

PRESERVATION RESTRICTION AGREEMENT

between

**THEODORE R. AND JENNY K. NELSON
AS TRUSTEES OF 190 HIGH STREET NOMINEE TRUST II**

and the

CITY OF NEWBURYPORT, MASSACHUSETTS

BY AND THROUGH THE NEWBURYPORT HISTORICAL COMMISSION

THIS PRESERVATION RESTRICTION AGREEMENT is made this _____ day of _____, 2020 by and between Theodore R. and Jenny K. Nelson as Trustees of 190 High Street Nominee Trust II, located at 190 High Street, Newburyport, Massachusetts. 01950 ("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 administered, managed and enforced by its agent, the NEWBURYPORT HISTORICAL COMMISSION, located at 60 Pleasant Street, Newburyport, Massachusetts, 01950 ("**Commission**"),

WHEREAS, the Grantor is the owner of certain real property located at 190 High Street, Newburyport, Massachusetts containing about 9,000 square feet, combining the Main House and the Carriage House, more or less, comprising the property conveyed by Theodore R. and Jenny K. Nelson, to Theodore R. Nelson and Jenny K. Nelson, as Trustees of 190 High Street Nominee Trust II in a deed dated April 28, 2000, recorded with the Southern Essex District Registry of Deeds, book 16313, page 449 (hereinafter the "Property"), and more particularly described in Exhibit A incorporated herein by reference and attached hereto, said Property including a Main House and Carriage House, referred to hereinafter as "**the Buildings and Property**", described as follows:

1803 Federal period Main House on 190 High Street

1803 Carriage House at back of driveway as part of larger 190 High Street Property

The Main House is rectangular in plan and has a three-story, Federal mansion block-style, hip-roof ell set back on the northeast elevation. Much plainer than the main block, the date of this addition is not known. The main block, five bays wide by three bays deep on the northwest elevation but five on the southeast, rises to a high, deck-on-hip-roof that is higher than others of its period, a feature that was transitional from the earlier, heavier Georgian style. Flat-roofed dormers appear on all four elevations, those of the facade and rear elevation are filled with two windows, the dormers of the side elevations contain single 6/6 windows. All windows but those of the rear of the ell are finished with exterior shutters.

Windows are 6/6; on the first floor they have tall crown molds, and on the second floor they nearly touch the deep bed mold of the boxed cornice. The house is finished with wide corner boards and a deep sill. A pedimented side entrance in the third bay of the southeast elevation features engaged, half-round Doric pilasters supporting an entablature with metopes and triglyphs. A new porch with fine Federal style rail links the main block and three-story ell. A flat-roof porch is located across the southeast elevation of the ell.

The most distinctive feature of the Main House is the fine central entry of the facade. It is reached by wide granite stairs and sheltered under a portico of slender, fluted Doric columns and pilasters. They support an entablature and flat roof. The six-panel door has a surround that features finely reeded pilasters, an elliptical fan in a delicate leaded glass design with carved ornaments and a keystone in its wide surround. One-half length leaded glass sidelights with rosette-decorated ovals and circles complete this elaborate composition.

The ell has an entry in the first of the two-bay facade on the southeast. It is one bay on the southwest elevation. On the northeast or rear elevation of the ell the fenestration is asymmetrical: on the first floor the three bays contain a probably contemporary door, a wide, contemporary "bump-out" and a window. The door in the first bay leads to a contemporary deck and stairs. Of the three bays of the second floor of the ell the third bay contains a smaller, fixed-pane window, probably a twentieth century alteration.

The three-bay rear elevation of the main block contains another contemporary glassed entry vestibule and two original windows that are topped with high crown molds. The three second floor windows are repetitions of those on the facade and side elevations.

The Carriage House is a two-story structure with high hip roof with an offset two-story pavilion containing a windowless cross-gable wall dormer that still holds the lift for the hayloft opening below it. The opening has been altered as a window. One garage door is below the hayloft, while the western side of the front elevation has a contemporary, copper clad entry portico.

Like the Main House, the Carriage House has 6/6 sash. The side and rear elevations contain three bays. A probably original ventilator is set into the left side of the roof and two contemporary skylights are set on the slope of the southeast elevation.

(From "Architectural Description", Massachusetts Historical Commission Inventory Form B for 190 High Street prepared by Pauline Chase Harrell, dated March 2004; edited to reflect subsequent alterations of the Buildings).

WHEREAS, the cultural, historical and architectural significance of the Buildings and Property emanate from their construction in 1803, and their location as a contributing property within the Newburyport Historic District, designated August 2, 1984 and listed on State and National Registers of Historic Places. The Buildings and Property are important for their associations with the social and religious history of Newburyport, and to the public's enjoyment and appreciation of Newburyport's architectural and historical heritage; and

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

WHEREAS, the preservation values of the Buildings and the Property are documented in a series of photographs and documents (hereinafter, "Baseline Documentation") incorporated herein and attached hereto as by reference as Exhibit B, which Baseline Documentation the parties agree provides an-accurate representation of the Buildings and Property as of the date of this grant; and

WHEREAS, the Baseline Documentation (Exhibit B) shall consist of the following:

1. Exhibit A – Legal Property Description

2. Exhibit B – Newburyport Assessors’ Parcel Map with Building Footprints
3. Exhibit C – Massachusetts Historical Commission Inventory Form B’s dated March 2004 and August 1980
4. Exhibit D – 12 Photographs dated July 2019 and July 2020

WHEREAS, the Buildings and Property have been restored and has been maintained at a high level over the past 20+ years by owners Ted and Jenny Nelson who have demonstrated a personal commitment to conservation principles; and

