# NEIGHBORHOOD PLAN AMENDMENT REVIEW SHEET

**NEIGHORHOOD PLAN:** Greater South River City Combined Neighborhood Plan

**CASE#:** NPA-2010-0022.01

**PC PUBLIC HEARING DATE:** May 11, 2010

**ADDRESS:** 1307 Newning Avenue **AREA:** 18,993.35 sq. ft.

**APPLICANT/AGENT:** Brenda Reese

**OWNER:** Shamrock Builders (Brenda Reese)
(Noble Capital Servicing LLC no longer owns property)

**TYPE OF AMENDMENT:**

**Change in Future Land Use Designation**

**From:** SINGLE FAMILY
**To:** HIGHER-DENSITY SINGLE FAMILY

**Base District Zoning Change**

**Related Zoning Case:** C14-2010-0039

**From:** SF-3-NCCD-NP
**To:** SF-5-CO-NCCD-NP (On May 4, 2010, the applicant amended the application to add a conditional overlay that would limit the maximum density to one dwelling unit per subdivided lot of 9,000 square feet, and limit the impervious cover to the SF-3 standard of 45%)

**PLAN ADOPTION DATE:** September 29, 2005

**STAFF RECOMMENDATION:** Staff supports the applicant's request for HIGHER-DENSITY SINGLE FAMILY land use.

**PC RECOMMENDATION:** On May 11, 2010, the motion to deny staff's recommendation for higher-density single family was approved by Commissioner Danette Chimenti's motion, Commissioner Kathryne Tovo seconded the motion on a vote of 8-0; Commissioner Jay Reddy was absent.

**BASIS FOR STAFF'S RECOMMENDATION:** The plan amendment request supports the following Neighborhood Plan Goals and Objectives:

**GREATER SOUTH RIVER CITY COMBINED NEIGHBORHOOD PLAN:**

***Land Use and Historic Preservation Goals, Objectives, and Recommendations***

**Goal (A): Maintain the historic fabric and respect the established neighborhood character and natural assets.** (Page 35)

**Objective:** New single family construction in residential areas should complement, reflect and respect the character of the single-family houses in the area.

**Recommendation A1:** The scale and massing of new and remodeled houses should be consistent with the surrounding residences.

**Goal (C): Identify and develop criteria for density that result in a net benefit to the neighborhood.** (Page 46)

**Objective:** Preserve housing affordability and increase diversity of housing types.

**Recommendation C2**: Preserve existing multifamily housing.

**Recommendation C3:** Allow infill development to occur as indicated in Figure 7.10. (Neighborhood Mixed Use Buildings and Neighborhood Urban Center).

**Staff Analysis:** The applicant's request to change the future land use map (FLUM) from single family to higher-density single family does not contradict the Goals, Objectives and Recommendations in the neighborhood plan document. The higher-density single family land use will serve as a transition between the multifamily land use to the north of the site and the single-family land use to the south. There is multifamily land use on multiple properties to the west and north of the site along Newning Avenue.

The duplex is consistent with the existing mix of multifamily and single family uses along Newning Avenue and supports the Objective in Goal (C) in the Plan, which is to increase diversity of housing types in the planning area.

Recommendation C2 of the plan is to preserve existing multifamily housing (Page 46); however, Recommendation A7 (Page 43) states that the South River City area wants to pursue voluntary down-zoning of multifamily zoned properties in the Fairview Park NCCD to single family. The request to change to FLUM to higher-density single family is not a multifamily land use, nor is the request to rezone the property to SF-5 a multifamily zoning district.

Recommendation C3 (Page 46) supports infill developments, such as the Neighborhood Mixed Use Buildings and Neighborhood Urban center. This duplex serves as a residential in-fill development that is located within walking distance to a vibrant mixed-use corridor with restaurants, coffee shops, stores, and to major transportation corridor with buses, bicycles, pedestrians, and automobiles.

**Land Use Planning Principles:** The change to the future land use map meets the following land use principles:

- Ensure that the decision will not create an arbitrary development pattern;
- Ensure an adequate and diverse supply of housing for all income levels;
- Minimize negative effects between incompatible land uses;
- Discourage intense uses within or adjacent to residential areas;

- Minimize development in floodplains and environmentally sensitive areas;
- Ensure adequate transition between adjacent land uses and development intensities;
- Recognize current City Council priorities;
- Avoid creating undesirable precedents;
- Promote expansion of the economic base and create job opportunities;
- Ensure similar treatment of land use decisions on similar properties;
- Balance individual property rights with community interests and goals;
- Consider infrastructure when making land use decisions;
- Promote development that serves the needs of a diverse population.

**BACKGROUND:** The Greater South River City Combined Neighborhood Plan (GSRCCNP) comprises two neighborhood planning areas: South River City and St. Edwards. The plan was initiated on November 6, 2003, by City Council and was completed under the City of Austin's Neighborhood Planning Program and was adopted as part of the Austin Tomorrow Comprehensive Plan on September 29, 2005. The boundaries of the planning area are: Town Lake on the north, Interstate Highway 35 on the east, Ben White Boulevard on the south, and South Congress on the west.

The property has an existing, new duplex that the property owner(s) would like to subdivide so each dwelling unit can be sold as a fee-simple unit with land, versus a condo association comprised of two dwelling units.

