

**MEMORANDUM OF AGREEMENT
ST. AIDAN'S RESIDENTIAL ADAPTIVE REUSE AND REDEVELOPMENT PROJECT
TOWN OF BROOKLINE, MASSACHUSETTS
SUBMITTED TO THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
PURSUANT TO 36 CFR 800.6**

April 20, 2004

WHEREAS, the Town of Brookline ("Town"), as a member of the WestMetro HOME Consortium, proposes to use Department of Housing and Urban Development ("HUD") HOME Investment Partnership Program funds to provide financial assistance for the construction of a 59 unit mixed income development known as the Saint Aidan's Project ("the Project") on Pleasant and Freeman Streets and Crowninshield Road in Brookline, Massachusetts; and

WHEREAS, the subject 1.83 acre property includes the former St. Aidan's church, rectory, garage, parking lot and landscaped forecourt; and

WHEREAS, the Planning Office for Urban Affairs, Inc., ("POUA"), the Project developer, has purchased the property through a wholly owned affiliate established to own the property; and

WHEREAS, the POUA has applied for and been granted, by the Brookline Board of Appeals, a Chapter 40B Comprehensive Permit, Case No. 020047 with a decision and accompanying conditions and plans dated March 11, 2003, (Comprehensive Permit) that enables the construction of the 59 mixed income housing units and other improvements on the subject property; and

WHEREAS, in order for POUA to construct the project, including 50 affordable housing units, while preserving the existing church building and forecourt, the plans call for the demolition of the existing rectory and 1918 garage; and

WHEREAS, in order for the POUA to support Project costs associated with 50 affordable units, the plans call for the adaptive reuse of the church building as nine market rate units; and

WHEREAS, the overall Project site and the adjacent Emmet cottage (217 Freeman Street) are each individually listed on the National Register of Historic Places as part of the Brookline Multiple Resource Area and are also listed on the State Register of Historic Places; and

WHEREAS, the historic and architectural significance of the former St. Aidan's church, the unique urban context formed by the surrounding neighborhood environment, the extensive planning and design processes conducted to date and the approvals and recommendations pertaining to the subject property are well documented as part of the following reports, plans and studies:

Study Reports on the Establishment of the St. Aidan's Local Historic District, Brookline Preservation Commission, July 17, 2001 and February 12, 2002;

St. Aidan's Adaptive Reuse Feasibility Study – Goals, Principles and Guidelines, St. Aidan's Study Committee, February 2002;

St. Aidan's Adaptive Reuse Feasibility Study – Technical Report, St. Aidan's Study Committee, February 2002;

St. Aidan's Project Review Team Report, August 6, 2002;

St. Aidan's Design Review Subcommittee Report, December 11, 2002;

St. Aidan's Church: Inspiring Community Ideas for Adaptive Reuse, StART, January 2003;

Chapter 40B Comprehensive Permit, Case No. 020047, accompanying conditions and plans, Board of Appeals, decision dated March 11, 2003;
St. Aidan's Preservation Guidelines, Brookline Preservation Commission, October 2002;
Report from Subcommittee Meetings of Brookline Preservation Commission, October, 2003;
Plans for St. Aidan's Church Building, approved by Brookline Preservation Commission, October 9, 2003 and Brookline Board of Selectmen, October 14, 2003;
An Alternate Plan for the Residential Reuse of Saint Aidan's Church, A Community Study, William Powell, Architect, 9th of October, 2003, Updated 6 Nov. '03; and

WHEREAS, the Town has determined and the Massachusetts State Historic Preservation Officer ("SHPO") has concurred that the Project will have an adverse effect on the St. Aidan's site through the physical destruction of the rectory (36 CFR 800.5(a)(2)(i) and 950 CMR 71.05(a)) and through the alteration of the setting, feeling and association of the property (36 CFR 800.5(a)(1) and 950 CMR 71.05(b)); and

WHEREAS, pursuant to 42 U.S.C. 12838, 24 CFR Part 58, and 36 CFR 800.2(a), the WestMetro HOME Consortium (Consortium) has assumed HUD's responsibility for compliance with Section 106 of the National Historic Preservation Act, and that under the Mutual Cooperation Agreement between the Consortium and the Town of Brookline, the responsibility for compliance lies with the Town; and

WHEREAS, the Town has consulted with the National Park Service, the Brookline Preservation Commission, the Campaign to Preserve St. Aidan's, the St. Aidan's Reuse Team, the National Trust for Historic Preservation, and Steven P. Feinstein and Susan G. Feinstein (Abutters) regarding the effects of the Project on historic properties and has invited them to sign this MOA as concurring parties; and

WHEREAS, in accordance with 36 CFR Section 800.6(a)(1), the Town has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination and the ACHP chose to participate in the consultation; and

WHEREAS, the SHPO, ACHP, Town, POUA and other Concurring Parties have met to consider various guidelines, objectives and strategies that might avoid, minimize or mitigate the Project's adverse effects, pursuant to 36 CFR 800.6; and

WHEREAS, the SHPO, ACHP, Town, POUA and other Concurring Parties have also concluded that further design review is also appropriate and desirable to avoid, minimize or mitigate, to the extent feasible, the Projects' adverse effects.