WHEREAS, the preservation of the Buildings are 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, on or about March 2016 the Grantor’s applied for a Special Permit pursuant to Section VI-C of the Zoning Ordinance and as a condition of said permit the Grantor has agreed to impose a restriction on the Buildings and Property for the preservation and renovation of the aforementioned Buildings, under the terms and conditions set forth herein and in such other documents as the parties may execute (the “Restriction” or “Preservation Restriction”); and

WHEREAS, said Special Permit was allowed by the City of Newburyport Planning Board on May 10, 2016 and recorded with the Essex South District Registry of Deeds on September 15, 2017 in Book 36,180, Page 432 as Exhibit E incorporated herein and attached hereto; and

WHEREAS, the Grantors, in further consideration of the receipt of such Special Permit and to ensure the preservation of the aforementioned Buildings, agrees and desires to impose certain restrictions, obligations and duties upon themselves, their successors and assigns, so as to maintain, protect and preserve the architectural and historical integrity of the exterior of the Buildings and Property; and

WHEREAS, the preservation of the Buildings and Property is important to the public for the enjoyment and appreciation of their architectural and historical heritage and serves the public interest in a manner consistent with the purposes of the General Laws, Chapter 184, Section 31, 32 and 33 (the “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 Buildings and Property burdened by such restrictions, consistent with the provisions of the Act and to administer and enforce this preservation 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 Buildings and Property to be administered, managed and enforced by the Commission.

1.Purpose: It is the Purpose of this Restriction to assure that, the architectural, historic, and cultural features of the exterior of the Buildings and Property 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 Buildings that will significantly impair or interfere with the Building’s preservation values or alter views of the exterior of the Buildings.

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 street-facing south elevation and east and west side elevations of the Main House and the south, west and east facade of the Carriage House unless (i) clearly of minor nature and not affecting the characteristics which contribute to the architectural or historical integrity of the Buildings 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 the requirements of 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 F and hereby incorporated by reference.

3. PARAGRAPH 3 HAS BEEN PURPOSEFULLY OMITTED FROM THIS DOCUMENT

4.1. 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 Buildings in the same structural condition and state of repair to that existing. Grantor's obligation to maintain shall require replacement, repair, and reconstruction by Grantor whenever necessary to preserve the exterior of the Buildings. Subject to the casualty provisions of paragraphs 9 and 10, this obligation to maintain shall require replacement, rebuilding, repair, and reconstruction of the Buildings 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").

Grantor's covenant herein shall be limited to funds reasonably available therefore. Should the parties disagree as to the need of maintenance or the availability of funds the matter may be submitted by either party for arbitration pursuant to the Massachusetts arbitration statute then in effect.

4.2. Grantor's Covenants: Prohibited Activities. The following acts or uses are expressly forbidden except as otherwise conditioned in this paragraph:

- a. the Buildings 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 near the Buildings;
- c. no above-ground utility transmission lines, except those reasonably necessary for the existing Buildings, may be created on the Property, subject to utility easements already recorded;
- d. Subject to such Grantor's reserved rights as specified in Paragraph 6, no additions to the Buildings and/or outbuildings may be attached to the Buildings without prior approval of the Commission; and
- e. moving the Buildings to another location shall be forbidden without prior approval of the Commission.

5. Conditional Rights Requiring Grantee Approval: Subject to Paragraphs 4 and 6 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 Buildings without prior express written approval of the Commission. Without said approval Grantor shall not make any changes to the street-facing south elevation and east and west side elevations of the Main House or the south, west or east façade of the Carriage House, including the alteration, partial removal, construction, remodeling, or other physical or structural change, including permanent signs, and any change in material or color or any change to the footprint, size, mass, ridge-line, and rooflines of the Buildings. Grantor shall similarly not make any alterations to the surrounding Property that would obscure the current view of the Buildings, such as the installation of permanent signage or trees or very large shrubs without approval of the Commission.

Activities by Grantor to maintain the Buildings and the Property which are intended to be performed in accordance with the provisions of paragraph 4.1, 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 the Restriction Guidelines (Exhibit F), 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 4.2, 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 Buildings and Property; and
 - (iii) are not inconsistent with the Purpose of this Restriction;
- b. pursuant to the provisions of Paragraph 4.1, the right to maintain and repair the Buildings 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 Buildings. The right to maintain and repair as used in this sub-paragraph shall not include the right to make changes in appearance, materials, workmanship from that existing prior to the maintenance and repair without the prior approval of the Commission in accordance with the provisions of Paragraph 5;
- c. The Grantor shall have the right to make the following specific non-historic modifications at the point in time in which necessary repair and maintenance is required:

All exterior alterations to the south facade, east and west elevations and roof of the Carriage House shall be subject to review by and approval of the Newburyport Historical Commission prior to any building permits being issued and prior to such alterations being implemented. The north elevation of the Carriage House shall be permitted to have the addition of a deck, a mandatory rear exit door and windows in a historically correct style, if/when Grantor chooses to make these changes.

All exterior alterations to the south facade, east and west elevations and roof of the Main House shall be subject to review by, and approval of, the Newburyport Historical Commission prior to any building permits being issued and prior to such alterations being implemented. A few exceptions shall apply which shall not require Newburyport Historical Commission review and approval if they are done according to the specifications below:

- i. The Grantor shall be permitted to make additional modifications to the north side elevation -- in a modern style in keeping with recent changes -- to the rear of the house as needed/desired.
- ii. The garden and landscaping on the Property has been extensively modified over the time the Grantor has owned the Property. Grantor reserves the right to make additional landscaping modifications, not visible from the street, as desired. This includes the option of adding an in-ground pool at some potential point in the future.
- iii. The Grantor is permitted to create a parking area on the east elevation of the Main House, per the special permit requirements. This will require relocating some of the granite landscaping and eliminating the current stone path.
- iv. The Italianate-style tower on the north east corner of the Main House presents a maintenance challenge given its location, height and dimensions. In this location only, the Grantor shall be permitted to install HardiePlank or similar cementitious siding in lieu of wood clapboarding. Such cementitious siding shall be smooth-finished and shall match the profile, dimensions, size and application style of the existing wood siding.

