17264

Brookland Neighborhood Civic Association, Inc.
P.O. Box 4454, Brookland Station
Washington, D.C. 20017

ADVISORY NEIGHBORHOOD COMMISSION 5A

Slowe School Demountable 14th & Irving Streets, N.E.
Telephone: (202) 635-6563 Washington, D.C. 20017

Citizen's Brookland Union Baptist Church Community

Commissioner Robert I. Artisst, Sr., Ph.D., ANC-5A-07

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December 7, 2004

Office of the Chief
Department of Consumer and Regulatory Affairs
941 North Capitol Street, N.W.
Washington, D.C. 200

Dear Ladies and Gentlemen:

Attached under cover you will find our formal grievance and appeal through the Office of our elected ANCs and Civic Representatives, namely ANC Commissioner Robert I. Artisst, Sr. Vis-a-vie, the majority member in opposing the illegal actions of the Church, without notice to your office and the community at large on what is being proposed.

While the city is suffering a housing shortage, despite the heavy cost and escalation of selling properties in DC, that in an established community of home owners for over a period of 10 to 50 years of residency. We appeal to your just ruling in this matter immediately with your limited staff, but for the good of our neighborhood.

Sincerely,

Robert I. Artisst, Sr., Ph.D.
Commissioner 5A-07
1st Vice President, Brookland Civic Association

cc: Vincent B. Orange, Councilmember Ward 5
Harold Brazil, Councilmember at Large
Linda Cropp, Councilmember at Large, Chair
Carol Schwartz, Councilmember at Large
David Cantania, Councilmember at Large
ANC Commissioners et al 5A
Office of Planning
Board of Zoning and Adjustment

BZA
Case No. 17261
Exhibit No. 22

Board of Zoning Adjustment
District of Columbia
CASE NO. 17261
EXHIBIT NO. 22

ADVISORY NEIGHBORHOOD COMMISSION 5A RESOLUTION RECOMMENDING DENIAL BY THE BOARD OF ZONING ADJUSTMENT OF APPLICATION NUMBER 17261 BY BROOKLAND UNION BAPTIST CHURCH FOR A SPECIAL EXCEPTION

Advisory Neighborhood Commission 5A
Slowe Elementary School Demountable
14th & Irving Streets, N.E.
Washington, DC 20017

WHEREAS the Brookland Union Baptist Church has filed an application (Application Number 17261) for a Special Exception with the Board of Zoning Adjustment ("BZA"); and

WHEREAS for the reasons set forth in the attached "ANC 5A Report on Application Number 17261 of Brookland Union Baptist Church for BZA Approval of Special Exception for a Parking Lot," ANC 5A recommends that the application should be denied because the application fails to meet the requirements of 11 D.C.M.R. §§ 214.1 *et seq.*; and

THEREFORE BE IT RESOLVED that ANC 5A adopts the attached "ANC 5A Report on Application Number 17261 of Brookland Union Baptist Church for BZA Approval of Special Exception for a Parking Lot;" and

BE IT FURTHER RESOLVED that ANC 5A authorizes Bob Artisst (ANC 5A-07 Commissioner) to represent ANC 5A before the Board of Zoning Adjustment at the January 4, 2005 hearing on the Brookland Union Baptist Church application.

Approved by a vote of 8 (favorable), 0 (unfavorable), and 0 (abstention) at a duly noticed meeting of ANC 5A on November 17, 2004, with a quorum present. A quorum is present when at least 7 members are present.

Donna M. Bradway

Chair, ANC 5A

Secretary, ANC 5A

5A-07

ANC 5A Report on Application Number 17261 of Brookland Union Baptist Church for BZA Approval of Special Exception for a Parking Lot

November 17, 2004

A. **Identification of Application:** Application Number 17261 of Brookland Union Baptist Church for BZA Approval of Special Exception for a Parking Lot.

B. **When Public Meeting of the ANC to consider the application was held:** November 17, 2004 at 7:00 p.m. at Providence Hospital, Ross Auditorium.

C. **Whether proper notice of that meeting was given by the ANC:** This was a properly noticed regular Public Meeting of ANC 5A.