NOW, THEREFORE, the Town, POUA, SHPO, ACHP and the undersigned Concurring Parties agree that the Project will be implemented in accordance with the following Stipulations in order to avoid, minimize or mitigate, to the extent feasible, adverse effects on historic properties.

STIPULATIONS

The Town and POUA shall ensure that the following measures are carried out in coordination with the SHPO/MHC:

RECORDATION: Prior to commencement of any demolition or construction, the Town agrees to ensure that the church building, the rectory and the 1918 garage are documented according to the following recordation requirements:

- a. **SPECIFICATIONS:** Photographic documentation should consist of 5" – x – 7", 35 millimeter black and white photographs, printed on archival-quality photographic paper. Prints should be archival-processed and numbered on the back in pencil, but un-mounted and with no affixed labels unmounted but sleeved in archival-quality, unbuffered envelopes, the

contents of each envelope identified and numbered in pencil on the envelope. The negatives should be sleeved in a stable polypropylene negative holder; the negative holder should be suitably labeled. The accompanying paper documentation should be prepared on alkaline, buffered paper, enclosed in archivally stable materials (such as an archival-quality, buffered alkaline file folder). A suitably-sized archival-quality box (e.g., 12" x 11" x 2") will enclose this documentation. Photographs should be keyed to a photograph description sheet and a site plan sketch (for exterior shots), or floor plan sketch (for interior shots). Three sets of photographic documentation should be produced. One copy (with negatives) shall be submitted to the Massachusetts SHPO for transfer to the Frederick Law Olmsted National Historic Site, a second copy shall be submitted to the Brookline Preservation Commission, and a third copy will be made available to the Historic American Buildings Survey.

- b. **RECOMMENDED VIEWS:** At least 10 to 12 exterior views are recommended, with exterior views including context shots of each building within its setting, as well as individual views of each elevation of each building. As interior views already have been taken of the church, these are required only for the rectory. At least four to six interior shots are recommended, and should include representative shots of interior spaces and detail shots of all extant architectural features, such as fireplaces, stairways, doors, or moldings.

2. **DESIGN REVIEW PROCESS:** The design review process will be conducted as follows:

- a. In coordination with the Comprehensive Permit, the Town will insure that the design review process proceeds in consultation with the Massachusetts SHPO, Brookline Preservation Commission and the other parties that have indicated their concurrence in this MOA by signature below (the Concurring Parties).
- b. The Town will provide to the Massachusetts SHPO, Brookline Preservation Commission and the Concurring Parties appropriate plans and specifications at the following stages: Conceptual; 50% completion; and 100% completion.

Upon receipt of design plan submissions at each stage, the Massachusetts SHPO, Brookline Preservation Commission and Concurring Parties will be provided 3 weeks to conduct their review and provide their comments in writing to the Town. The Town will work with the POUA to insure that all comments received are considered, to the extent feasible and consistent with the Comprehensive Permit, in subsequent design development stages.

3. **DESIGN DEVELOPMENT:** Design plans for the Project will be further developed with the intent of achieving the following:

- a. Residential Adaptive Reuse of St. Aidan's Church

The plans and specifications for the residential adaptive reuse of the St. Aidan's Church will conform to the Comprehensive Permit and, to the extent feasible, consider recommended approaches for rehabilitation projects in the Secretary of the Interior's "Standards for Treatment of Historic Properties" (36 CFR Part 68) and guidelines approved by the Brookline Preservation Commission

- b. New Construction

All new construction on the Project site, will conform to the Comprehensive Permit and, to the extent feasible, meet the Secretary's Standards for new construction.

c. Landscaping and Preservation of the Forecourt

A management plan will be developed by the POUA, in consultation with the Town's Tree Warden, for the preservation of existing trees on the site, including the copper beech tree, large maple tree, and other existing landscaping features, such as decorative shrubs and plantings, as defined by the Landscaping Plan (See Exhibit A). The long-term preservation of the forecourt will be achieved through preservation and conservation easements as set forth in Stipulation 5 below.