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 with reasonable specificity. In connection therewith, Grantor shall also submit to the Commission a timetable for 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 and to permit Grantor to undertake the proposed activity in accordance with the plan or request 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 Buildings; to review any construction, alteration, repair, or maintenance; or to review casualty damage or to reconstruct or approve reconstruction of the Buildings following casualty damage, the Commission shall apply the Secretary's Standards.

9. Casualty Damage or Destruction: In the event that Buildings 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 the damage or destruction, such notification including what, if any, emergency work has already been completed. No repairs or reconstruction of any type, other than temporary emergency work to prevent further damage to the Buildings and Property and to protect public safety, shall be undertaken by Grantor without the Commission's prior written approval of the work. Within ninety (90) 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 report shall include the following:

- a. an assessment of the nature and extent of the damage;
- b. a determination of the feasibility of the restoration of the Buildings and/or reconstruction of damaged or destroyed portions of the Buildings; and
- c. a report of such restoration/reconstruction work necessary to return the Buildings 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 Buildings 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 Buildings 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 Buildings, 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 Buildings 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 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 Buildings ordinance coverage, in form and amount sufficient to replace fully the damaged Buildings 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 Buildings; 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 Buildings; unless such injury, death, or damage is caused by Grantee or its boards, commissions, 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: Ted and Jenny Nelson
190 High Street
Newburyport, MA 01950

Grantee: City of Newburyport
c/o Newburyport Historical Commission
60 Pleasant Street, P.O. Box 550
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 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 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 Buildings, 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 Buildings.

Nothing in this Restriction shall impose upon the Commission any duty to maintain or require that the Buildings 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 the 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 Buildings 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) 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 title to the Property subject to the terms of this Restriction. This Restriction shall extend to and be binding upon Grantor and Grantee, their 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 or to a similar local, state, or national charitable corporation or trust that qualifies under the Act, and whose purposes, inter alia, are the preservation of buildings or sites of historical significance, provided that any such conveyance, assignment or transfer requires that the Purpose for which the Restriction was granted will continue to be carried out. 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.

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 the Newburyport Historical Commission, its being 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 the 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 Buildings 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 interests in the Property that are subject to the taking and all incidental and direct damages resulting from the taking. All expenses reasonably incurred by Grantor and Grantee in connection with such 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 in all cases govern. Except as provided in the preceding sentence, each 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 Buildings 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 County 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. Archaeological 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 and 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).

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

By:

GRANTOR: 190 High Street Nominee Trust II

Theodore R. Nelson, Trustee

Jenny K. Nelson, Trustee

COMMONWEALTH OF MASSACHUSETTS
Essex, ss.

On this ____ day of _____, 2020, before me, the undersigned notary public, personally appeared Theodore R. Nelson, 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:

COMMONWEALTH OF MASSACHUSETTS
Essex, ss.

On this ____ day of _____, 2020, before me, the undersigned notary public, personally appeared Jenny K. Nelson, 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, the undersigned Chair and Acting Clerk of the Newburyport Historical Commission hereby certify that at a meeting duly held on February 27, 2019, the Commission voted to approve and accept the foregoing Preservation Restriction Agreement.

Glenn Richards, Chair and Acting Clerk,
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 and Acting Clerk 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.

CITY OF NEWBURYPORT

By its Clerk

Richard B. Jones

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 Law, chapter 184, section 32.

MASSACHUSETTS HISTORICAL COMMISSION

By: _____
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:

Exhibit A – Legal Property Description

PARCEL I

Commencing at the SOUTHERLY corner thereof on High Street by registered land formerly of Learned;

Thence running NORTHWESTERLY by said High Street about 100 feet to land now or formerly of Little;

Thence running NORTHEASTERLY by the last mentioned land, 54 feet, 6 inches to a corner;

Thence NORTHWESTERLY by the same land, 31 feet, 6 inches to land formerly of Lambert;

Thence NORTHEASTERLY again in part by said land formerly of Lambert and in part by land now or formerly of Healey, 84 feet, 4 inches to a corner;

Thence SOUTHEASTERLY by said land now or formerly of Healey, 27 feet to a corner;

Thence NORTHEASTERLY again in part by the last mentioned land, in part by land formerly of Harriet E. Jones, and in part by land formerly of Lucius H. Greely, 183 feet to land formerly of Rebecca E. Frost;

Thence SOUTHEASTERLY in part by said land formerly of Frost, and in part by land formerly of Henry C. Learned (formerly known as the Friends Burying Ground), 94 feet, 3 inches to said registered land formerly of Learned; and

Thence running SOUTHWESTERLY by the last mentioned land 308 feet to said High Street and the point of beginning.

All of said measurements being more or less. Containing about 119 rods, more or less.

PARCEL III

Commencing at the EASTERLY corner thereof on Washington Street adjacent to Plot 1 as described in License to Sell filed with the Essex South District Registry of Deeds Probate of Agnes Sweeney, Docket Number 257049;

Thence running SOUTHWESTERLY by Plot 1 described above, 81 feet, 4 inches, to land formerly of Jane R. Wood, formerly of Learned;

Thence running NORTHWESTERLY by land formerly of Learned and land formerly of Nellie R. Currier, now or formerly of Learned, 49 feet to land now or formerly of Rebecca E. Frost;

Thence running NORTHEASTERLY by said land now or formerly of Rebecca E. Frost, 46 feet, 4 inches to a corner;

Thence running SOUTHEASTERLY by the said land 12 feet, 9 inches;

Thence NORTHEASTERLY by the same land 27 feet, 11 inches to Washington Street;

Thence SOUTHEASTERLY by said Street, 32 feet, 9 inches to the point of beginning.

