantor's Reserved Rights Not Requiring Further Approval by the Grantee: Subject to the provisions of paragraphs 2 and 4, the following rights, uses and activities of or by Grantor on, over, or under the Property are permitted by this Restriction and by the Commission without further approval by the Commission:
- a. The right to engage in all those acts and uses that:
 - i. Are permitted by governmental statute or regulation;
 - ii. Do not substantially impair the preservation values of the Building and Property;
and
 - iii. Are not inconsistent with the Purpose of this Restriction;
 - b. Pursuant to the provisions of paragraph 3, the right to maintain and repair the Building strictly according to the Secretary's Standards. As used in this sub-paragraph, the right to maintain and repair shall mean the use by the Grantor of in-kind materials and colors, applied with workmanship comparable to that which was used in the construction or application of those materials being repaired or maintained, for the purpose of retaining in good condition the appearance and construction of the exterior of the Building.
 - c. In the event the Grantor is required by law to make improvements to the Building or Premises or is required in writing by its insurance carrier to make improvements to the Building or Premises in order to avoid revocation of insurance and the Grantor has exhausted all methods of variance or appeal process related to either applicable law or insurance qualifications, the Grantee and the Grantor agree that the Grantee may not forbid or limit the Grantor's ability to make the improvements which are required by law or by insurance qualifications and which are to maintain or improve the safe operation of the Grantor's business and provision of services for its employees and visitors. Said changes or improvements shall be subject to reasonable review by the Grantee.

7. Review of Grantor's Requests for Approval: Grantor shall submit to the Commission for the Commission's approval of those conditional rights set out at paragraphs 2 and 5 two copies of information (including plans, specifications, and designs where appropriate) identifying the proposed activity sufficient to permit the Commission to monitor such activity. Within forty-five (45) days of the Commission's receipt of any plan or written request for approval hereunder, the Commission shall certify in writing that (a) it approves the plan or request, or (b) it disapproves the plan or request as submitted, in which case the Commission shall provide Grantor with written suggestions for modification or a written explanation for the Commission's disapproval. Any failure by the Commission to act within forty-five (45) days of receipt of Grantor's submission or resubmission of plans or requests shall be deemed to constitute approval by the Commission of the plan or request as submitted, so long as the request sets forth the provisions of this section relating to deemed approval after the passage of time provided that nothing herein shall be construed to permit Grantor to undertake any of the activities prohibited hereunder.
8. Standards for Review: In exercising any authority created by this Restriction to inspect the Building; to review any construction, alteration, repair, or maintenance; or to review casualty damage or to reconstruct or approve reconstruction of the Building following casualty damage, the Commission shall apply the Secretary's Standards.
9. Casualty Damage or Destruction: In the event the Building or Property shall be damaged or destroyed by fire, flood, windstorm, hurricane, earth movement or other casualty, Grantor shall notify the Commission in writing within fourteen (14) days of damage or destruction, such notification including what, if any, temporary emergency work has already been completed. No repairs or reconstruction of any type, other than temporary emergency work to prevent further damage to the Building and Property and to protect public safety, shall be undertaken by Grantor without the Commission's prior written approval of the work. Within sixty (60) days of the date of damage or destruction, if required by the Commission, Grantor at its expense shall submit to the Commission a written report prepared by a qualified restoration architect and an engineer who are acceptable to the Grantor and the Commission, which Commission approval shall not be unreasonably withheld, which report shall include the following:
 - a) An assessment of the nature and extent of 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 report of such restoration/reconstruction work necessary to return the Building to the condition existing at the date hereof or the condition subsequently approved by the Commission.
10. Review After Casualty Damage or Destruction: If, after reviewing the report provided in paragraph 9 and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims under paragraph 11, Grantor and the Commission agree that the Purpose of the Restriction will be served by such restoration/reconstruction, Grantor and the Commission 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 up to at least the total of the casualty insurance proceeds available to Grantor.

If, after reviewing the report and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims under paragraph 11, Grantor and the Commission agree that restoration/ reconstruction of the Building is impractical or impossible, or agree that the Purpose of the Restriction would not be served by such restoration/reconstruction Grantor may, with prior

written consent of the Commission, alter, demolish, remove or raze the Building, and/or construct new improvements on the Property, Grantor and Grantee may agree to seek to extinguish this Restriction in accordance with the laws of the Commonwealth of Massachusetts and paragraph 23 hereof.

If, after reviewing the report and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims under paragraph 11, Grantor and the Commission are unable to agree that the Purpose of the Restriction will or will not be served by such restoration/reconstruction, the matter may be referred by either party to binding arbitration and settled in accordance with the Commonwealth of Massachusetts arbitration statute then in effect, and all other applicable laws, rules, regulations, and ordinances. Arbitrator shall have experience in historic preservation matters.

11. Insurance: Grantor shall keep the Building insured by an insurance company rated "A" or better by Best's for the full replacement value against loss from the perils commonly insured under standard fire, 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 Building without cost or expense to Grantor or contribution or coinsurance from Grantor. Grantor shall deliver to the Commission, within ten (10) business days of the Commission's written request thereof, 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.
12. Indemnification: Grantor hereby agrees to pay, protect, indemnify, hold harmless and defend, at its own cost and expense, Grantee, its boards, commissions, appointees, agents, directors, employees, or independent contractors from and against any and all claims, liabilities, expenses, costs, damages, losses and expenditures (including attorneys' fees and disbursements hereafter incurred) arising out of or in connection with injury to or death of any person as a result of the existence of this Restriction; physical damage to the Building; the presence or release in, on, or about the Property, at any time, of any substance now or hereafter defined, listed or otherwise classified pursuant to any law, ordinance or regulation as a hazardous, toxic, polluting or contaminating substance; or other injury or other damage occurring on or about the Building; unless such injury, death, or damage is caused by Grantee or its boards, commission, appointees, agents, directors, employees, or independent contractors. In the event that Grantor is required to indemnify Grantee pursuant to the terms of this paragraph, the amount of such indemnity, until discharged, shall constitute a lien on the Property with the same effect and priority as a mechanic's lien.
13. Written Notice: Any notice which either Grantor or Grantee may desire or be required to give to the other party shall be in writing;

Grantor:

Central Congregational Church UCC
14 Titcomb Street
PO Box 372
Newburyport, MA 01950

Grantee:

City of Newburyport
c/o Newburyport Historical Commission
60 Pleasant Street
Newburyport, MA, 01950

Each party may change its address set forth herein by a notice to such effect to the other party.

14. Evidence of Compliance: Upon reasonable request by Grantor, Grantee shall promptly furnish Grantor with certification that, to the best of Grantee's knowledge, Grantor is in compliance with the obligations of Grantor contained herein, or that otherwise evidence the status of this Restriction to the extent of Grantee's knowledge thereof.
15. Inspection: With the consent of Grantor, Grantee or its representatives shall be permitted at reasonable times to inspect the exterior of the Buildings and the Property on an annual basis. Grantor covenants not to withhold unreasonably its consent in determining dates and times for such inspections.
16. Grantee's Remedies: The Grantor, for itself, its assigns and successors, expressly acknowledges that a violation of this Preservation Restriction Agreement may result in the Commission exercising its right to enforce the terms and conditions of the Restriction by seeking appropriate legal and equitable relief, including, but not limited to, restoration of the Building and such other legal and equitable remedies as may be available to the Commission to effectuate the purposes of this Restriction and to enforce the Grantor's obligations hereunder.

In the event Grantor is found to have violated any of its obligations, Grantor shall reimburse Grantee for any costs or expenses incurred in connection with Grantee's enforcement of the terms of this Restriction, including all court costs, and attorneys', architectural, engineering, and expert-witness fees. Grantor shall, at its own expense and with approval of Commission, reverse any actions or activities which violated this restriction and altered the Building.

Nothing in this Restriction shall impose upon the Commission any duty to maintain or require that the Building be maintained in any particular state or condition, notwithstanding the Commission's acceptance hereof. Enforcement of the terms of this Preservation Restriction shall be at the discretion of the Commission. Any election by the Commission as to the manner and timing of exercising 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 such rights. By its acceptance of this Preservation Restriction, the Commission does not assume any liability or obligation relating to the condition of the Building or the Property, including compliance with hazardous materials or other environmental laws and regulations.