Staff in the Development Assistance Center provided a letter (see attached) that states the property would need to be rezoned as a Townhouse Residential use in order to subdivide the land. The applicant has had difficulty finding financing for the duplex as a two-unit condo due to the stricter economic climate.

**PUBLIC MEETINGS:** Three hundred and forty-four notices were mailed to property owners, utility account holders, neighborhood associations, environmental groups, and members of the planning contact team inviting them to the neighborhood plan amendment meeting on April 6, 2010. Approximately seventeen people attended this meeting to discuss the plan amendment and zoning application with Brenda Reese, one of the property owners and agent.

Brenda Reese (agent/applicant) explained to the attendees her difficulty finding financing for the project due to the stricter economic climate and because of the situation stated in Christopher Johnson's letter (provided in this report). One attendee, who is a real estate agent, gave Ms. Reese names of lenders for her to research, which she did after the meeting with no success.

Attendees said that during the neighborhood planning process that they wanted to down-zone multifamily properties to single-family zoning. By supporting the applicant's request to upzone from SF-3 to SF-5 they felt this would set precedent for other property owners to up zone their property as well. They also had concerns that the SF-5 zoning district could potentially allow a more dense development on the property.

Ms. Reese offered to amend her zoning application (which she did on May 4, 2010) for a conditional overlay that would limit the property to SF-3 development standards and to limit the dwelling units to one unit per lot in the event the property is subdivided into two lots. This was not supported by the attendees because they felt regardless of the conditional overlay, having SF-5 on the zoning map will encourage other property owners to upzone their property.

The attendees voted unanimously to not support the rezoning of the property from SF-3-NCCD-NP to SF-5-NCCD-NP, nor to support an amended zoning application to limit the site to one dwelling unit per subdivided lot.

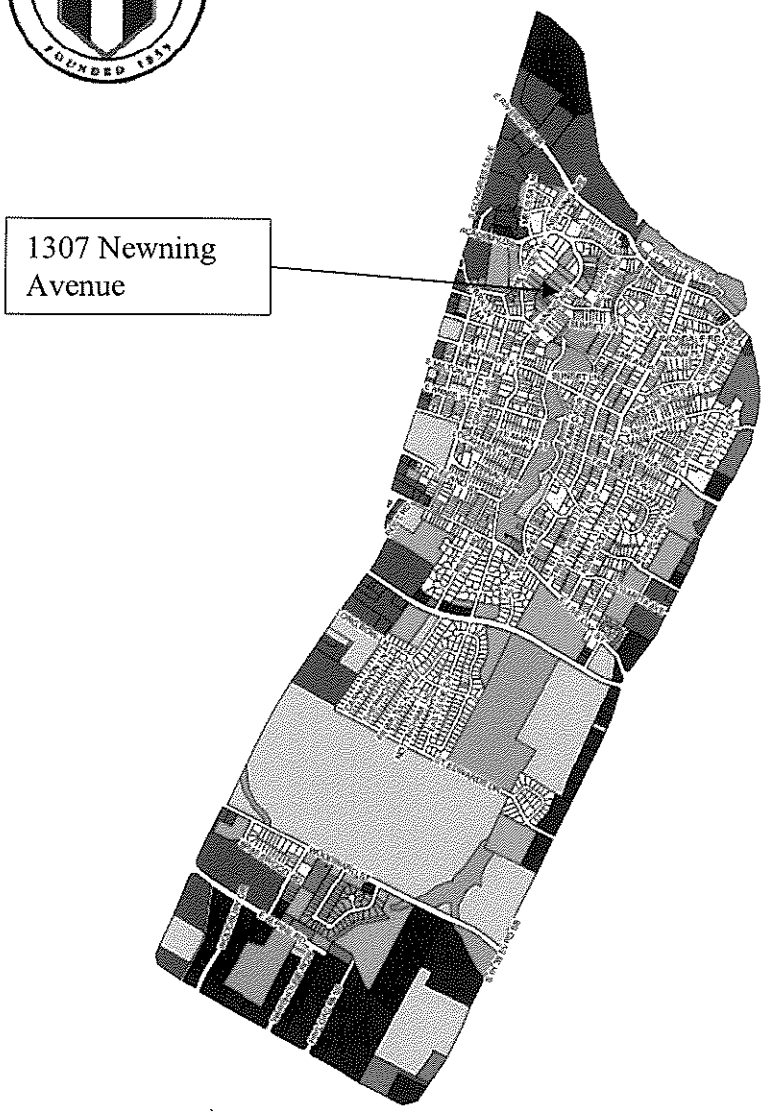
Provided with this case report is a letter from the Greater South River City Planning Contact Team which explains their position.

**CITY COUNCIL DATE:** June 24, 2010

**ACTION:** On June 10, 2010, City Council postponed the case to June 24, 2010, at the applicant's request.

**CASE MANAGER:** Maureen Meredith, Senior Planner, 974-2695

**EMAIL:** maureen.meredith@ci.austin.tx.us




# Greater South River City Neighborhood Planning Area Future Land Use Map

This map has been produced by the City of Austin Neighborhood Planning & Zoning Department for the sole purpose of assisting in neighborhood planning discussions and decisions and is not warranted for any other use. No warranty is made by the City regarding its accuracy or completeness.