All measurements being more or less.

Being the same premises conveyed to the Grantors by deed of Vassar College dated March 27, 1996 recorded with Essex South District Registry of Deeds in Book 13484, Page 72.

Subject to encumbrances of record. No title examination performed.

Source: Southern Essex District Registry of Deeds, Book 16313, page 449.

Exhibit B: Newburyport Assessors' Parcel Map with Building Footprints

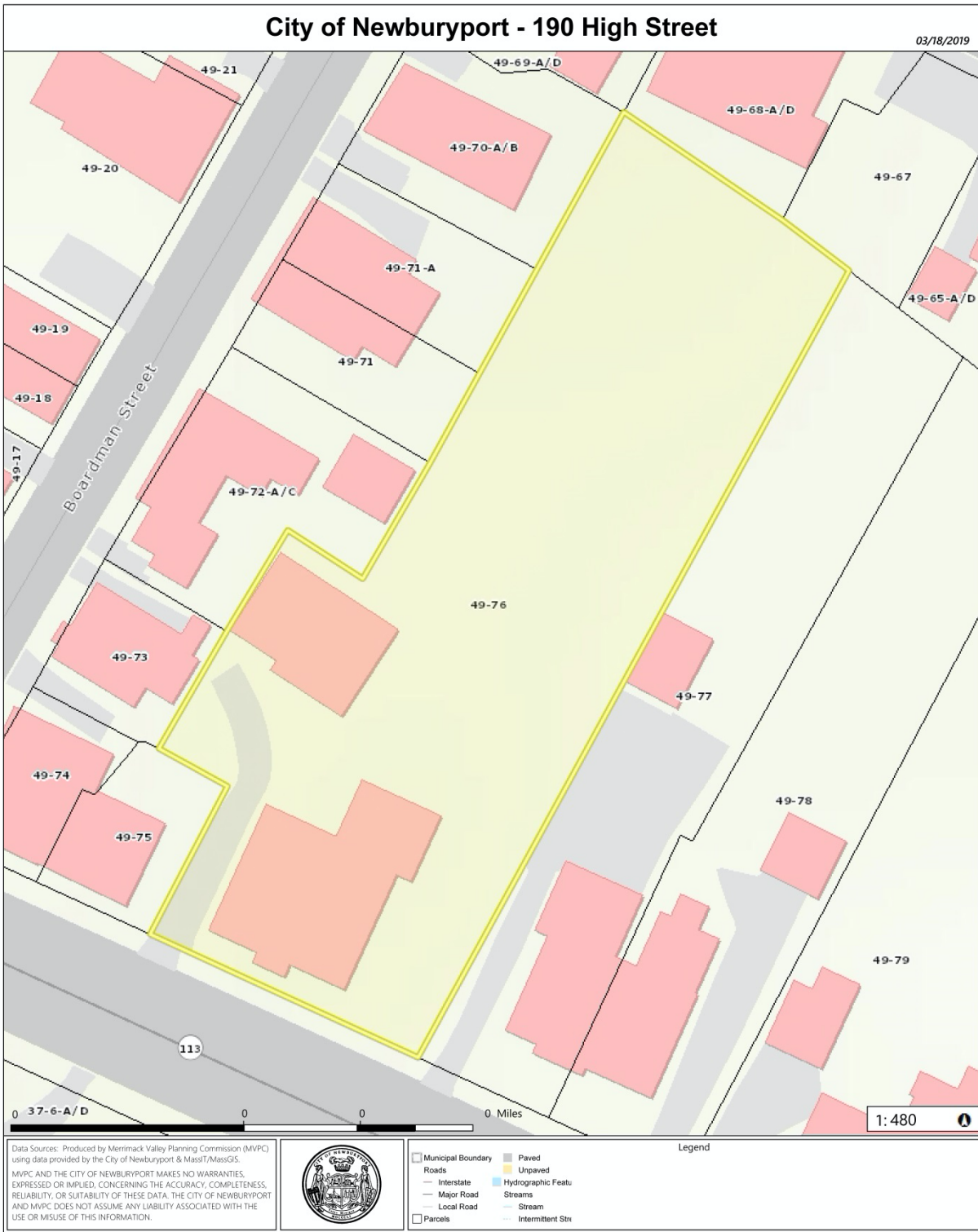


Exhibit C – Massachusetts Historical Commission Inventory Form B's dated March 2004 and August 1980

Massachusetts Cultural Resource Information System
Scanned Record Cover Page

Inventory No:	NWB.38
Historic Name:	Morse, Rev. James - Williams, Enoch House
Common Name:	Currier, Warren - Learned, Henry House
Address:	190 High St
City/Town:	Newburyport
Village/Neighborhood:	
Local No:	49-76
Year Constructed:	r 1795
Architect(s):	
Architectural Style(s):	Federal
Use(s):	Multiple Family Dwelling House; Single Family Dwelling House
Significance:	Architecture; Landscape Architecture
Area(s):	NWB.A: High Street District NWB.L: Newburyport Historic District
Designation(s):	Nat'l Register District (08/02/1984)
Building Materials(s):	Roof: Slate Wall: Glass; Wood; Wood Clapboard Foundation: Granite; Stone, Cut



The Massachusetts Historical Commission (MHC) has converted this paper record to digital format as part of ongoing projects to scan records of the Inventory of Historic Assets of the Commonwealth and National Register of Historic Places nominations for Massachusetts. Efforts are ongoing and not all inventory or National Register records related to this resource may be available in digital format at this time.