17. Notice from Government Authorities: Grantor shall deliver to Grantee copies of any notice of violation or lien relating to the Buildings or Property received by Grantor from any government authority within five (5) business 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.
18. Notice of Proposed Sale: Grantor shall promptly notify Grantee in writing of any proposed sale of the Property and provide the opportunity for Grantee to explain the terms of the Restriction to potential new Grantors prior to sale closing.
19. Runs with the Land: Except as provided in paragraphs 9 and 10, the restrictions, obligations and duties set forth in this Restriction shall run with the Property and shall inure to the benefit of the Commission and all parties claiming by, through or under the Commission and shall bind the Grantor and all parties claiming by, through or under the Grantor. The rights hereby granted to the Commission constitute the perpetual right of the Commission to enforce this Preservation Restriction Agreement. The Grantor hereby covenants for itself to stand seized and hold tide to the Property subject to the terms of respective successors in interest and all persons hereafter claiming

under or through Grantor and Grantee, and the words "Grantor", "Grantee" when used herein shall include all such persons. Any right, title or interest herein granted to Grantee also shall be deemed granted to each successor and assign of Grantee and each such following successor and assign thereof, and the word "Grantee" shall include all such successors and assigns.

Anything contained herein to the contrary notwithstanding, Grantor of the Property shall have no obligation pursuant to this instrument where such Grantor shall cease to have any Grantorship interest in the Property by reason of a bona fide transfer. The restrictions, stipulations and covenants contained in this Restriction shall be inserted by Grantor, verbatim or by express reference, in 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 Property or any part thereof, including by way of example and not limitation, a lease of all or a portion of the Property.

20. Assignment: Grantee may convey, assign, or transfer this Restriction to a unit of federal, state, or local government, to a local, state, or national charitable corporation or trust that qualifies under the Act, and whose purposes, inter alia, the preservation of buildings or sites of historical significance. Conveyance, assignation, or transfer of this Restriction requires that the Purpose for which the Restriction was granted will continue to be carried out. Grantee shall seek Grantor's approval of said conveyance, assignment or transfer and Grantor shall give prior written approval of such conveyance, assignment, or transfer by Grantee, such approval not to be unreasonably withheld.
21. Alternate Designee: Grantee may, at its discretion, remove and replace the Commission as its designee to administer, manage, and enforce this Restriction, provided that any new designee is qualified as such under the Act and other applicable law. In the event Grantee does so remove, the Grantee shall provide notice of same to the Grantor and shall forthwith provide the Grantor with the name, address and further contact information of the designee.
22. Recording and Effective Date: Grantee shall do and perform at its own cost all acts necessary to the prompt recording of this Restriction which shall become effective upon its being duly executed by the Grantor, the City of Newburyport and approved by the Massachusetts Historical Commission, and its being recorded with the Southern Essex District Registry of Deeds.
23. Extinguishment: Grantor and Grantee hereby recognize that an unexpected change in conditions surrounding the Property may make impossible the continued Grantorship or use of the Property for the Purpose of this Restriction and necessitate extinguishment of the Restriction. 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 meet all the requirements of the Act for extinguishment, including approvals following public hearings by the City of Newburyport and the Massachusetts Historical Commission to determine that such extinguishment is in the public interest. In the event of a sale of the Property, net proceeds of sale shall be paid to Grantor.
24. Condemnation: If all or any part of the Property is taken under the power of eminent domain by public, corporate, or other authority, or otherwise acquired by such authority through a purchase in lieu of a taking, Grantor and Grantee shall join in appropriate proceedings at the time of such taking to recover the full value of those interest in the Property that are subject to the taking and all incidental and direct damages resulting from taking shall be paid out of the recovered proceeds. Such recovered proceeds shall be paid to Grantor.
25. Interpretation: The following provisions shall govern the effectiveness, interpretation, and duration of the Restriction:

- a. Any rule of strict construction designed to limit the breadth of restrictions on alienation or use of the Property shall not apply in the construction or interpretation of this Restriction and this instrument shall be interpreted broadly to affect its Purpose and the transfer of rights and the restrictions on use contained herein.
- b. This instrument may be executed in two counterparts, one of which is to be retained by Grantor and the other, after recording, to be retained by Grantee. In the event of any disparity between the counterparts produced, the recorded counterpart shall constitute the entire Restriction of the parties.
- c. This instrument is made pursuant to the Act, but the invalidity of such Act or any part thereof shall not affect the validity and enforceability of this Restriction according to its terms, it being the intent of the parties to agree and to bind themselves, their successors and their assigns in perpetuity to each term of this instrument whether this instrument be enforceable by reason of any statute, common law or private Restriction either in existence now or at any time subsequent hereto.
- d. Nothing contained herein shall be interpreted to authorize or permit Grantor to violate any ordinance or regulation relating to building materials, construction methods or use. In the event of any conflict between any such ordinance or regulation and the terms hereof Grantor promptly shall notify Grantee of such conflict and shall cooperate with Grantee and the applicable governmental entity to accommodate the purposes of both this Restriction and such ordinance or regulation.

If any court or other tribunal determines that any provision of this instrument is invalid or unenforceable, such provision shall be deemed to have been incorporated herein automatically to conform to the requirements for validity and enforceability as determined by such court or tribunal. In the event any provision invalidated is of such a nature that it cannot be modified, the provision shall be deemed deleted from this Preservation Restriction as though it had never been included herein. In either case, the remaining provisions of this instrument shall remain in full force and effect.

26. Amendment: If circumstances arise under which an amendment to or modification of this Restriction would be appropriate, Grantor and Grantee may by mutual written agreement jointly amend this Restriction, provided that no amendment shall be made that will adversely affect the qualification of this Restriction or the status of Grantee under any applicable law. Any such amendment shall be consistent with the protection of the preservation values of the Property and the Purpose of this Restriction; shall not affect its perpetual duration; shall not permit any private inurement to any person or entity; and shall not adversely impact the overall architectural and historic values protected by this Restriction. Any such amendment shall be effective when the requirements of the Act with respect to amendments have been met and the amendment is recorded in the Southern Essex District Registry of Deeds. Nothing in this paragraph shall require Grantor or Grantee to agree to any amendment or to consult or negotiate regarding any amendment.
27. Release: This Preservation Restriction is intended to be a restriction in gross in perpetuity and may only be released, in whole or in part, by the Grantee pursuant to the procedures for release established by the Act and otherwise by law, including approvals following public hearings by the City of Newburyport and the Massachusetts Historical Commission to determine that such a release is in the public interest.
28. Archeological Activities: The conduct of archaeological activities on the Property, including

without limitation survey, excavation, and artifact retrieval, may occur only following the submission of an archaeological field investigation plan prepared by the Grantor approved in writing by the Grantee and the State Archaeologist of the Massachusetts Historical Commission (M.G.L. C. 9, Sec. 27C, 950 C.M.R. 70.00).

29. Free Exercise of Religion: Grantor and Grantee agree that nothing herein is intended to limit the rights that Grantor may have under the First Amendment of the United States Constitution, Article 46 of the Amendments to the Massachusetts Constitution, and Article 2 of the Massachusetts Declaration of Rights. No provision of this Preservation Restriction shall impact, restrict, or restrain Grantor's right to alter, utilize and maintain the Property in keeping with its religious principles, practices or beliefs.

IN WITNESS WHEREOF, the Grantor sets its hand and seal this _____ day of _____, 2020.
By:

GRANTOR:

CENTRAL CONGREGATIONAL CHURCH UCC

Stuart Johnson, Moderator
Central Congregational Church UCC

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

On this _____ day of _____, 2020, before me, the undersigned notary public, personally appeared Stuart Johnson, proved to me through satisfactory evidence of identification, which was (a current driver's license) (a current U.S. passport) (my personal knowledge of the identity of the principal), to be the person whose name is signed on the preceding or attached document, and acknowledged to me that s/he signed it voluntarily for its stated purposes.