D. **The number of members that constitute a quorum and the number of members present at the meeting:** There are 12 members of ANC 5A. The number of members that constitute a quorum is 7. There were 8 members present at the meeting.

E. **The issues and concerns of the ANC about the application, as related to the standards of the Zoning Regulations against which the application must be judged:**

Background.

The Jackson Street Properties

Brookland Union Baptist Church ("Brookland Union") is located at 3101 14th Street, N.E., at the corner of 14th and Irving Streets, N.E. It appears that in or about 1996, Clarence Ellis, a Brookland Union Trustee, purchased the property at Lot 20 Square 4015 (1415 Jackson Street, N.E.), razed the house which then stood on the property, without first having secured a permit to do so, and sold the property to Brookland Union. In 1999, Clarence Ellis purchased the adjacent property at Lot 19 Square 4015 (1419 Jackson Street, N.E.). After Mr. Ellis sold the property to Brookland Union on March 21,

2002, Brookland Union razed the garage which stood on the property (without obtaining a raze permit) in May 2002, cut down the mature trees on the property in July 2003, and then razed the house which then stood on the property in October 2003, securing a raze permit for the house only after having begun demolition in September 2003. For convenience, these two lots will be referred to as the Jackson Street properties.

BZA Application Number 17261

Brookland Union, through its agent Andre Sanders, has submitted an application to the Board of Zoning Adjustment ("BZA") for a special exception for accessory parking spaces, that is, a 24-vehicle parking lot on the Jackson Street properties. Its stated purposes are for day and night parking for parishioners, school teachers and neighbors, and for "outside church service."

The Affected Neighborhood

Brookland Union Baptist Church and the Jackson Street properties are zoned R-1-B. All of the property at issue is located within the boundaries of Ward 5 and ANC 5A. With the exception of the church itself and its Jackson Street properties, there is a single-family residence on each lot adjacent to and across from the Jackson Street properties. In fact, with the exception of Slowe Elementary School at 14th & Jackson Streets, N.E., and perhaps two other properties (the very small Mary's Missionary Church at 14th & Girard Streets, N.E. , and a multi-family dwelling resembling an old convent in the 3000 block of 14th Street, N.E.), single-family residences occupy all the lots in the surrounding blocks.

The area potentially affected by Brookland Union's application consists of the

following blocks: the 3000 through 3200 blocks of 14th Street, N.E., and the 1300 and 1400 blocks of Irving and Jackson Streets, N.E. Within this area are approximately 71 residences.

The Concerned Neighbors of Brookland Union Baptist Church

A group of homeowners living adjacent to and in close proximity with Brookland Union's lots organized in August 2001 in order to address Brookland Union's poor maintenance of the Jackson Street properties and their future use. It was believed that Brookland Union planned either a 2-story community center or a paved parking lot on the properties. These residents, known as the Concerned Neighbors of Brookland Union Baptist Church ("Concerned Neighbors"), arranged for the first of several meetings with the Brookland Union leadership on September 5, 2001. At that meeting, Brookland Union's representatives (including the Rev. Fobbs, the pastor at that time, trustees and deacons) denied any intention of building a community center or parking lot, uses which the Concerned Neighbors opposed. Rev. Fobbs, however, admitted in answer to a question from the floor to having commissioned drawings of a community center from an architect, and also declared that the church intended to raze the property. Mr. Best, who was an ANC Commissioner at the time, and who attended this meeting, noted that if the church were going to clear a piece of property, it must have a project in mind, and should lay out the plans so that the community could be included in the process of planning. The balance of the meeting was devoted to issues regarding the condition of the lots: overgrown weeds, litter, the presence of abandoned cars, etc.

In fact, however, no such plans were announced, and the house at 1419 Jackson Street continued to stand, in ever deteriorating condition, with its windows boarded. The

house's apparent abandonment made the properties an attractive place for illicit activity, either by drug users, squatters, or prostitutes. Several cars were left abandoned on or in front of the property.