The MACRIS database and scanned files are highly dynamic; new information is added daily and both database records and related scanned files may be updated as new information is incorporated into MHC files. Users should note that there may be a considerable lag time between the receipt of new or updated records by MHC and the appearance of related information in MACRIS. Users should also note that not all source materials for the MACRIS database are made available as scanned images. Users may consult the records, files and maps available in MHC's public research area at its offices at the State Archives Building, 220 Morrissey Boulevard, Boston, open M-F, 9-5.

Users of this digital material acknowledge that they have read and understood the MACRIS Information and Disclaimer (<http://mhc-macris.net/macrisdisclaimer.htm>)

Data available via the MACRIS web interface, and associated scanned files are for information purposes only. THE ACT OF CHECKING THIS DATABASE AND ASSOCIATED SCANNED FILES DOES NOT SUBSTITUTE FOR COMPLIANCE WITH APPLICABLE LOCAL, STATE OR FEDERAL LAWS AND REGULATIONS. IF YOU ARE REPRESENTING A DEVELOPER AND/OR A PROPOSED PROJECT THAT WILL REQUIRE A PERMIT, LICENSE OR FUNDING FROM ANY STATE OR FEDERAL AGENCY YOU MUST SUBMIT A PROJECT NOTIFICATION FORM TO MHC FOR MHC'S REVIEW AND COMMENT. You can obtain a copy of a PNF through the MHC web site (www.sec.state.ma.us/mhc) under the subject heading "MHC Forms."

Commonwealth of Massachusetts
Massachusetts Historical Commission
220 Morrissey Boulevard, Boston, Massachusetts 02125
www.sec.state.ma.us/mhc

This file was accessed on: Wednesday, July 15, 2020 at 11:53 AM

FORM B – BUILDING

MASSACHUSETTS HISTORICAL COMMISSION
MASSACHUSETTS ARCHIVES BUILDING
220 MORRISSEY BOULEVARD
BOSTON, MASSACHUSETTS 02125

USGS Quad Area(s) Form Number

Newburyport

A, L NWB.38

NR015-812184



Town Newburyport

Place Newburyport Historic District

Address 190 High Street

Historic Name Morse-Learned House

Uses: Present Dwelling

Original Dwelling

Date of Construction c. 1790-1803

Source MHC form and observation

Style/Form Federal

Architect/Builder Unknown

Exterior Material: Clapboards

Foundation Large ashlar granite

Wall/Trim Clapboard

Roof House: slate, barn: asphalt

Outbuildings/Secondary Structures

Carriage barn/garage set back to the north

Major Alterations (with dates)

3-story ell and porch northeast, dormers ?, Ell: 1st fl. window southeast, northeast door, altered fenestration, 1-story glassed addition and deck, Northeast elevation: 1-story glassed entry and stairs. Barn: southwest façade: 2 garage doors, hayloft opening now window.

RECEIVED

Condition Excellent

MAY 20 2004

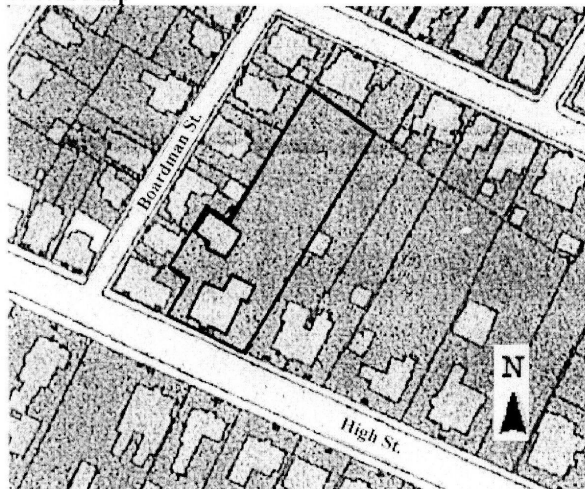
Moved No

MASS. HIST. COMM

Acreage 34,375 Sq. Ft.

Setting Facing southeast behind low granite retaining wall on slight rise. On main thoroughfare of architecturally distinguished houses in urban residential neighborhood, extensive, mature garden in deep back yard, carriage house at rear.

Sketch Map



Recorded by Pauline Chase Harrell
Organization Boston Affiliates, Inc.
for the National Architectural Trust
Date March, 2004

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

INVENTORY FORM CONTINUATION SHEET

MASSACHUSETTS HISTORICAL COMMISSION
 MASSACHUSETTS ARCHIVES BUILDING
 220 MORRISSEY BOULEVARD
 BOSTON, MASSACHUSETTS 02125

Community Property Address

NEWBURYPORT 190 HIGH STREET

Area(s) Form Number

A.L. 38

BUILDING FORM**ARCHITECTURAL DESCRIPTION** *see continuation sheet*

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

This is a very fine example of a two and one-half story Federal style house, even for the high standards set by Newburyport designers and builders. The southwest-facing house is set on a slight rise close to the street. An edging of granite divides the sidewalk from the bank on which the house is set, which is planted with groundcover. A graveled drive at the west leads to the carriage barn/garage to the rear. Extensive gardens stretch behind the house to the northeast.

HISTORICAL NARRATIVE *see continuation sheet*

Discuss 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.

In 1803 the Rev. James Morse, minister of St. Paul's Church in Newburyport from 1803 to 1842, lived in this house. Morse was also one of the organizers of the Merrimack Bible Society, The Newburyport Academy and The Newburyport Athenaeum. Upon his death in the 1840s, the land passed to his daughter, who is believed to have laid out the original garden.

BIBLIOGRAPHY and/or REFERENCES *see continuation sheet*

Secondary sources:

BHC and Mary Jane Stirgwort. "Massachusetts Historic Commission Building Form B: Newburyport, 190 High Street." 1980. United States Department of the Interior, National Park Service. National Register of Historic Places Inventory: Newburyport Historic District. 1980.