Notary Public
My Commission Expires:

Carol Daigle, Treasurer
Central Congregational Church UCC

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

On this _____ day of _____, 2020, before me, the undersigned notary public, personally appeared Carol Daigle, proved to me through satisfactory evidence of identification, which was (a current driver's license) (a current U.S. passport) (my personal knowledge of the identity of the principal), to be the person whose name is signed on the preceding or attached document, and acknowledged to me that s/he signed it voluntarily for its stated purposes.

Notary Public
My Commission Expires:

ACCEPTANCE BY THE NEWBURYPORT HISTORICAL COMMISSION

I, Glenn Richards, Chair of the Newburyport Historical Commission, hereby certify that at a meeting duly held on _____, 20____, the Commission voted to accept the foregoing Preservation Restriction Agreement.

Glenn Richards, Chair, duly authorized
Newburyport Historical Commission

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

On this _____ day of _____, 2020 before me, the undersigned notary public, personally appeared Glenn Richards, proved to me through satisfactory evidence of identification, which was (a current driver's license) (a current U.S. passport) (my personal knowledge of the identity of the principal), to be the person whose name is signed on the preceding or attached document, and acknowledged to me that s/he signed it voluntarily for its stated purposes as duly authorized Chair of the Newburyport Historical Commission.

Notary Public
My Commission Expires:

ACCEPTANCE AND APPROVAL BY THE CITY OF NEWBURYPORT

I, the undersigned City Clerk of the City of Newburyport, Massachusetts, hereby certify that at a meeting duly held on _____, 2020, the City Council voted to approve and accept the foregoing Preservation Restriction Agreement for the preservation of the historic resources of said City and being in the public interest pursuant to Massachusetts General Laws Chapter 184, Section 32.

Richard B. Jones, City Clerk

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

On this _____ day of _____, 2020, before me, the undersigned notary public, personally appeared Richard B. Jones, proved to me through satisfactory evidence of identification, which was (a current driver's license) (a current U.S. passport) (my personal knowledge of the identity of the principal), to be the person whose name is signed on the preceding or attached document, and acknowledged to me that s/he signed it voluntarily for its stated purposes as Clerk of the City of Newburyport.

Notary Public
My Commission Expires:

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

CITY OF NEWBURYPORT

Donna D. Holaday, Mayor

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

On this _____ day of _____, 2020, before me, the undersigned notary public, personally appeared, Donna D. Holaday, proved to me through satisfactory evidence of identification, which was (a current driver's license) (a current U.S. passport) (my personal knowledge of the identity of the principal), to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purposes as Mayor of the City of Newburyport.

Notary Public
My Commission Expires:

APPROVAL BY THE MASSACHUSETTS HISTORICAL COMMISSION

COMMONWEALTH OF MASSACHUSETTS

The undersigned Executive Director and Clerk of the Massachusetts Historical Commission hereby certifies that foregoing preservation restriction has been approved pursuant to Massachusetts General Laws, Chapter 184, Section 32.

MASSACHUSETTS HISTORICAL COMMISSION

Brona Simon
Executive Director and Clerk

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

On this _____ day of _____, 2020, before me, the undersigned notary public, personally appeared, Brona Simon, Executive Director and Clerk, proved to me through satisfactory evidence of identification, which was (a current driver's license) (a current U.S. passport) (my personal knowledge of the identity of the principal), to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purposes.

Notary Public
My Commission Expires:

List of Attached Exhibits

Exhibit A

Legal Property Description

Exhibit B

Newburyport Assessor's Map

Exhibit C

Massachusetts Historical Commission Inventory Form B

Exhibit D

Photos

Exhibit E

Restriction Guidelines

Exhibit A
Legal Property Description

Parcel 1

The land in said Newburyport with the church building and vestry thereon bounded and described as follows:

Viz:

Northeasterly by Pleasant Street one hundred sixty seven feet;

Southeasterly by Titcomb Street one hundred four feet;

Southwesterly by the land of the heirs of Charles C. Stockman one hundred sixty-seven and 5/10 feet; and

Northwesterly in part by land of the Young Woman's Christian Association, and in part by the land of John Cortes, (formerly land of Paul Adams) one hundred four feet.

All of said measurements being more or less.

Source: Southern Essex District Registry of Deeds, Book 2713, Page 387.

Parcel 2

The land in Newburyport with buildings thereon, bounded and described as follows, viz –

Northwesterly in part by land now or formerly of Mary C. Bridges, and in part by land of the Young Women's Christian Associations 45 feet 11 inches;

Southwesterly by land of said Association 46 feet, 3 inches;

Southeasterly by land of the Central Congregational Society, 59 feet, 10 inches; and

Northeasterly by Pleasant Street, 42 feet, 8 inches.

All of said measurements being more or less.

Source: Southern Essex District Registry of Deeds, Book 5058, Page 52.

Exhibit B

Newburyport Assessor's Map – Parcel 47-31



Exhibit C

Massachusetts Historical Commission Inventory Form B

FORM B - BUILDING

NRDIS 8/2/1984

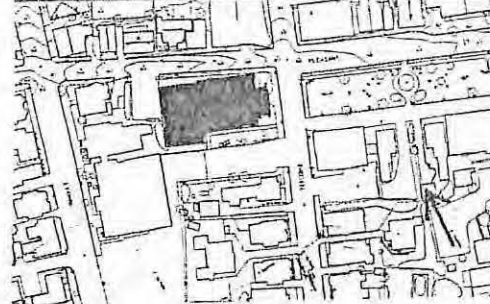
Assessor's number
47-31

USGS Quad
Newburyport

Area(s)
L

Form Number
482

Massachusetts Historical Commission
Massachusetts Archives Building
220 Morrissey Boulevard
Boston, Massachusetts 02125



Town Newburyport

Place (neighborhood or village)

Address 14 Titcomb Street

Historic Name North Congregational Church
(Central Congregational Church)

Uses: Present Church

Original Church

Date of Construction 1861

Source Currier, History of Newburyport

Style/Form Italianate

Architect/Builder unknown; 1911 addition - A.G. Perkins

Exterior Material:

Foundation Granite

Wall/Trim Brick

Roof Slate

Outbuildings/Secondary Structures

none

Major Alterations (with dates) 1911 - vestry addition,
mastic removed from exterior stained glass windows;
c.1960 - entrance, 1971 - steeple; various interior renov.

Condition good

Moved no yes Date

Acreage 16600 SF

Setting facing Brown Square

Recorded by Lisa Mausolf

Organization Newburyport Historical Commission

Date (month/year) June 1999

Follow Massachusetts Historical Commission Survey Manual instructions for completing this form.

BUILDING FORM (14 Titcomb Street)

ARCHITECTURAL DESCRIPTION

Describe architectural features. Evaluate the characteristics of the building in terms of other buildings within the community.

The present appearance of the North Congregational Church (now the Central Congregational Church) corresponds to the reconstruction of the church in 1861 after it was largely destroyed by fire that same year. The new church was reportedly constructed reusing the brick walls although the entrances and windows were redesigned in the Italianate style rather than the Gothic style of the original building. The building rests on a granite foundation and the red brick is laid in a stretcher bond alternating nine courses of stretchers to a single course alternating headers and stretchers, all laid in red mortar. The exterior of the building was originally covered with mastic. The church is oriented with its steepled facade facing Brown Square Park.

Characteristic of the Italianate style, the eaves of the church display a broad overhang accented by brackets which are paired at the corners, with single brackets in between. The windows openings are all arched with the curve echoed in the roofline of the sections flanking the front tower and the curved molding above the clock.

At the base of the front tower the arched entrance is filled with c.1960 doors and is fronted by modern brick and concrete steps which are semi-circular in plan. Above the entrance the large arched window is filled with four narrow panels filled with colored leaded glass and is protected by an outer window. The opening is capped by a brick lintel. The first stage of the brick tower is punctuated by a pair of round-arched windows. The second stage of the steeple is also square in plan and is covered in a "rusticated" metal with chamfered corners. Each side of the belfry is punctuated by three open arches with large consoles at the corners. Resting on the belfry is an octagonal drum and a shingled spire. The predominant window on the outer bays of the facade and the side elevations is an arched stained glass window containing two arched panels with a circular pane centered at the top and stone sills. The gable roof is covered with slate shingles. Inserted on the front wall is a marble tablet reading "Congregational Society. Founded 1768. Erected 1826 on the site of the old church"

To the rear of the church building is a two-story section serving as a hall/Sunday School. This section measures five bays wide on the Pleasant Street elevation. The first floor openings arched with multi-paned windows capped by three-light curved transoms. The openings on the upper level are segmental with brick lintels and contain 6/6 sash. A two-story, flat-roofed vestry addition is located to the south of the sanctuary.