4. DESIGN REVIEW PROCEDURAL PRINCIPLES:

- a. Design review meetings will be open to the general public with notice provided in accordance with the Open Meeting Law, MGL, Chapter 39, Section 23A through 24.
- b. The design review process will be conducted in a collaborative and respectful manner that will recognize the objectives of all the participating individuals.

Notice of design review meetings and copies of plans submitted by the POUA will be provided by the Town to the Signatories and Concurring Parties for review and comment.

- d. The design review process will be completed by June 30, 2004 unless a later date is mutually agreed upon by the Town and POUA.

5. PRESERVATION AND CONSERVATION EASEMENTS: Final plans for the exterior of the Church building and the forecourt shall be used as baseline documentation in the development of, respectively, preservation and conservation easements between POUA or its affiliates and the Town which shall be recorded at the Norfolk County Registry of Deeds in accordance with M.G.L. Chapter 184 §§ 31-33. The forms of the preservation and conservation easements to be executed shall be reviewed and approved respectively by the Massachusetts Historical Commission and Massachusetts Executive-Office of Environmental Affairs.

6. DURATION: This MOA shall become effective upon execution by the Town, the POUA, the SHPO and the ACHP, and shall terminate at the completion of all mitigation commitments stipulated to in this MOA. The Town will notify all parties to the MOA in writing when its actions have been completed and that the MOA has been terminated.

7. DISPUTE RESOLUTION:

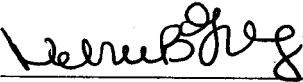
- a. Should any Signatory or Concurring Party to this MOA object in writing to the Town regarding how the Project is carried out or the manner in which the terms of this MOA are carried out, the Town shall consult with the SHPO to resolve the objection.
- b. If the Town determines, as the result of an objection, that the MOA should be amended, the Town shall consult with the other Signatories and Concurring Parties to this MOA to obtain their comments regarding the amendment and shall request comments from the ACHP under 36 CFR § 800.7(a).
- c. If the Town, after consulting with the SHPO, determines that the objection cannot be resolved, the Town shall forward all documentation relevant to the dispute to the ACHP, including the Town's proposed response to the objection. Within twenty-one days after receipt of all pertinent documentation, the ACHP will:

- 1.) Advise the Town that it concurs with the Town's proposed response, whereupon the Town shall respond to the objection accordingly; or
- 2.) Provide the Town with recommendations pursuant to 36 CFR § 800.2(b)(2) which the Town shall consider in reaching a final decision regarding the dispute. Upon consideration of any comments received from the ACHP, the Town may proceed to carryout the terms of the MOA.
- 3.) Should the ACHP not exercise one of the above options within twenty-one days after receipt of all pertinent documentation, the Town may assume that the ACHP concurs in the proposed response to the objection.

Execution of this Memorandum of Agreement by the Town, the ACHP, the WestMetro HOME Consortium, and the Massachusetts SHPO, and the implementation of its terms, evidences that the Town has afforded the Council an opportunity to comment on the Project and its effects on historic properties and that the Town has taken into account the effects of the undertaking on historic properties and that compliance with the terms of the MOA shall constitute compliance and satisfaction by all wit the requirements of Section 106 of the National Historic Preservation Act of 1966, as amended (36 CFR Part 800).

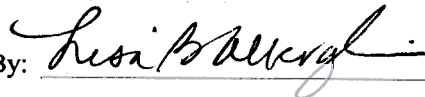
Signatories

TOWN OF BROOKLINE

By: 

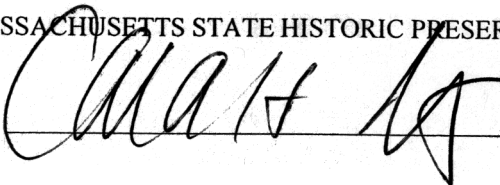
Date: 4/21/04

PLANNING OFFICE FOR URBAN AFFAIRS

By: 

Date: 4/21/04

MASSACHUSETTS STATE HISTORIC PRESERVATION OFFICER

By: 

Date: 4/22/04

WESTMETRO HOME CONSORTIUM (City of Newton – Representative Member)

By: 
 Consortium Environmental Certifying Officer

Date: 4/22/04

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: John M. Sube Date: 4/27/04

Concurring Parties:

BROOKLINE PRESERVATION COMMISSION

By: _____

NATIONAL TRUST FOR HISTORIC PRESERVATION

By: Wendy Nicholas Date: 4/21/04

NATIONAL PARK SERVICE

By: _____ Date: _____

CAMPAIGN TO PRESERVE ST. AIDAN'S

By: _____

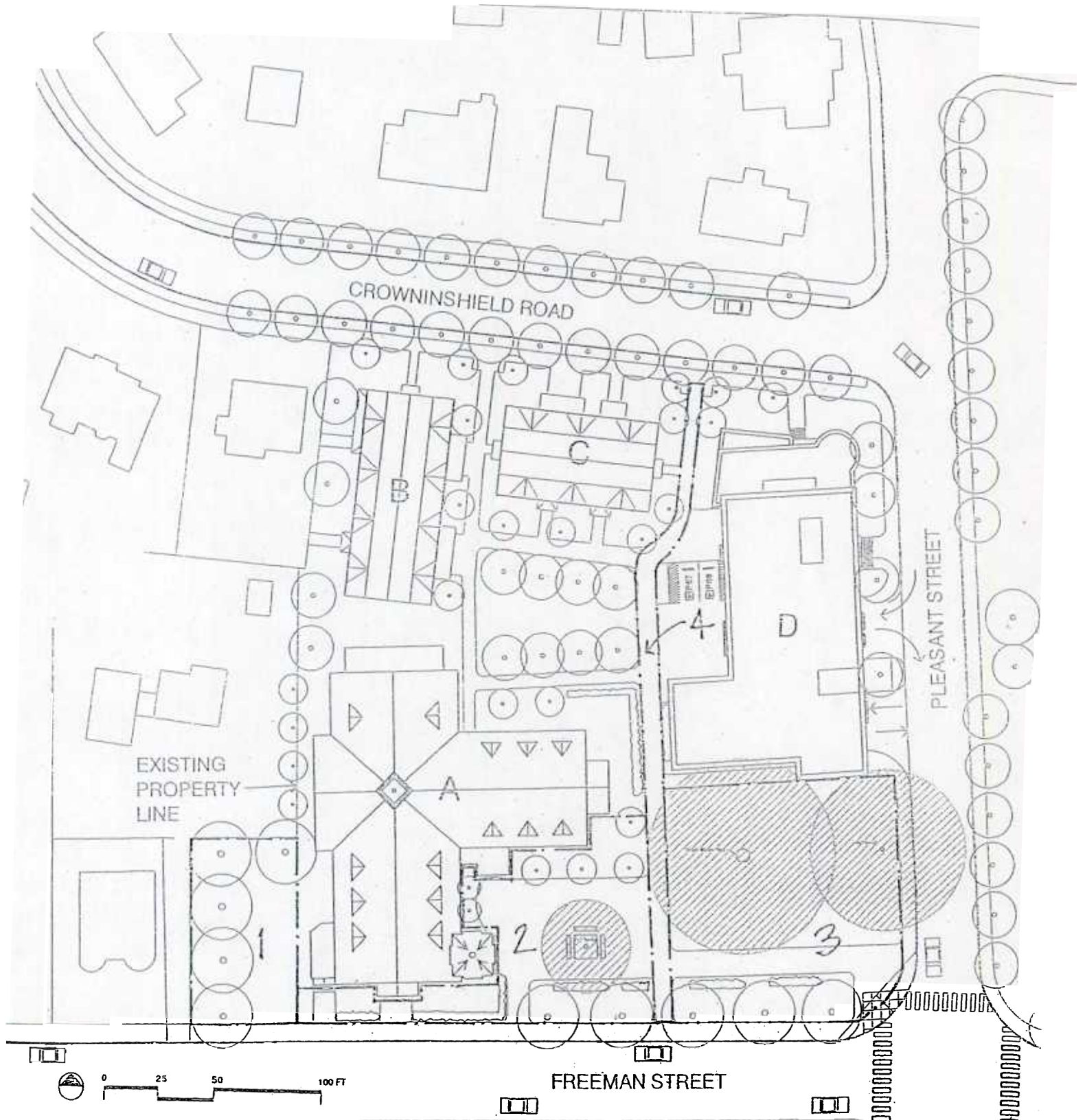
ST. AIDAN'S REUSE TEAM

By:

ABUTTERS: STEVEN P. FEINSTEIN AND SUSAN G. FEINSTEIN

By: _____

By: _____ Date: _____



- 1. Conservation Easement
- 2. Conservation Easement – Condo Assoc.
- 3. Conservation Easement – Public Access
- 4. Public Path Easement

Case #020047
 158 Pleasant Street (St. Aidan's)
 Plans Approved by Board of Appeal
 3/11/03

February 12, 2003
 revised