A comprehensive plan shall not constitute zoning regulations or establish zoning district boundaries.

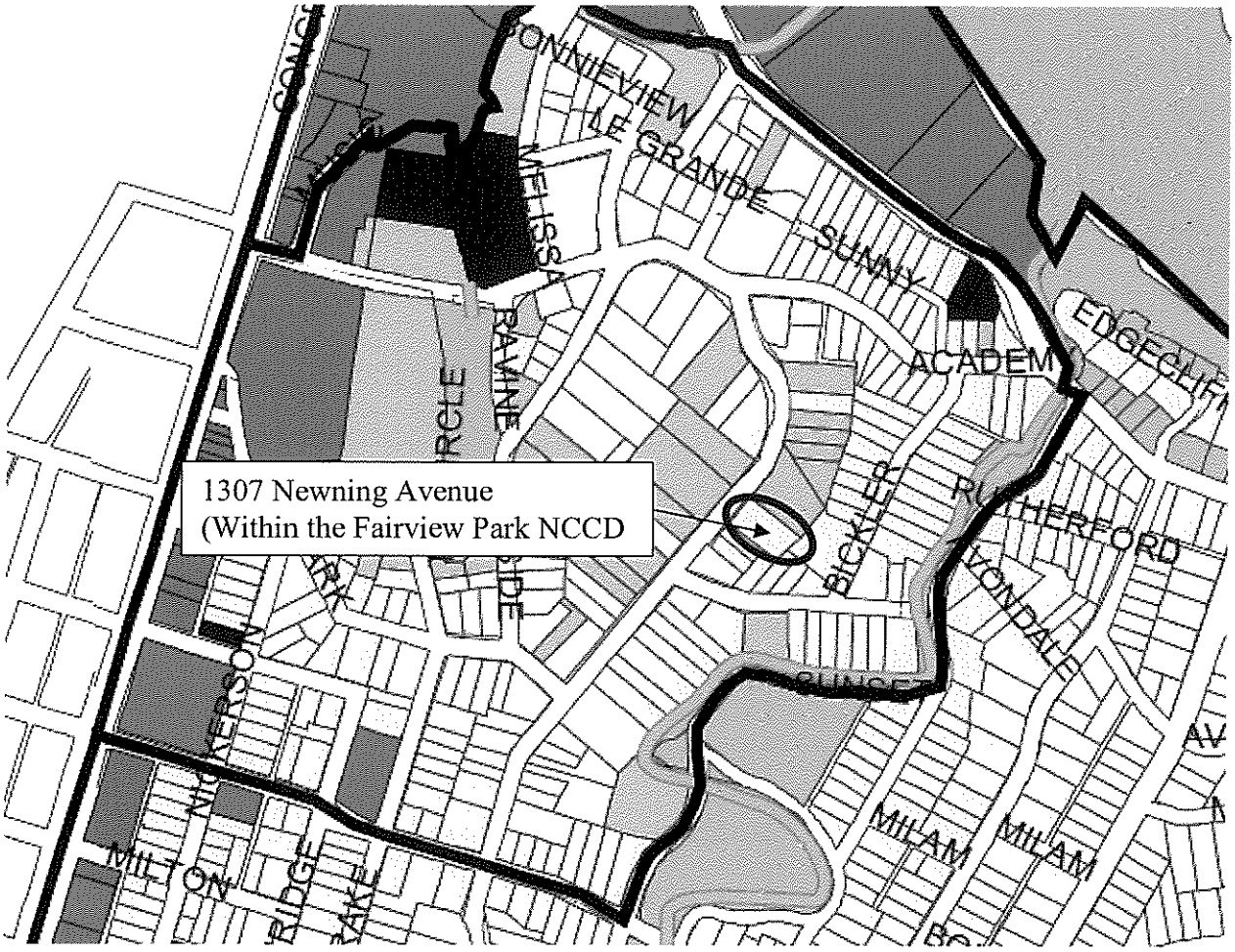
0 2,500 5,000 7,500 10,000 Feet

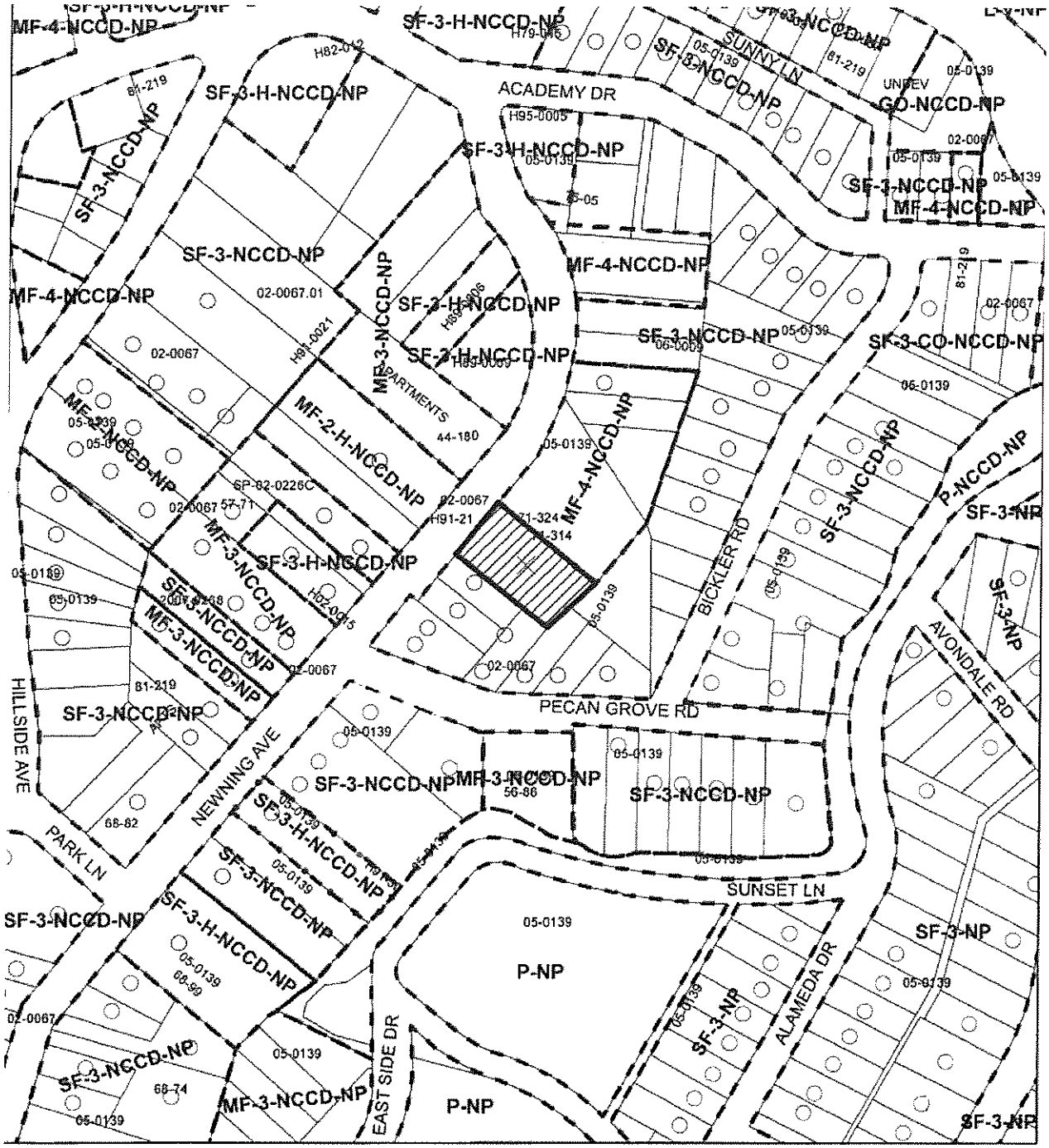
1 inch = 0.28409 miles

N

**Date Adopted: 11/29/05**
**Last Modified: 12/18/08**

| | |
|---|---|
| Civic | Multifamily |
| Commercial | Office |
| Industry | Recreation & Open Space |
| Mixed Use | Single-Family |
| Mixed Use/Office | Transportation |


1307 Newning Avenue
(Within the Fairview Park NCCD
LE GRANDE
SUNNY
ACADEM
EDGECLIF
RAWNE
RGLE
RICKLE
RUTHERFORD
VONDALE
MILTON
RIDGE
LAKE
MILAM
MILAM

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SUBJECT TRACT

ZONING BOUNDARY

PENDING CASE

OPERATOR: S. MEEKS

1" = 200'

ZONING

| | |
|---|---|
| ZONING CASE#: | NPA-2010-0022.01 |
| ADDRESS: | 1307 NEWNING AVE |
| SUBJECT AREA: | 0.436 ACRES |
| GRID: | J20 |
| MANAGER: | M. MEREDITH |

CITY OF AUSTIN FOUNDED 1839

City of Austin
Founded by Congress, Republic of Texas, 1839
Planning and Development Review Department
P.O. Box 1088, Austin, Texas 78767

March 31, 2010

Ms. Brenda Reese

Re: 1307 Newning Avenue

To Whom It May Concern:

The property located at 1307 Newning Avenue [*Lot 41B, Fairview Park*], is currently zoned SF-3-NCCD-NP and developed with a duplex residential structure that was permitted on 10/08/2007. Although municipalities in Texas cannot restrict or regulate condominium ownership regimes, the current lending environment has made it difficult for buyers to secure mortgage loans for the purchase of a condominium unit in condominium developments with fewer than four units. Section 25-2-233 of the City of Austin Land Development Code [LDC] provides a mechanism by which one can subdivide existing duplex lots into a *Single-Family Attached Residential Subdivision.* However, LDC Section 25-2-233(B) only permits *Single-Family Attached* residential use on unplatted land, vacant platted duplex lots, or platted lots developed with a duplex before 03/01/1987, so this is not an option for the subject tract because the lot is neither vacant nor developed with a duplex prior to that date.