HISTORICAL NARRATIVE

Describe the history of the building. Explain its associations with local (or state) history. Include uses of the building and the role(s) the owners/occupants played within the community.

A meetinghouse was first constructed on this site in 1768 by a group which had separated from the First Religious Society. In 1794 the group was incorporated as the Third Religious Society in Newburyport. The wood-frame building was oriented facing the Merrimack River and stood until 1826 when a new brick meetinghouse was built on the site. In 1860 the name of the Society was changed to the North Congregational Society of Newburyport. The Gothic-style building was destroyed by fire during a blizzard on March 21, 1861, leaving only the brick walls.

The brick walls were incorporated into the new building which was dedicated on October 23, 1861. (Unfortunately the Newburyport Public Library does not have the microfilm of the newspaper for that period.) As originally constructed, the exterior of the building was covered with mastic and the steeple was painted dark blue. The clock, known as "Old Betsey" was presented to the church by Miss Elizabeth Gerrish of Rings Island, Salisbury, in 1877. It replaced a clock destroyed by the 1861 fire. The bell in the tower was made in Sheffield, England and was presented to the church by Captain Joshua Hale and Josiah L. Hale. It reportedly first rang out on July 4, 1861. The church's original bell was made by Revere & Sons.

Recommended for listing in the National Register of Historic Places. *If checked, you must attach a completed National Register Criteria Statement form.*

INVENTORY FORM CONTINUATION SHEET

Town
NewburyportProperty Address
14 Titcomb Street
Area(s) Form No.Massachusetts Historical Commission
Massachusetts Archives Building
220 Morrissey Boulevard
Boston, Massachusetts 02125

L	482
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HISTORICAL NARRATIVE:

In 1910 the three downtown Congregational Churches (the others being the Whitefield Church on State Street and the Prospect Street Society) decided to unite, keeping the North Church as their meetinghouse. Considerable changes were made to the North Church building to prepare it to become the Central Congregational Church. The mastic and outer course of bricks was stripped away and a new outer shell of bricks was set in place. A large addition was made to the existing vestry, according to plans by A.G. Perkins. The two-story, 34 x 53' addition was located on the southwest side of the old vestry, part of which was removed. Arthur Currier was responsible for the woodwork and the Cashman Brothers were the masons. The stained glass windows were added at the same time, the church was refrescoed and the steeple was painted a lighter shade of blue.

In 1931 a major remodeling of the interior of the church was completed including the reconstruction of the pulpit, redecorating and a new floor. At the rear of the pulpit the Bliss Memorial window was installed in honor of Charles Bliss (c. 1920). The architects for the renovations were Mowll & Rand of Boston and the window was designed by the Alfred Bell studio of Boston. Unfortunately a short time later, in 1932, the interior of the church had to be largely replaced after the ceiling crashed, crushing chandeliers, wiring, cornices, pulpit, pews and the choir loft. Additional alterations were made to the sanctuary in 1952 and 1963. State inspection records indicate that alterations were made to the building in 1953 according to the designs of Bourne, Connor, Nichols & Whiting of Boston. The marble memorial stone on the facade of the church was restored to the building in 1959 after an absence of nearly 100 years. The stone was formerly placed above the entrance of the church but was omitted when the church was rebuilt after the 1861 fire. The church steeple was restored in 1969 according to plans by Gilbert Small & Co. of Boston. In 1971 a new steeple was installed, a replica of the original.

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Maps

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 Sanborn Insurance Maps. Massachusetts State Library, Boston, Massachusetts.

EXHIBIT D
Photos

- Photo 1. East and North Elevations, 1861 Portion, January 2020
- Photo 2. North Elevation, 1861 Portion, January 2020
- Photo 3. North Elevation Window Details, 1861 Portion, January 2020
- Photo 4. North Elevations, 1861 Portion and 1910 Portion, January 2020
- Photo 5. East and North Elevations, 1861 Portion, January 2020
- Photo 6. East and North Elevations, 1861 Portion, January 2020
- Photo 7. East and North Elevations, 1861 Portion, January 2020
- Photo 8. East Elevation, 1861 Portion, January 2020
- Photo 9. East Elevation, 1861 Portion, November 2019
- Photo 10. East Elevation, 1861 Portion, November 2019
- Photo 11. East Elevation, 1861 Portion, November 2019
- Photo 12. East Elevation, 1910 Portion, and South Elevation, 1861 Portion, November 2019
- Photo 13. South Elevation, 1910 Portion, November 2019
- Photo 14. South and East Elevations, 1910 and 1861 Portions, November 2019
- Photo 15. East Elevation, 1910 Portion, South Elevation 1861 Portion, November 2019
- Photo 16. South and East Elevations, 1861 Portion, November 2019
- Photo 17. South Elevation, 1861 Portion, November 2019
- Photo 18. South Elevations, 1910 Portion and 1861 Portion, November 2019
- Photo 19. South and East Elevations, 1861 Portion, November 2019
- Photo 20. North Elevations, 1910 Portion and 1861 Portion, January 2020
- Photo 21. North Elevations, 1861 Portion and 1910 Portion, January 2020
- Photo 22. North Elevations, 1861 Portion and 1910 Portion, January 2020
- Photo 23. West Elevation, 1910 Portion, November 2019