Brockway, Lucinda A. and Lindsay H. Cavanagh. *Gardens of the New Republic: Fashioning the Landscapes of High Street, Newburyport, Massachusetts* (Bright Sky Press: Albany, Tex., 2004)

Howells, John Mead, *The Architectural Heritage of the Merrimack*, New York: The Architectural Book Publishing Co., 1941.

Currier, John J., *History of Newburyport, 1764-1905*, vols. I and II. Boston: Damrell and Upham, 1906 and 1909.

History of Newbury, Mass., 1635-1902, Boston: Damrell and Upham, 1902, pp. 391-392. (Cited in Currier: Essex Probate Records, book cccx., leaf 114; Essex Deeds, book cxxv., leaf 91)

Atlases at the Historical Society of Old Newbury:

Walker Map Co.(?), *Atlas of the City of Newburyport, 1884*

Sanborn Map Co., *Atlas of the City of Newburyport, 1888*

Personal Communication:

Jay Williamson, Director, Historical Society of Old Newbury, April 27, 2004; Todd Woodworth, local historian and retired undertaker, April 14, 2004

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

190 High Street is in the Newburyport National Register District.

INVENTORY FORM CONTINUATION SHEET

MASSACHUSETTS HISTORICAL COMMISSION
 MASSACHUSETTS ARCHIVES BUILDING
 220 MORRISSEY BOULEVARD
 BOSTON, MASSACHUSETTS 02125

Community Property Address

NEWBURYPORT 190 HIGH STREET

Area(s) Form Number

AL	38
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ARCHITECTURAL DESCRIPTION, continued

The house is rectangular in plan and has a three-story, Federal mansion block-style, hip-roof ell set back on the northeast elevation. Much plainer than the main block, the date of this addition is not known. The main block, five bays wide by three bays deep on the northwest elevation but five on the southeast, rises to a high, deck-on-hip-roof that is higher than others of its period, a feature that was transitional from the earlier, heavier Georgian style. Flat-roofed dormers appear on all four elevations, those of the façade and rear elevation are filled with two windows, the dormers of the side elevations contain single 6/6 windows. All windows but those of the rear of the ell are finished with exterior shutters.

Windows are 6/6; on the first floor they have tall crown molds, and on the second floor they nearly touch the deep bed mold of the boxed cornice. The house is finished with wide cornerboards and a deep sill. A pedimented side entrance in the third bay of the southeast elevation features engaged, half-round Doric pilasters supporting an entablature with metopes and triglyphs. A probably twentieth century porch with fine Federal style rail links the main block and three-story ell. A flat-roof porch is located across the southeast elevation of the ell.

The most distinctive feature of the house is the fine central entry of the façade. It is reached by wide granite stairs and sheltered under a portico of slender, fluted Doric columns and pilasters. They support an entablature and flat roof. A mature wisteria vine softens the composition in season. The six-panel door has a surround that features finely reeded pilasters, an elliptical fan in a delicate leaded glass design with carved ornaments and a keystone in its wide surround. One-half length leaded glass sidelights with rosette-decorated ovals and circles complete this elaborate composition.

The ell has an entry in the first of the two-bay façade on the southeast. It is one bay on the southwest elevation. On the northeast or rear elevation of the ell the fenestration is asymmetrical: on the first floor the three bays contain a probably contemporary door, a wide, contemporary "bump-out" and a window. The door in the first bay leads to a contemporary deck and stairs. Of the three bays of the second floor of the ell the third bay contains a smaller, fixed-pane window, probably a twentieth century alteration.

The three-bay rear elevation of the main block contains another contemporary glassed entry vestibule and two original windows that are topped with high crown molds. The three second floor windows are repetitions of those on the façade and side elevations.

A well-preserved carriage barn set back on the north has been converted to a garage on the first floor and living or storage space above, but these alterations do not significantly detract from its integrity. The two-story structure with high hip roof has an offset two-story pavilion containing a windowless cross-gable wall dormer that still holds the lift for the hayloft opening below it. The opening has been altered as a window. Two garage doors have been let into the building, which is three bays wide. Like the house, the barn has 6/6 sash. The side and rear elevations contain three bays. A probably original ventilator is set into the left side of the roof and two contemporary skylights are set on the slope of the southeast elevation. A wood picket fence at the right side of the barn separates the garden from the more public barn/garage and driveway. There is a small sitting area paved with flagstones at the southeast side of the barn that was probably installed in the mid-to-late twentieth century.

At the rear of the house is a large well planned and developed garden. Its plan dating from the Federal period, it is articulated by graveled walks, perennial borders edged with low boxwood, fruit trees and mature deciduous and evergreen trees. Stepping down the hill in terraces that take advantage of the natural terrain, the garden progresses from a sitting area behind the house to a formal perennial garden which becomes somewhat less formal as it progresses to a shady area at the rear.

INVENTORY FORM CONTINUATION SHEET

MASSACHUSETTS HISTORICAL COMMISSION
 MASSACHUSETTS ARCHIVES BUILDING
 220 MORRISSEY BOULEVARD
 BOSTON, MASSACHUSETTS 02125

Community Property Address

NEWBURYPORT 190 HIGH STREET

Area(s) Form Number

AL	38
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HISTORICAL NARRATIVE, continued

The heirs of Rev. Morse owned the house until 1851 when it was conveyed to Enoch Williams, who had been one of the incorporators of the short-lived Newburyport Steam Cotton Company, established in 1837 and dissolved in 1843, and was also a Director of the Newburyport Bank. He served as alderman in the city of Newburyport in 1856 and 1857. From Williams, ownership passed in 1869 to Warren Currier, and subsequently to A. T. Ross. Henry Learned began renting the house in 1916 and purchased it a few years later. On his death, it was inherited by his daughter Lorna, who lived there until the 1990s.