Although Brookland Union made sporadic attempts to clear the Jackson Street properties of tall grass and debris, the poor maintenance of the properties remained an issue. In addition, Brookland Union made no effort to keep the sidewalk and tree box area in front of the properties clear of litter or clear of snow and ice during inclement weather. The Concerned Neighbors noted Brookland Union's diligent efforts to care for the grounds surrounding the church itself, while devoting no resources to the Jackson Street properties.

At subsequent meetings between the Concerned Neighbors and Brookland Union leadership,[1] the Concerned Neighbors clearly and consistently opposed the construction of a parking lot on the Jackson Street properties, and stated the community's collective support for single-family residences. Brookland Union's leadership consistently denied any intention to pave the properties for use as a parking lot. In fact, in a meeting with the Concerned Neighbors on December 18, 2002, Brookland Union agreed to rehabilitate the house at 1419 Jackson Street, N.E. , and even applied for and received a permit for this work.

Communications between the two groups deteriorated dramatically on July 2, 2003, when Brookland Union's leadership announced an abrupt turn of events. The new

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[1] Other meetings took place on May 15, 2002, June 19, 2002, December 18, 2002, July 2, 2003, and July 9, 2003. The last meeting, organized by a member of Councilmember Vincent Orange's staff, took place on December 8, 2003. Among the attendees at the December 8, 2003 meeting were two representatives of the Department of Consumer and Regulatory Affairs: Denzil Noble, Administrator, Building and Land Regulation Administration, and Joseph McCarley, Customer Service Advocate.

pastor, Dr. Malloy, had abandoned plans to renovate the house at 1419 Jackson Street, N.E., and declared that the Jackson Street properties would be used for a 50-vehicle parking lot. In words and tone, Dr. Malloy made clear that the parking lot was coming, whether the Concerned Neighbors wanted it or not. He presented a draft agreement between Brookland Union and the neighbors that the church leadership in the room had not yet seen. Concerned Neighbors did not sign this agreement, and respectfully requested additional time to consider the proposal.

Within a week, all of the trees on the lots had been cut down. On July 9, 2003, Concerned Neighbors met again with Brookland Union to protest this wanton destruction, and presented a written statement in opposition to the proposed parking lot. The pastor told them that he was only complying with their request to clean up the lots.

In early September, 2003, Brookland Union made several attempts to tear the house down, at one stage even tying a rope to an upper story and pulling on the rope with a pickup truck. Calls to DCRA revealed that no permit had been issued, and DCRA staff promised to send an inspector. Despite the lack of a permit, Brookland Union persisted in demolishing the house. On another occasion, a truck delivered a rented bulldozer, which remained on the lot for two days, but was never used, and was removed. The workers, aware that inspectors were expected, tended to run away when official city vehicles came by in their efforts to clear trees after Hurricane Isabel. Finally, an inspector visited, put a stop work order on the site, and recommended a fine of $2000. Someone illegally removed the stop work order the next day.

Previous Action by ANC 5A

The Concerned Citizens formally brought these matters to ANC 5A's attention at

a public meeting on September 24, 2003. By that time, Brookland Union's leadership had announced its plans for grading the land and constructing a parking lot for 50 vehicles. Because no application was pending before the BZA, however, ANC 5A did not consider the matter further at that time.

Subsequently, Bob Artisst, ANC 5A-07 Commissioner, scheduled a Single Member District meeting for January 27, 2004 regarding Brookland Union's parking lot proposal. In anticipation of the meeting, the Concerned Neighbors distributed 550 flyers door-to-door, to residents in the SMD. In addition, flyers were posted throughout the SMD. Brookland Union representatives were invited to attend and to make a presentation to the community at the January meeting. There was no response either to the certified letter mailed to the church, or to the copy hand-delivered to the church.

Following a brief explanation of the situation, on the back of each flyer was a ballot, which asked residents to answer three questions. At the January 27, 2004 meeting, at which the Concerned Neighbors presented photographs, maps, a chronology of events, and other items in opposition to the proposed parking lot, Commissioner Artisst tallied the ballots. The questions and a tally of the ballots were as follows:

1. Do you support the paving of the [Jackson Street properties] for parking for the church?

   SUPPORT: 3 NOT SUPPORT: 53

2. Do you support the granting of a special exception to the present zoning to allow for parking for the church?

   SUPPORT: 2 NOT SUPPORT: 51

3. Do you support the use of the properties for any use other than the single family homes for which they are presently zoned?