The only means by which the existing duplex and duplex lot can be subdivided into two separate lots, with each lot containing a single dwelling unit that may be conveyed fee-simple to subsequent buyers, is by subdividing the lot as a 2-lot *Townhouse Subdivision* as a *Townhouse Residential* use. *Townhouse Residential* use is not a permitted use in the current zoning district, so the first step in converting the existing duplex into two townhouse units, is to rezoning the property to an SF-5 or less restrictive residential zoning district. Once the property is rezoned, a 2-lot townhouse subdivision in compliance with LDC Section 25-4-231 and 25-2-775 can be approved, allowing the individual lots and their dwelling units to be sold independently without the need for a condominium regime.

If you have any questions regarding applicable regulations, you may contact the Development Assistance Center at 974-6370.

Sincerely,

Christopher Johnson
Development Assistance Center Manager

27 April 2010

City Council Members and Planning Commissioners
City of Austin
301 West 2nd Street
Austin, Texas 78701

Re: Neighborhood Plan Amendment Case # NPA-2010-0022.01
Zoning Case # C14-2010-0039
1307 Newning Avenue
Applicant: Brenda Reese

On April 6, 2010 the Greater South River City (GSRC) Neighborhood Planning Contact Team (NPCT) held a meeting in accordance with our bylaws to discuss and make a decision regarding the applicant's proposed future land use plan amendment from Single Family to Higher Density Single Family for the property at 1307 Newning Avenue. The applicant has also requested a zoning change from SF-3-NCCD-NP to SF-5-NCCD-NP. The NPCT meeting was a break out of the GSRC Combined Neighborhood Plan (CNP) meeting hosted by Maureen Meredith of the City's Neighborhood Planning Division, so NPCT members and neighbors adjacent to 1307 Newning Avenue attended both meetings.

The property is a recently constructed residential duplex. According to Ms. Reese, the change is requested in order to subdivide the property into two separate lots, each containing a single dwelling unit, to make it easier to sell each unit separately. During the GSRC CNP meeting, Ms. Reese explained the desire for the change in zoning as economic – making it easier for potential buyers to obtain financing; as the property owners do not intend to change the configuration of the existing structure or add any additional dwelling units. According to a letter from Christopher Johnson, the City's Development Assistance Center Manager, the usual means of converting existing duplexes into single family residences is not available in this case because the duplex was recently constructed. Ms. Reese said that she is agreeable to a Conditional Overlay on the property that would limit development to SF-3 standards. Since Ms. Reese's neighbors expressed concern about entitlements the requested NPA and upzoning might confer on nearby properties, some NPCT members suggested that Ms. Reese subdivide the lot, and request variances for the setbacks along the common property line. Ms. Meredith followed up after the meeting and reported that Ms. Reese would not be able to apply for a variance because the Board of Adjustments does not approve variances for financial or economic reasons.

Neighbors of Ms. Reese's property discussed the financing issues with her during the meeting in an effort to understand the purpose of her request. There is significant concern about how this case will affect other properties adjacent to 1307 Newning, which are owned by investors with plans for redevelopment.

The NPCT voted unanimously to oppose the requested NPA and zoning change for the following reasons:

1. Concern by the neighbors living adjacent to 1307 Newning about the land use and zoning precedents that will be set by this case, and
2. Concern by the NPCT about the precedent that would be set by approval of NPA's and zoning changes following development of a property for economic reasons, and
3. Concern by the NPCT about the revisions to the Fairview Park NCCD. The residents worked tirelessly to roll back the multi-family zoning to SF-3, which had been imposed on the single family neighborhood by the Planning Commission and the City Council years before without the knowledge of the neighborhood. Upzoning to SF-5 would set an undesirable precedent.

Thank you for your consideration. Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,

Jean Mather

Jean Mather, GSRC NPCT Chair
512-444-4153
jmather531@aol.com

**Meredith, Maureen**

**From:** Virginia Ivey
**Sent:** Monday, April 26, 2010 10:20 AM
**To:** Meredith, Maureen
**Subject:** Case number: NAP 2010-0022-01

My home is next door to this property. This neighborhood has worked really hard to maintain a single family neighborhood of homes despite the fact that several apartments were built in the 1960's. We have an apartment complex across the street from us and if this passes we may have one behind us as well. There is a tipping point where people that would otherwise move in and buy a home will not want to live in an area of apartments and condos. Single family homes values will decline if too many multi family properties are built here. This is not a good precedence for our neighborhood.

We have spent a lot of time working on the NCCD. It was touted as a way of allowing developers to come into a neighborhood and know whether their plans fit with the goals of the surrounding community. This information is available on the city website and investors should not be rewarded for overlooking the obvious differences between what the community needs to maintain our neighborhood standard and what they need to flip property and make some money.

If this application is approved, it will likely be considered a precedent for up zoning on adjacent properties. We have worked too hard on our NCCD plan with the city, and we hope to maintain the vision reflected there. I believe if this request passes it may help the owner make money on her property, but it could only do damage to the investment I have in my home of twenty years.

Sincerely,

Stuart D. Sullivan
Virginia Ivey Sullivan

**Meredith, Maureen**

**From:** Claudette Lowe
**Sent:** Friday, April 09, 2010 12:01 PM
**To:** Meredith, Maureen
**Subject:** Case Number: NAP 2010-0022-01

My property is next door to the property in question and I am definitely opposed to any up zoning of this property. In the 40's when Austin was first zoned, our neighborhood was blanketly zoned multi family, even though we were a single family neighborhood. In the late 60's apartments started to pop up, and since then we have diligently worked to down zone as much of the neighborhood as possible. We had the first NCCD in Austin to try to accomplish this. We do not want up zoning.