In 1768, prior to the Reverend Morse's ownership of 190 High Street, the heirs of Tirzah Bartlett and her husband Hathorn Coker, a Quaker, had set aside a small portion of their property as a Friends burying ground. As noted in Lucinda Brockway's 2004 *Gardens of the New Republic*, local historians have long believed that this burying ground was located on what is now the third level of the garden at 190 High Street, but that nothing remains of the burying ground today, as the graves were moved "in the previous century." No record of when or to where this removal took place has been found.

The belief is evidently based on Currier's statement, citing Essex County court records, in his 1902 *History of Newbury* that in 1767 Hathorn Coker, Samuel Coker and others sued Tirzah's estate to recover four acres of land stretching from Merrimack Street "nearly to High Street." As a result of that suit, the entail was docked in 1768, and division of "the Coker field" executed. Upon that division, "nine rods of the premises being three rods square at the north west Corner thereof" were set aside as a burial ground. Noting that Washington Street was laid out and accepted by the town of Newburyport in 1800, he says that, "entrance to the burying ground is from the southwesterly side of Washington Street." He also describes a "low granite monument [that] marks the enclosure," with an inscription dated in 1865 stating that Hathorn Coker and his family "lie buried here." John Mead Howells and others writing since have repeated this story in connection with the garden at 190 High Street, although an 1884 Newburyport atlas at the Historical Society of Old Newbury clearly shows the cemetery located on a lot adjacent to but separate from the property then owned by Warren Currier and subsequently the Learned.

Learned is credited with the longevity of the property's fine Federal period garden. He undertook extensive rejuvenation of the garden parterres, and much of what remains in the garden today is the result of his effort and interests. After his daughter Lorna, also an avid gardener, inherited the house, she removed some of the more complicated formal beds but retained the overall design and planting style.

The layout of the garden today is believed to remain from the 1840s. The more formal flowerbeds were located close to the house with a kitchen garden and fruit garden to the rear, at the lowest level. The garden was separated into three areas by a series of tall hedges, with a long central path constructed on an axis with the sitting terrace behind the house connecting them. Boxwood hedges lined both sides of the central path, edging the wide perennial borders. Old photographs show circular box-lined beds on both sides of the first level of the garden, which were replaced by lawn when Miss Learned took over the care of the garden.

This house, with its characteristic arrangement of carriage house and gardens, remains one of the finest examples of High Street's Federal period architecture and its survival through the twentieth century.

INVENTORY FORM CONTINUATION SHEET

MASSACHUSETTS HISTORICAL COMMISSION
MASSACHUSETTS ARCHIVES BUILDING
220 MORRISSEY BOULEVARD
BOSTON, MASSACHUSETTS 02125

Community Property Address

NEWBURYPORT 190 HIGH STREET

Area(s) Form Number

AV 38

PHOTOS



INVENTORY FORM CONTINUATION SHEET

MASSACHUSETTS HISTORICAL COMMISSION
MASSACHUSETTS ARCHIVES BUILDING
220 MORRISSEY BOULEVARD
BOSTON, MASSACHUSETTS 02125

Community Property Address

NEWBURYPORT 190 HIGH STREET

Area(s) Form Number

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PHOTOS



INVENTORY FORM CONTINUATION SHEET

MASSACHUSETTS HISTORICAL COMMISSION
MASSACHUSETTS ARCHIVES BUILDING
220 MORRISSEY BOULEVARD
BOSTON, MASSACHUSETTS 02125

Community Property Address

NEWBURYPORT 190 HIGH STREET

Area(s) Form Number

A, L 38

PHOTOS

Left side of house from rear. NAT file: 190 High Street - left side from rear.jpg



Rear and right side of house. NAT file: 190 High Street - rear and right side.jpg



INVENTORY FORM CONTINUATION SHEET

MASSACHUSETTS HISTORICAL COMMISSION
MASSACHUSETTS ARCHIVES BUILDING
220 MORRISSEY BOULEVARD
BOSTON, MASSACHUSETTS 02125

Community Property Address

NEWBURYPORT 190 HIGH STREET

Area(s) Form Number

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PHOTOS

Rear. NAT file: 190 High Street - rear.jpg



Barn, right side and rear. NAT file: 190 High Street - barn - profile.jpg



INVENTORY FORM CONTINUATION SHEET

MASSACHUSETTS HISTORICAL COMMISSION
MASSACHUSETTS ARCHIVES BUILDING
220 MORRISSEY BOULEVARD
BOSTON, MASSACHUSETTS 02125

Community Property Address

NEWBURYPORT 190 HIGH STREET

Area(s) Form Number

A, L	38
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PHOTOS

Garden. NAT file: 190 High Street - vacant lot.jpg



INVENTORY FORM CONTINUATION SHEET

MASSACHUSETTS HISTORICAL COMMISSION
MASSACHUSETTS ARCHIVES BUILDING
220 MORRISSEY BOULEVARD
BOSTON, MASSACHUSETTS 02125

Community Property Address

NEWBURYPORT 190 HIGH STREET

Area(s) Form Number

AL	38
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PHOTOS

Garden. Photo from *Gardens of the New Republic*



190 HIGH ST.

Formerly 174 High St.

DEPT: 1804 (Commonplace Book of the Rev. James Morss in St. Paul's Church Archives)
OFFER: Rev. James Morss, Rector of St. Paul's Church, 1803-1842

Land bought 1803 and house built 1804 when the Rev. James Morss married Martha Boardman. (In Morss Diary - ST PAUL'S ARCHIVES)

Entry: in Morss Commonplace Book : 1804 Land purchased
308 ft. by Capt. Faris Land
94.03 ft. by Washington St.
100.00 ft. by High St.
321.09 - 321 - 321'9 "

Being in the whole as surveyed 110 Rds. 21/20

The first wife of the Rev. Dr. James Morss, Martha Boardman with whom there were 11 children (4 girls) 1 girl died an infant, one died @ 49, single, and 2 were married. Mrs. Sarah Boardman Selfridge lived to be 74, Mrs. Harriet Papanti reached age 67. 3 boys died in infancy 2 died as young men, 25 and 27 years and 2 sons reached ages 49 and 54. Mrs. Elizabeth (Hickinson) Tyng Morss, second wife died January, 1841. The Rev. Dr. James Morss died April 26, 1842 @ 62 yrs.