Photo 1. East and North Elevations, 1861 Portion, January 2020



Photo 2. North Elevation, 1861 Portion, January 2020

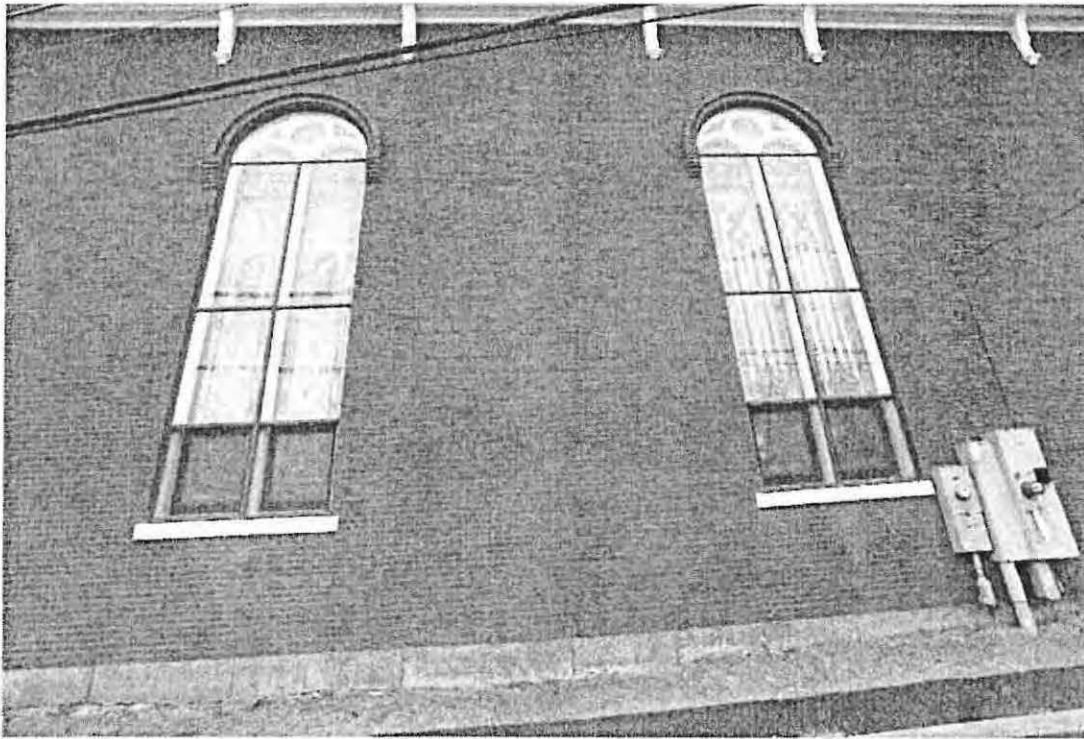


Photo 3. North Elevation Window Details, 1861 Portion, January 2020



Photo 4. North Elevations, 1861 Portion and 1910 Portion, January 2020



Photo 5. East and North Elevations, 1861 Portion, January 2020

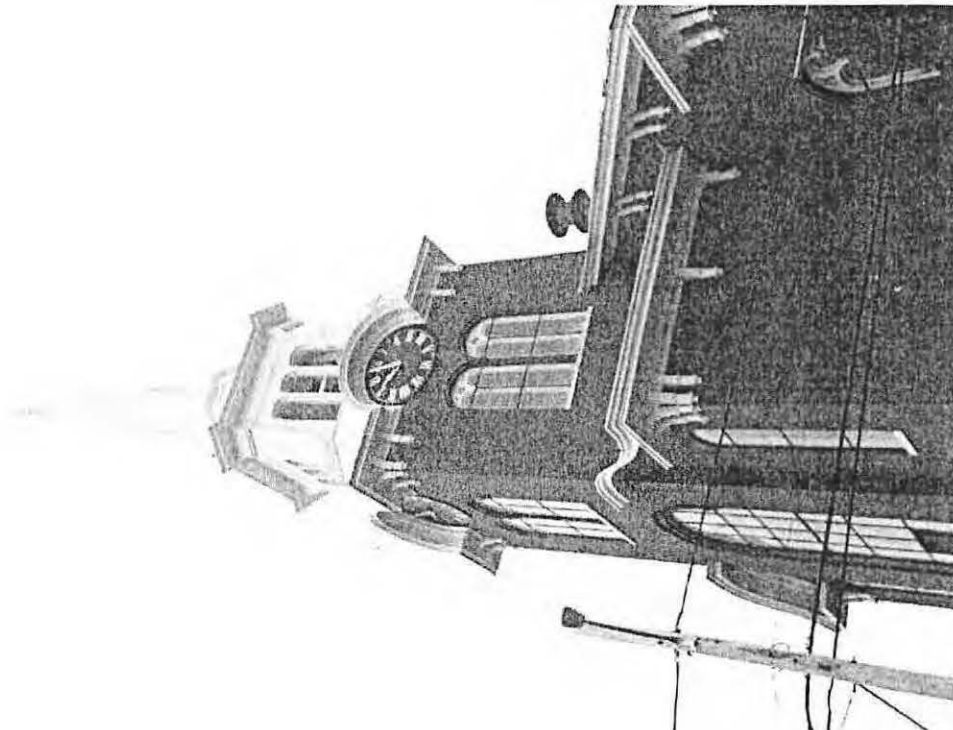


Photo 6. East and North Elevations, 1861 Portion, January 2020

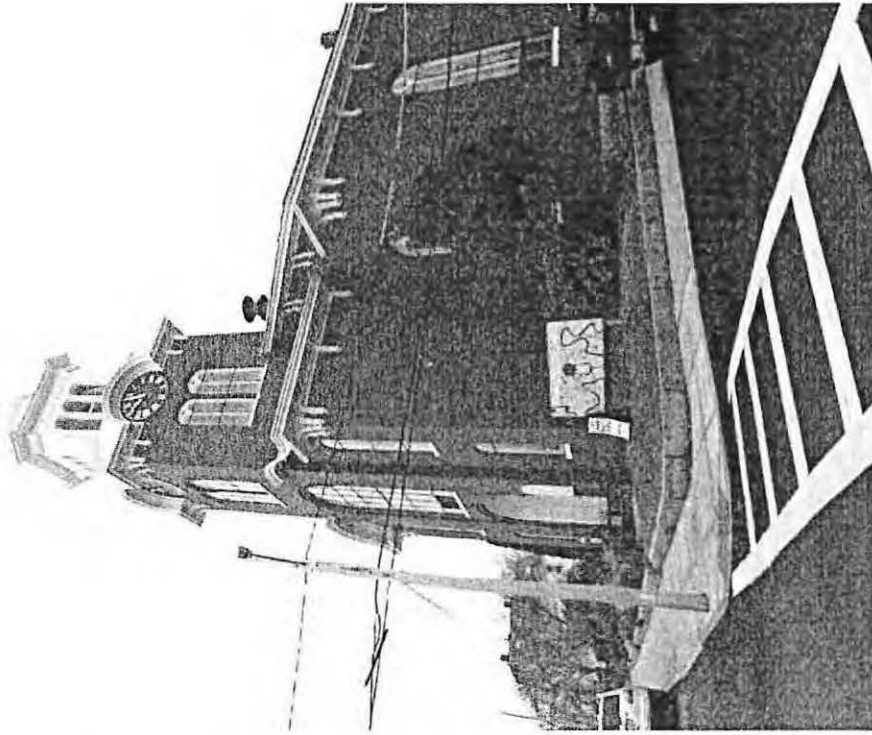