The only reason the applicant has given for this up zoning is because she thinks it might be easier to get financing. This is questionable. No one has yet tried to get financing for a condominium, which is what she now has. In fact no one has even made an offer on this property, so it's hard to say no one can get financing.

If she does get this up zoning, it will seriously loosen the NCCD restrictions on the multifamily property next to her, which is in the planning stages of development. This is another very serious reason for opposing this change.

Please do not reward a developer, who is not a part of the neighborhood, by undoing what we here in Fairview Park have worked so hard to accomplish.

Thank you for all your hard work,
Claudette Lowe

**Meredith, Maureen**

**From:** Sarah Campbell
**Sent:** Wednesday, April 07, 2010 2:10 PM
**To:** Meredith, Maureen; Rye, Stephen
**Cc:** Jean Mather; Terry Franz; Teresa Griffin; brendaerees , Sam Martin
**Subject:** NPA-2010-0022.01 Neighborhood Plan Amendment & Rezoning

On Monday, April 5, 2010, during our regularly scheduled monthly meeting, the South River City Citizens (SRCC) Neighborhood Association reviewed this case. We heard from the applicant and from our own Zoning & Planning Standing Committee before rendering a unanimous vote AGAINST this rezoning and NP Amendment request.

We appreciate your most serious consideration of our input.

Sincerely,

Sarah Campbell, President
SRCC

**Meredith, Maureen**

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**From:** Melanie Martinez [ ]
**Sent:** Tuesday, March 16, 2010 10:16 PM
**To:** Meredith, Maureen
**Subject:** 1307 Newning Case # NPA-2010-0022.01

Dear Ms. Meredith,

I own two houses near this property and was notified of Ms. Reese's desire to change the zoning to Multi-Family.

I am vehemently opposed to any more occupancy (this building is already what I would consider a "McDorm" and its construction is completely out of character and scale with its surrounding properties already) or further development.

If you look down our street, this section of Newning has been robbed of its historic character (this is the oldest neighborhood in S. Austin) by recent demolitions and inappropriate development, along with the hideous apartment complexes built decades ago. My property is surrounded on two of the three sides of my property, by apartments the Newning Oaks and the Madrid Apartments.

Our street often becomes lined by cars spilling over from neighboring complexes that don't have sufficient parking, as well as by the residents nearby who don't have good driveways. The driveway at 1037 is ridiculous and I seriously doubt that, in time, anyone would want to park there. More density means more cars parked on the street.

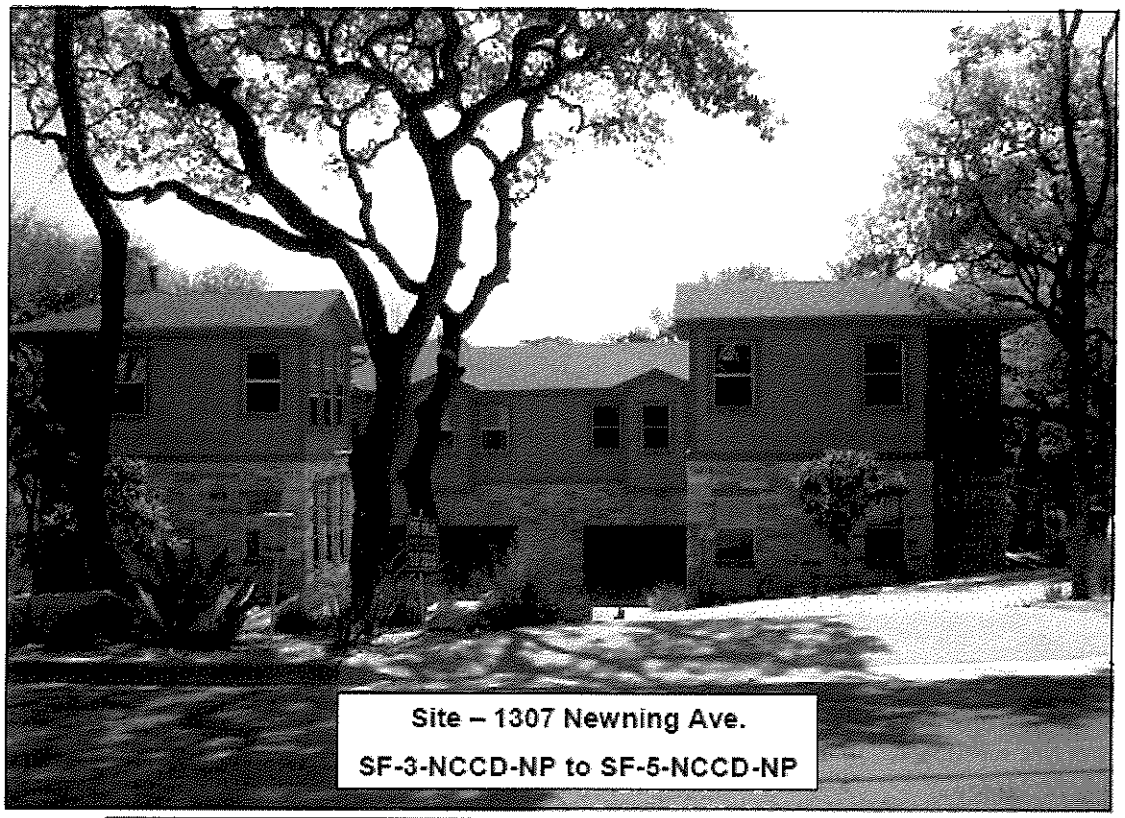
I believe this property is already an eyesore and I don't want to see more of them. Please don't change the zoning. Our NCCD was created with great thought and deliberation and this is the sort of thing we sought to prevent when it was created.

