A U S T I N C I T Y C O U N C I L

AGENDA

Thursday, April 23, 2009

Public Hearings and Possible Actions **Item No. 92**
RECOMMENDATION FOR COUNCIL ACTION

Subject: Conduct a public hearing and consider an appeal by Helen and Charles Heard, Niyanta and Bill Spelman, and John Mayfield of an administrative site plan (SP-2007-0321C) for a proposed religious assembly/education building for the Hyde Park Baptist Church located at 3901 Speedway.

Fiscal Note: There is no anticipated fiscal impact. A fiscal note is not required.

For More Information: George Zapalac, 974-2725; Donna Galati, 974-2733

Prior Council Action: In 1990, the Hyde Park Neighborhood Conservation Combining District (NCCD) was established by adoption of Ordinance No. 900830-Q (Exhibit C-1) which illustrates the allowable development on the property. In 2002, the Hyde Park NCCD was amended by Ordinance No. 0201310-20 containing regulations that apply to this site if they do not conflict with Ordinance No. 900830-Q.

Interested parties Helen and Charles Heard, Niyanta and Bill Spelman, and John Mayfield are appealing staff's decision to approve the Site Plan for Hyde Park Baptist Church, Tract 6, Religious Assembly/Education Building located at 3901 Speedway.

Development regulations for this tract were contained in the 1990 Hyde Park Neighborhood Conservation Combining District (NCCD) adopted by Ordinance No. 900830-Q. An exhibit to this ordinance (Exhibit C-1) illustrates the allowable development on the property and states that other provisions of the Land Development Code are modified "to the extent necessary to authorize development in accordance with . . .Exhibit C-1." The NCCD ordinance also allows interested parties to appeal the approval of a site plan directly to City Council.

In 2002 the Hyde Park NCCD was amended by Ordinance No. 0201310-20. The regulations in this ordinance apply to this site "if they do not conflict with Ordinance No. 900830-Q." The 2002 NCCD specifies a height of 30 feet for this tract. However, the applicant provided documentation that Exhibit C-1 in the 1990 ordinance demonstrates a building taller than 30 feet in height. Therefore, staff determined that the 2002 NCCD ordinance is in conflict with the 1990 ordinance in regard to the height requirements applicable to this structure and, therefore, that the 2002 ordinance does not apply. Furthermore, the 2002 NCCD directs that any regulation not found in the 1990 NCCD is governed by the base zoning district regulations as they existed on August 30, 1990. The base zoning district at the time, as well as today, was MF-4, which allows a height of 60 feet.

The appellants state that Exhibit "C-1" demonstrates a shorter height than allowed with the site plan permit.

Staff recommends denial of the appeal.