Miss Martha Morss, the oldest of the Morss family kept house at 190 until 1850 when the house was sold
1851-1865 - Enoch Williams
1865 - 1880 - Warren Currier
1880 - 1893 - Currier Family?
1893 - 1899 - Andrew Ross
1899 - 1914 - Nellie Ross (widow)
1914 - 1918 - Leased to Henry Learned
1918 - to date (1983) Henry Learned heirs (Mrs. Adelaide Learned d. 1933)
1933 - 1945 - Henry Learned and family
1945 - to date (1983) Lorna Learned

FORM B - BUILDING

MASSACHUSETTS HISTORICAL COMMISSION
294 Washington Street, Boston, MA 02108

NWB, 38

Area	Form no.
A+L	38

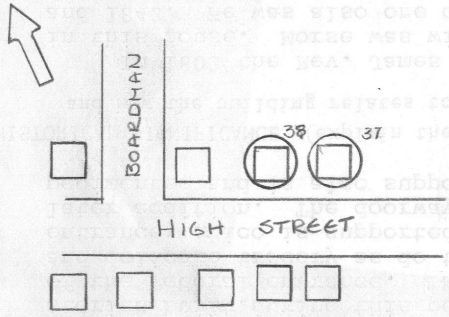
US&S - Newb W.



Newburyport _____
 Address 190 High Street
 Historic Name Morse-Learned House
 Original Residence
 Present Residence
 Ownership: Private individual
 Private organization _____
 Public _____
 Original owner Unknown

location in relation to nearest
cross streets and other buildings
or geographical features.
Indicate north.

DESCRIPTION:
 Date pre 1803
 Source Howells, "Architectural
Heritage of the Merrimack
 Style Federal



Architect Unknown
 Exterior wall fabric Clapboards
 Outbuildings Barn

Major alterations (with dates) additions
at rear, shed dormer added (dates
unknown)

Moved _____ Date _____
 Approx. acreage 34,300 sq. ft.

Recorded by Mary Jane Stirgwolt
 Organization Office of Community
Development
 Date 8-11-80

Setting on Newburyport's main
thoroughfare noted for its excellent
examples of domestic architecture
dating from the Colonial period through
the early 20th century.

(Staple additional sheets here)

NWB.38

ARCHITECTURAL SIGNIFICANCE (describe important architectural features and evaluate in terms of other buildings within community)

This house has several fine Federal features. The form of the building is two stories with deep hipped roof possibly indicating a slightly earlier construction date than the "Square houses" of three stories built during this period. The doorway is an elegant example of the Federal entrance. The semi-elliptical fanlight has elaborate and delicate tracery as do the sidelights that flank the door. The entrance portico is supported by the Roman Doric order and may be a later addition. The doorway on the Southeast side of the house is pedimented and is also supported by the Doric order.

HISTORICAL SIGNIFICANCE (explain the role owners played in local or state history and how the building relates to the development of the community)

In 1803 the Rev. James Morse, minister of St. Paul's Church lived in this house. Morse was with the church in Newburyport between 1803 and 1842. He was also one of the organizers of the Merrimack Bible Society, The Newburyport Academy and The Newburyport Athenacum.

The heirs of Rev. Morse owned the house until 1851 when it was conveyed to Enock Williams. Williams was one of the incorporators of the Newburyport Steam Cotton Company established in 1837. The factory was located at the foot of Strong Street "on the wharf next above the Newburyport bridge." This business was in operation only six years and was dissolved in 1843.

In 1836 Williams was one of the Directors of the Newburyport Bank. He served as alderman in the city of Newburyport in 1856 and 1857.

In 1869 Warren Currier purchased the house. He was in business under the firm name of Sumner, Swasey, and Currier at 45 Water Street. He owned the property until 1893. The house was subsequently owned by A. T. Ross. Henry Learned purchased the house in 1918 and it has been in the Learned family since that date.

BIBLIOGRAPHY and/or REFERENCES

- J. J. Currier, History of Newburyport, 1764-1905, vols. I and II, reprint, Newburyport 1977.
- Assessor's Records 1890-1980
- 1851 Plan of Newburyport, Mass. H. McIntire
- 1872 Map of the City of Newburyport, Mass. D.G. Beers and Co.
- 1851, 1871 City Directories

20M-2/80

Exhibit D – Baseline Photographs dated July 2019 and July 2020



Photo 1, Main House, South Elevation, July 2019



Photo 2, Main House, South Elevation, July 2019



Photo 3, Main House, East Elevation, July 2020



Photo 4, Main House, East Elevation, July 2020



Photo 5, Main House, West Elevation, July 2019



Photo 6, Main House, North Elevation, July 2019



Photo 7, Main House, South West Elevation, July 2019



Photo 7, Main House, South Elevation, July 2019



Photo 8, Carriage House, South Elevation, July 2019



Photo 9, Carriage House, South Elevation detail, July 2019



Photo 10, Carriage House, North West Corner, July 2019



Photo 11, Carriage House, East Elevation, July 2019



Photo 12, Carriage House, North East Corner, July 2019

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 deals 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 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 views of the Buildings; ground disturbance affecting archaeological 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. exterior ducts, piping, ventilators, HVAC units, 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 Buildings. 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.