SUPPORT: 2 NOT SUPPORT: 50

Citing the residents' overwhelming opposition to a parking lot on the Jackson Street properties, on March 4, 2004, ANC 5A's Committee of the Whole passed a resolution in support of the residents.

At no time did Brookland Union or its agent contact ANC 5A or the ANC 5A-07 Commissioner regarding its BZA application.

ANC 5A Recommends BZA Denial of the Brookland Union Application.

For the following reasons, ANC 5A opposes Brookland Union Baptist Church's application for a special exception for a parking lot on the Jackson Street properties.

Accessory parking spaces on the Jackson Street properties are inconsistent with the residential character of the neighborhood and with the zoning regulations

This R-1-B district is designed to "protect quiet, residential areas now developed with one-family detached dwellings and adjoining vacant areas likely to be developed for these purposes." It cannot be said that a 24-vehicle paved parking lot, a scant 8 feet from the neighbor's bedroom window, furthers or enhances the quiet, residential character of the neighborhood.

Exhibit A shows what the neighbors live with now, after the demolitions and tree cutting. It is a picture of the fenced lots, together with the house directly bordering them. On the left of the picture is the residence of Joe and Dorothy Porter at 1423 Jackson Street, N.E. Will a parking lot enhance the quiet and peace of their residential neighborhood? NO.

Exibit B shows the pleasant houses directly opposite the parking lot. Will it

complement these houses across the street at 1418 Jackson St., N.E. and 1422 Jackson St., N.E.? NO.

A parking lot presents security and health concerns for the residents.

Brookland Union's vacant lots, and the vacant houses that once stood on the lots, were magnets for undesirable activity. A series of vehicles were abandoned on or on the street in front of the lots. Prostitutes and their clients parked cars on or in front of the lots to conduct their business, but in broad daylight and at night. It was common to find litter, including used condoms and empty liquor bottles, strewn on the lots and on the sidewalk in front of the lots. The unkempt appearance of the lots made them an attractive site for illegal dumping. Brookland Union was slow to address these conditions, even after residents voiced complaints.

The construction of a parking lot on the Jackson Street properties would lead to the return of the undesirable activities that the residents worked so hard to remedy. It is obvious that people are less inclined to foul a property that is occupied, maintained, and well lit. A dark, paved parking lot, without the normal activity of an occupied residence, practically invites crime. The residents flatly deny Brookland Union's assertion that a dark parking lot is a safe parking place in the evenings and at night. Robberies and car-jackings are more likely to occur in a dark and secluded place. The armed robberies and murder that occurred at the Franciscan Monastery's parking lot at 14th & Quincy Streets, N.E. this month show that even a well-lighted parking lot attracts crime.

The coming and going of motor vehicles at all times of the day and night, with the consequent running of motors when vehicles are stationary, would create

considerable air pollution, exhaust and fumes in extremely close proximity to Joe and Dorothy Porter's bedroom, and would generally increase particulate matter in the air, already a serious problem for people with asthma.

The noise of car doors slamming, loud talking by people coming and going, and radios played at loud volumes would create noise pollution that, again, would be most serious for the Porters, living as they do directly adjacent to the lots.

Vehicles from workers hired by the church in its previous demolition efforts have in the past blocked access to the alley of trash removal trucks to the distress of the residents of 14th Street, N.E. A parking lot with an entrance gate leading onto the alley would create the same problems, but with greater frequency. It is even possible that emergency vehicles could be hindered in their essential work.

Brookland Union's assertions of "street congestion" and a "parking shortage" are misleading and false.

There is no shortage of on-street parking for residents, persons attending services and functions at Brookland Union, or for staff at Slowe Elementary School. Brookland Union has existed on its present site since its founding in 1945. In 1954, two adjacent lots were added, and in 1962 the present building was built. The residents know that Brookland Union's members drive their cars to church, and will use on-street parking spaces while attending church services and other church-related functions. It is understood, then, that more cars will be parked along 14th Street, Irving Street, and Jackson Street on Sundays, or on days when funerals, weddings, or other church events take place. Because the church is located in a city, however, it is not unreasonable that members park one or two blocks away from the church if no on-street spaces are available next to or in front of the church.