Photo 7. East and North Elevations, 1861 Portion, January 2020



Photo 8. East Elevation, 1861 Portion, January 2020

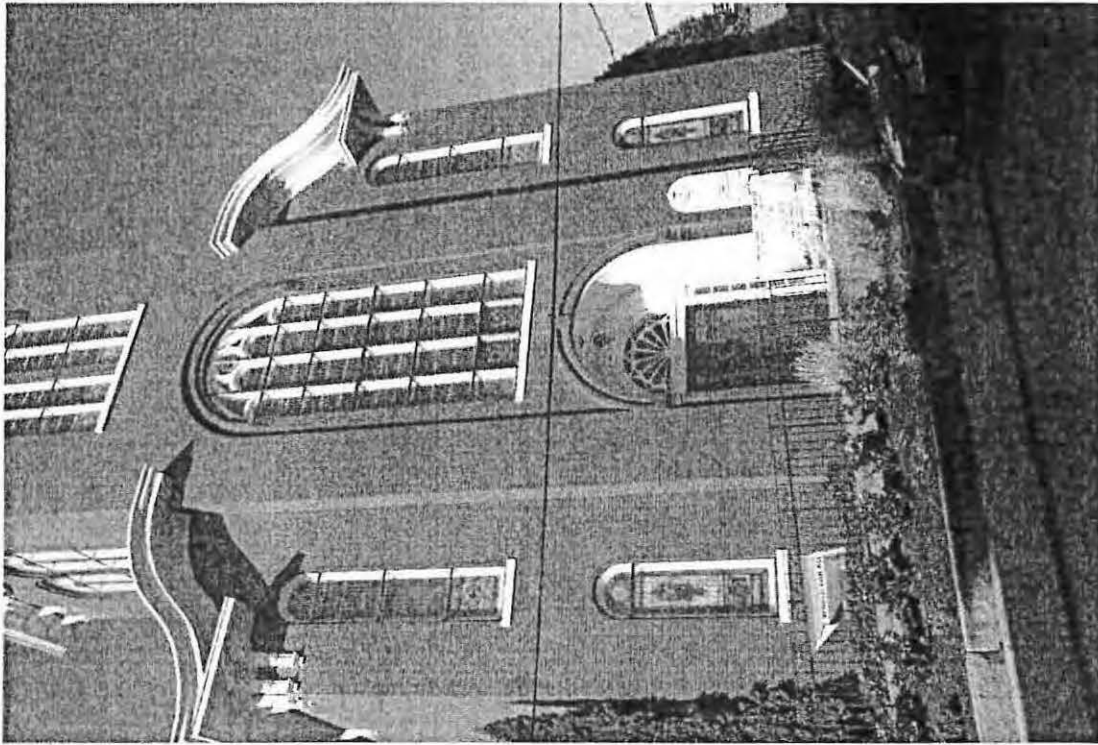


Photo 9. East Elevation, 1861 Portion, November 2019

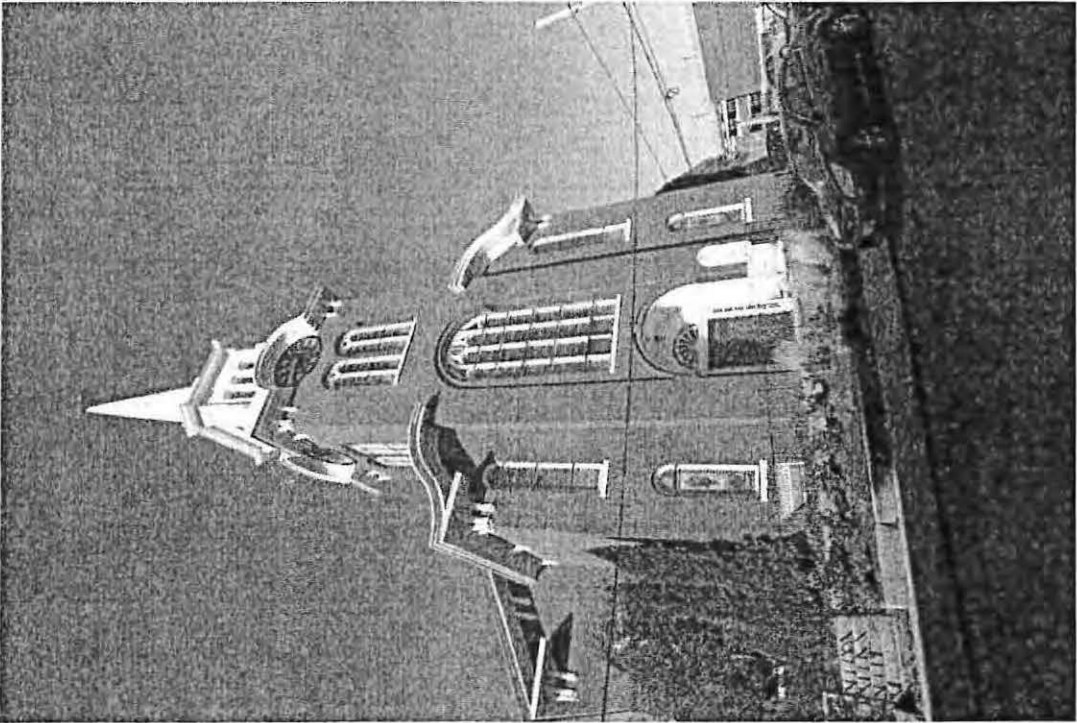


Photo 10. East Elevation, 1861 Portion, November 2019

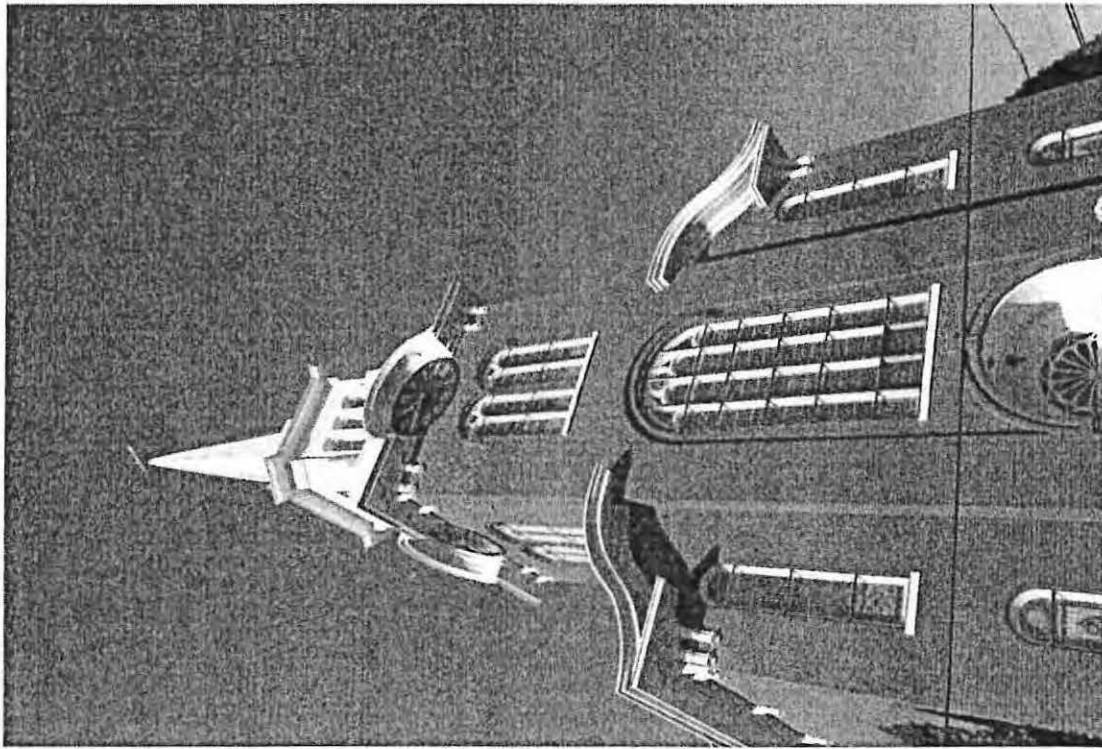


Photo 11. East Elevation, 1861 Portion, November 2019



Photo 12. East Elevation, 1910 Portion and South Elevation, 1861 Portion, November 2019