Similarly, the residents know that teachers and other staff at Slowe Elementary School drive their cars to work and use the available on-street parking spaces during the school year. These spaces principally are in the 1400 block of Jackson Street and in the 3100 and 3200 blocks of 14th Street, N.E., because there are no residential permit parking restrictions in these blocks.

The neighbors neither have a need for, nor have requested, use of the proposed parking lot. It is presumptuous for Brookland Union to cite the residents' use of a parking lot as a benefit to the neighborhood, when the church's closest neighbors have stated their objections to a parking lot repeatedly.

It is rare that residents are unable to park their cars in front of their houses. The residents are not burdened unduly when church members or school personnel occupy on-street parking spaces that are available to the public. If anything, approval of Brookland Union's application would shift any perceived burden from an area of several blocks onto a small group of residents on one block: those who reside in the 3100 block of 14th Street and in the 1400 block of Jackson Street, N.E. Judging by the license plates on the cars that regularly are parked in the area on Sunday mornings and on school days, the primary beneficiaries of a parking lot would be those church members and school teachers who drive in from Maryland, to the detriment of residents who live in and pay taxes to the District of Columbia.

Brookland Union's intended use of the Jackson Street properties for "outside activities" and for teachers' parking raises the prospect of outdoor events on a large scale, subjecting the residents to noise, traffic, littering, etc. throughout each school day, at night, and on weekends.

The residents vehemently object to Brookland Union's assertion that a parking lot

enhances this neighborhood in any way.

The existence of a paved parking lot opens the door to more frequent and larger events at the church, whether sponsored by Brookland Union or to groups who rent church space. This, in turn, subjects the residents to increased noise, traffic, air pollutants, littering, and loitering on and around the proposed parking lot. It is one thing to accommodate parking for church members for regular Sunday church services, wakes, funerals, weddings, choir practice, or Bible study. It is quite another to force the church's neighbors to tolerate all the ill effects of the parking lot with absolutely no enhancements for the residents. Further, the residents resent these detriments to their quiet enjoyment of their properties for the benefit of Maryland residents (including the church's pastor) who drive into the neighborhood for their own purposes, and drive back to Maryland leaving the neighbors to clean up after them. The residents are just that – they reside in their single-family homes around the clock. The residents hear the car doors slam, pick up the trash left on the sidewalk, sand and salt the sidewalk after a snowstorm, call the District government for removal of abandoned vehicles, and call the police when suspicious persons or activities are spotted. More than anything, a parking lot exacerbates problems that already exist.

Brookland Union should not be rewarded with the granting of its BZA application, in light of their repeated and flagrant disregard for the interests of its neighbors and for the District's regulations.

It safely can be assumed that Brookland Union filed its BZA application only when forced to do so. Its leadership has conducted the church's affairs as if there were no applicable building and land regulations with respect to removing asbestos, razing buildings, grading land, channeling water runoff, harboring rodents, erecting fences, or

paving. Further, once the application was filed, Brookland Union's leadership made no attempt to contact the Concerned Neighbors or to present its plans to ANC 5A. Even if an agreement could have been reached with the community, the leadership made little effort to do so. The Concerned Neighbors first learned of the BZA application through their diligent efforts in contacting the appropriate government agencies. The residents are angered that the leadership's arrogance may be rewarded with the granting of the BZA application, particularly when the proposed parking lot offers only detriments to the residents' quality of life.

F. **The recommendation of the ANC as to the disposition of the application:**

Accordingly, ANC 5A formally and strongly recommends that the Board of Zoning Adjustment DENY Application Number 17261 for a special exception for an accessory parking lot in Lots 19 and 20 in Square 4015.

G. The vote on the motion to adopt the report to the Board: The vote on the motion to adopt the report was 8 in favor and 0 opposed.

H. The name of the person who is authorized by the ANC to present the report: Robert Artisst, ANC 5A07.

I. The signature of the chairperson or vice-chairperson of ANC 5A:

James D. Broadway **Date:** December 2, 2004