Photo 13. South Elevation, 1910 Portion, November 2019

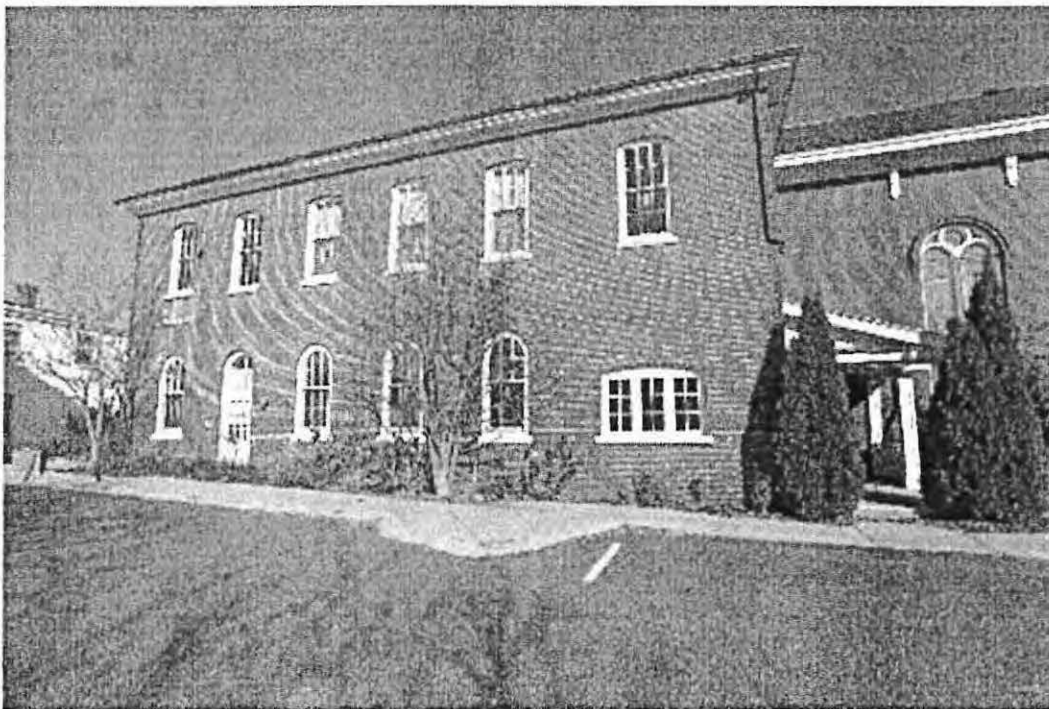


Photo 14. South Elevations, 1910 Portion and 1861 Portion, November 2019

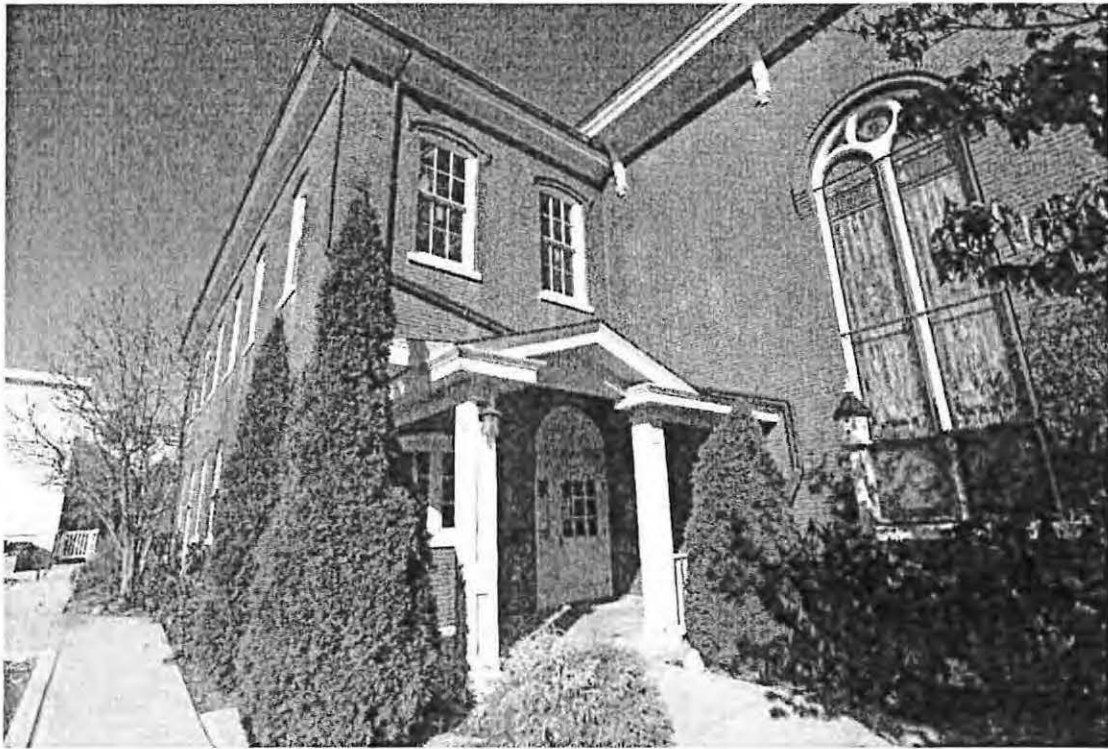


Photo 15. East Elevation, 1910 Portion, South Elevation 1861 Portion, November 2019



Photo 16. South and East Elevations, 1861 Portion, November 2019

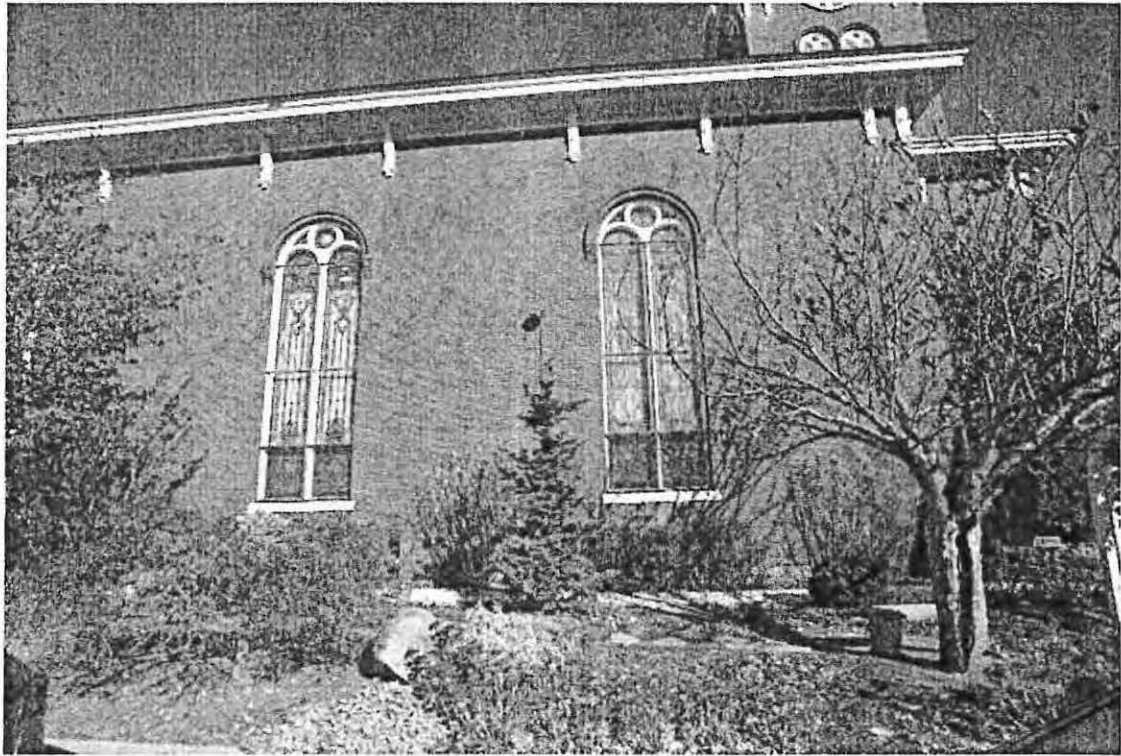


Photo 17. South Elevation, 1861 Portion, November 2019

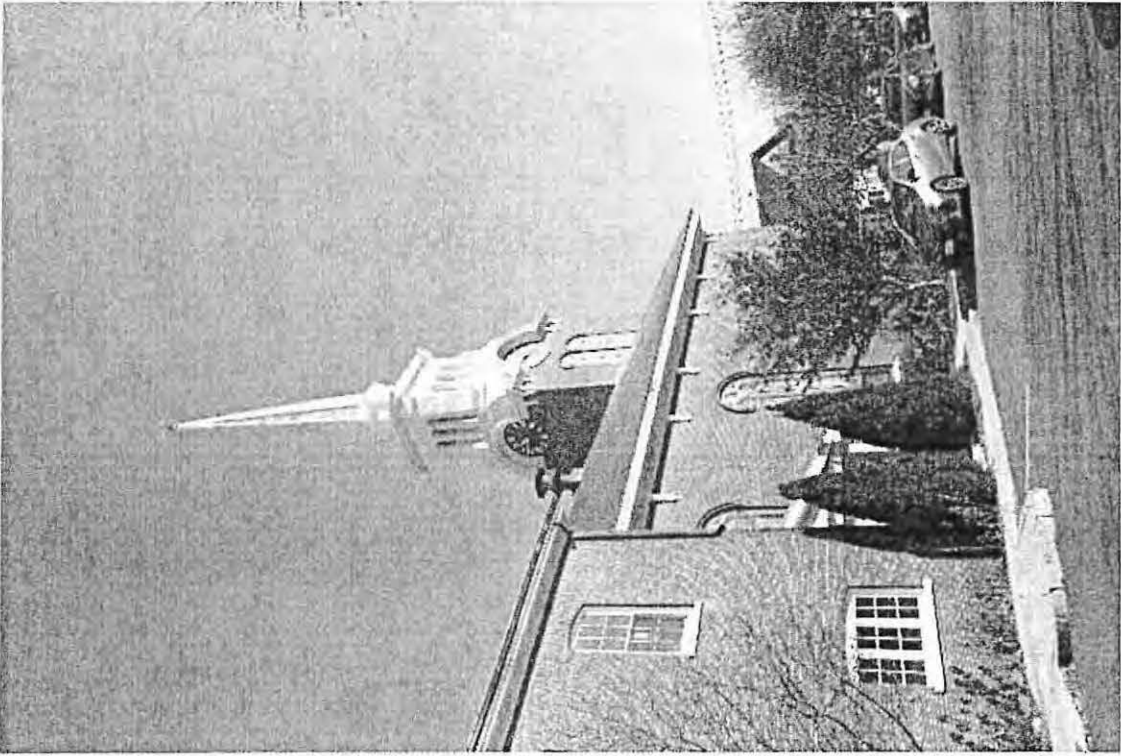


Photo 18. South Elevations, 1910 Portion and 1861 Portion, November 2019



Photo 19. South and East Elevations, 1861 Portion, November 2019



Photo 20. North Elevations, 1910 Portion and 1861 Portion, January 2020



Photo 21. North Elevations, 1861 Portion and 1910 Portion, January 2020



Photo 22. North Elevations, 1861 Portion and 1910 Portion, January 2020

Exhibit E Restriction Guidelines

The purpose of the Restriction Guidelines is to clarify paragraphs 5 (five) and 6 (six) of the terms of the preservation restriction which deal with alterations to the Property. Under these sections permission from the Newburyport Historical Commission (NHC) is required for any major alteration. Alterations of a minor nature which are part of ordinary maintenance and repair do not require NHC review.

In an effort to explain what constitutes a minor alteration and what constitutes a major change which must be reviewed by the NHC, 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 exterior decorative surfaces or distinctive exterior stylistic features including murals, stenciling, wallpaper, ornamental woodwork, stone, decorative or significant original plaster.

Windows and Doors

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

Major - Wholesale replacement of exterior 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 or extensive re-pointing of masonry. Structural stabilization of the property is also considered a major alteration.

Landscape/Outbuildings

Minor - Routine maintenance of outbuildings and landscape including lawn mowing, pruning, planting, painting, and repair.

Major - Moving or subdividing buildings or Property; altering or removing significant landscape features such as trees, gardens, vistas, and large plantings where such changes would alter the view of the Building; ground disturbance affecting archeological resources.

Heating/Air Conditioning/Electrical/Plumbing Systems

Minor - Repair of existing systems.

Major - Installing or upgrading systems which will result in major exterior appearance changes (i.e. dropped ceilings, disfigured walls or floors visible from the exterior through windows) or may potentially affect the physical characteristics or long-term structural integrity of the building. For example, adding air conditioning or humidification to an historic building may result in detrimental condensation within exterior walls.

Changes classified as major alterations are not necessarily unacceptable. Under the preservation restriction such changes must be reviewed by the NHC and their impact on the historic integrity of the premise assessed.

It is the responsibility of the property owner to notify the NHC in writing when any major alterations are contemplated. Major alterations will necessitate review of plans and specifications by NHC.

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 Building assessed.

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 Building, not to preclude future change. The Commission will attempt to work with property owners to develop mutually satisfactory solutions that are in the best interests of the Property.



CITY OF NEWBURYPORT
OFFICE OF THE MAYOR

DONNA D. HOLADAY

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WWW.CITYOFNEWBURYPORT.COM

To: President and Members of the City Council

From: Mayor Donna D. Holaday

Date: October 6, 2020

Subject: Supplemental Budget Request #1

I hereby submit a FY2021 supplemental budget totaling \$42,000 in proposed expenditures. This request restores the reduction that was made to the line item for City Council salaries, which is required to maintain compliance with provisions of Newburyport City Charter. While it is likely that another supplemental budget request will be submitted prior to approval of the FY2021 tax rate, it was important to submit this particular item independently in order to meet the next regularly scheduled payroll on October 16, 2020

Specifically, section 2-4 of the Newburyport City Charter provides that:

"The members of the city council shall receive such salary for their services as may from time to time be set by ordinance. No ordinance increasing or reducing the salary of the members of the city council shall be effective unless it shall have been adopted by a two-thirds vote of the full city council. No increase or reduction in such salary shall take effect during the term in which such increase or reduction is voted, and no change in such ordinance shall be made between the election of a new council and the qualification of the new council. Subject to appropriation, members of the city council shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their duties."

As such, I kindly request that the City Council approves this measure in one reading so that we can proceed with the regularly scheduled payroll and maintain compliance with Newburyport City Charter.

Thank you for your consideration.

Committee Items-October 26, 2020

Public Safety

In Committee:

- ODNC059_06_29_2020 Truck Routes
- ODNC062_09_29_2020 Residential Permit Zones seasonal hours extension

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CITY OF NEWBURYPORT



IN CITY COUNCIL

Introduced June 29, 2020

ORDERED:

AN ORDINANCE TO ESTABLISH POSTED COMMERCIAL TRUCK ROUTES AND FOR PETITIONING MASSDOT TO ALLOW FURTHER REGULATION

Be it ordained by the City Council of the City of Newburyport as follows:

WHEREAS, The City of Newburyport is committed to reducing the adverse impacts of commercial truck traffic, including noise and vibrations, on its residents while ensuring the continued, reasonable delivery of goods and services to businesses and residences in the City;

WHEREAS, Authority to restrict commercial truck traffic derives from Chapter 85 of the Massachusetts General Laws and the 2006 Massachusetts Amendment to the 2003 Manual on Uniform Traffic Control Devices (MUTCD) Section 11A-9;

WHEREAS, Federal and state numbered routes through Newburyport are open to commercial truck traffic at all times, including: Federal Route 1 (including Winter Street and Summer Street), Federal Route 1A (portions of High Street and State Street), and State Route 113 (Storey Avenue and portion of High Street);

WHEREAS, While commercial trucks are permitted on any municipal way in Newburyport if they have a destination on that municipal way or a nearby municipal way, all commercial trucks are encouraged to use the system of Posted Truck Routes for the majority of every trip;

WHEREAS, The City is required to receive written permission from the Massachusetts Department of Transportation (MassDOT) to exclude commercially plated trucks from specific municipal ways; and

WHEREAS, Key criteria to exclude commercial truck traffic from a municipal way include the availability of a suitable alternative route, and one or more of the following:

- There is at least five percent (5%) commercial vehicle traffic on such way;
- Heavy wheel loads will result in severe deterioration of the way; and/or
- Land use along the way is primarily residential, and the municipality has requested exclusion only during hours of darkness.

NOW, THEREFORE, the Code of Ordinances, City of Newburyport, Massachusetts, is hereby amended by adding a new Division 8. – *Commercial Trucks* to Article IV. – *Specific Street Schedules* of Chapter 13 – *Traffic and Motor Vehicles*, as follows:

Sec. 13-190. – Posted commercial truck routes.

The Posted Truck Routes in Newburyport shall be:

- a. Upalong / Downalong Streets: Storey Avenue, Ferry Road, High Street, Low Street, Merrimac Street, and Water Street.
- b. Cross Streets: Spofford Street, Hale Street, Graf Road, Parker Street, Green Street, and State Street.
- c. Business Park Streets: Malcolm Hoyt Drive, Perry Way, New Pasture Road, Opportunity Way, Mulliken Way, Perkins Way, Stanley Tucker Drive, and Preble Road.

Sec. 13-191. – Petitions to limit commercial trucks.

By order, a majority of the city council may authorize the department of public services to petition the Massachusetts Department of Transportation (MassDOT) to exclude from specific municipal ways in Newburyport commercial trucks over a specified gross vehicle weight (GVW), during specific hours or at all times. The department of public services shall maintain and cause to be posted on the city website a list of any municipal ways for which such a petition has been approved.

Councillor Jared J. Eigerman

CITY OF NEWBURYPORT



 IN CITY COUNCIL

ORDERED:

September 29, 2020

ORDERED:

AN ORDINANCE TO EXTEND SUMMER HOURS OF THE TWO-HOUR RESIDENTIAL PARKING PROGRAM

THAT the City Council of the City of Newburyport hereby amends existing subsection (a)(2) of section 13-180 the City of Newburyport Code of Ordinances as follows, with deletions ~~double-stricken-through~~ and in bold, and additions double-underlined and in bold:

(a) *Definitions.* As used in this section:

- (2) *Residential parking permit zone* shall mean a residential district where curbside parking on public highways is limited to not more than two (2) or four (4) consecutive hours between 8:00 a.m. and 6:00 p.m. Monday—Saturday from October 1 through April 30, and between 8:00 a.m. and 8:00 p.m. Monday—Saturday from May 1 through September 30, excepting Sundays and holidays throughout the year, and unless ~~the vehicle properly displays~~ a parking permit authorized by this section has been validly issued for the parked vehicle.

 Councillor Jared J. Eigerman
In City Council September 29, 2020:

Motion to refer to Public Safety by Councillor Eigerman, seconded by Councillor Zeid. So Voted.