Thank you for listening and trying to see what is going on on this block of Newning. If you could drive by to see the greater context, that would really help. I don't believe my neighbors and I should have to suffer any further from this development.

Yes, please let me know when the public hearing is scheduled!

Sincerely,
Melanie Martinez
1208 & 1214 Newning Ave.
294-7243


GIS
608 PECAN GROVE RD

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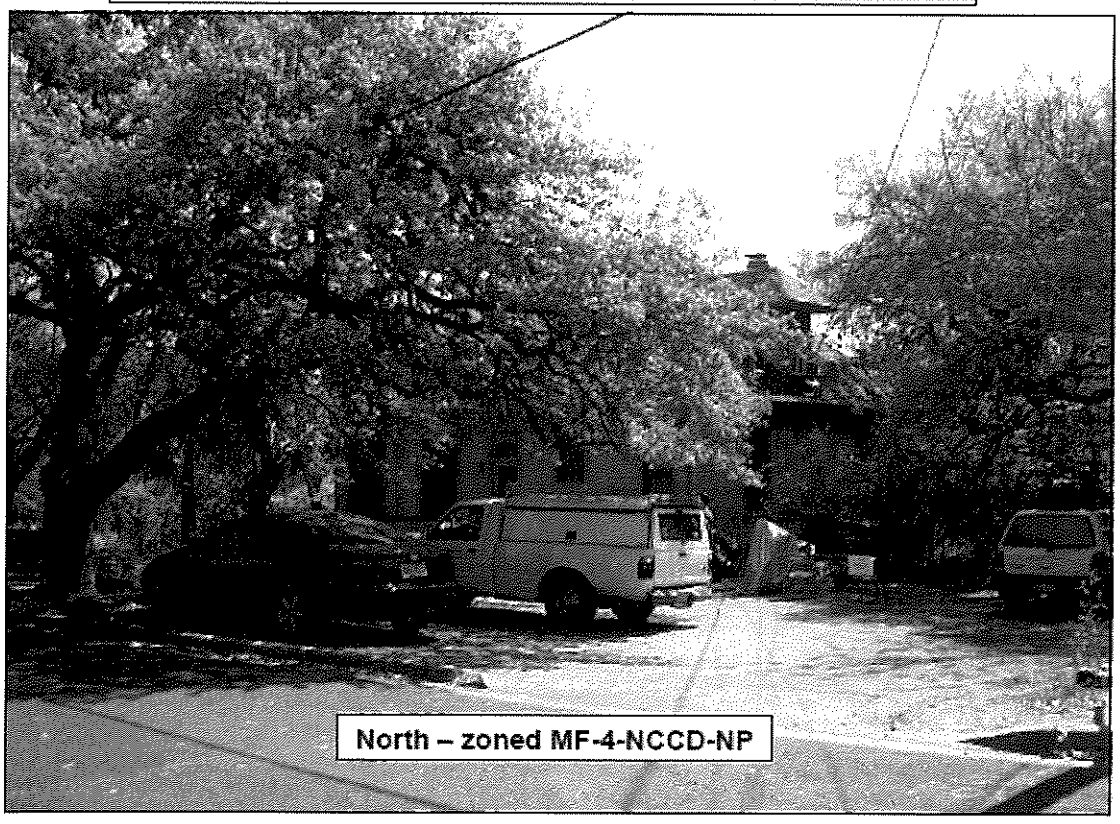
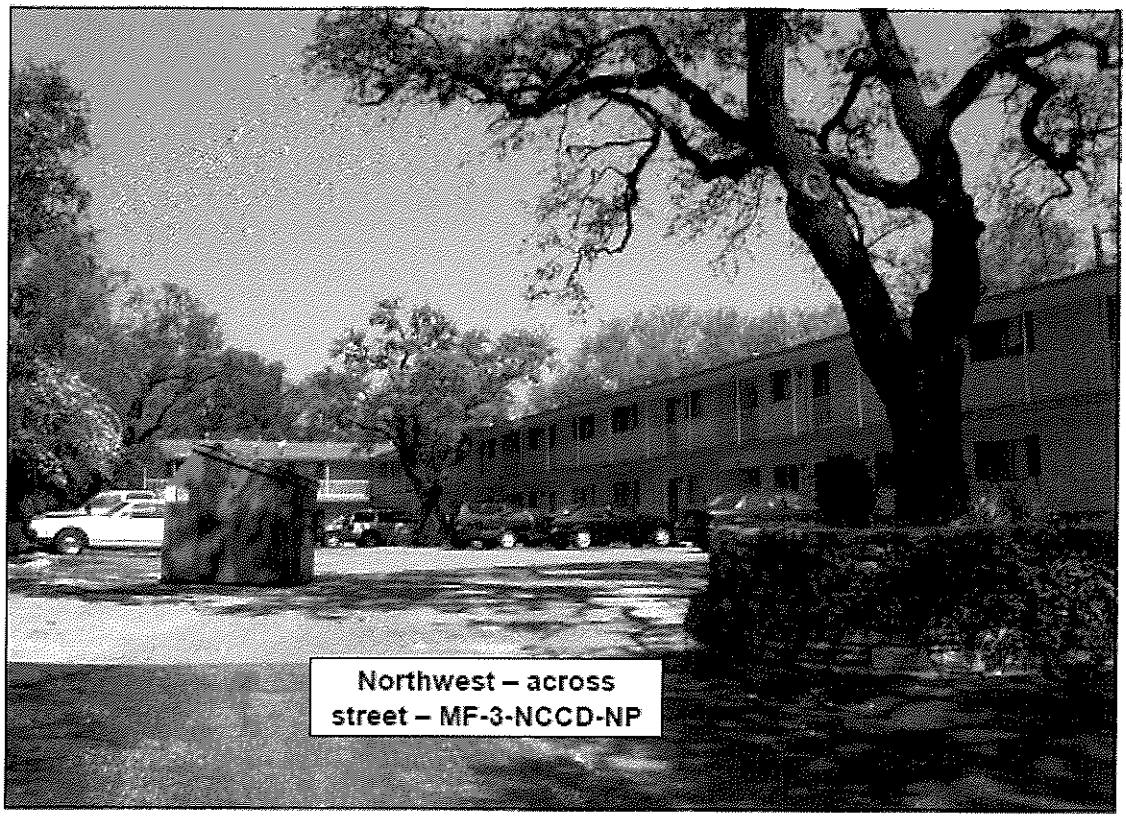
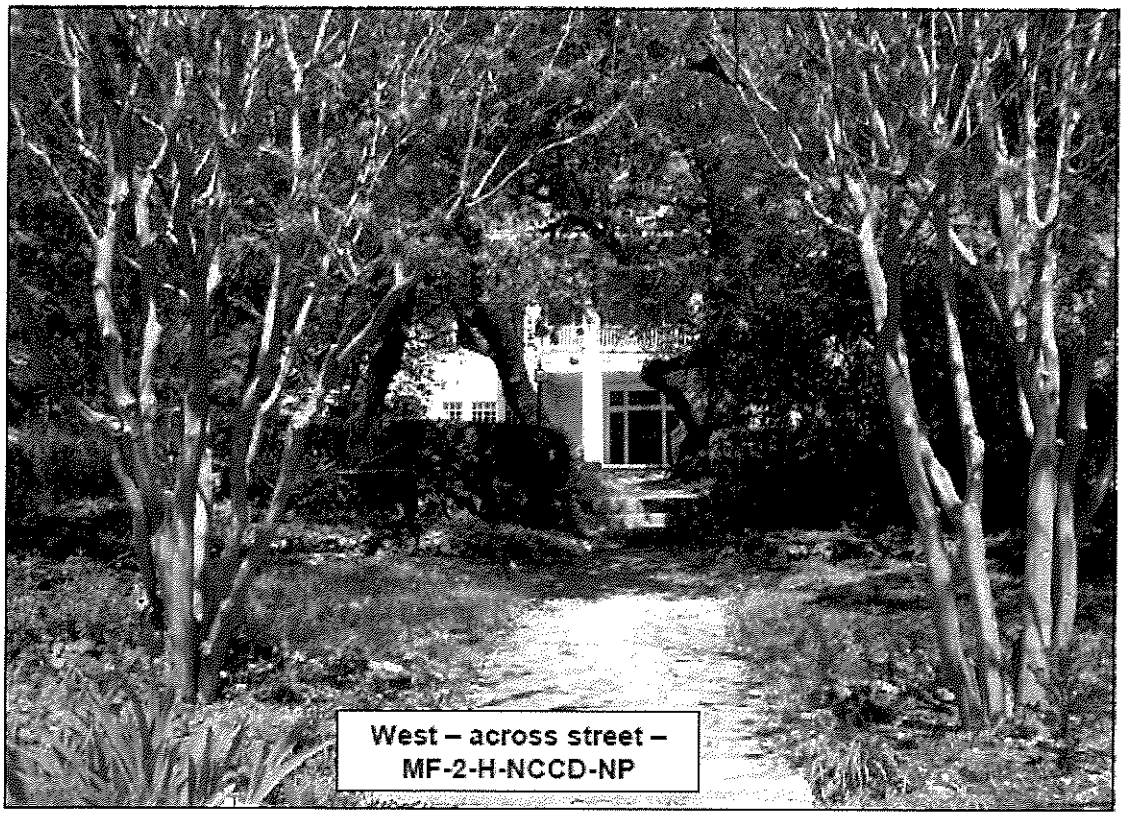
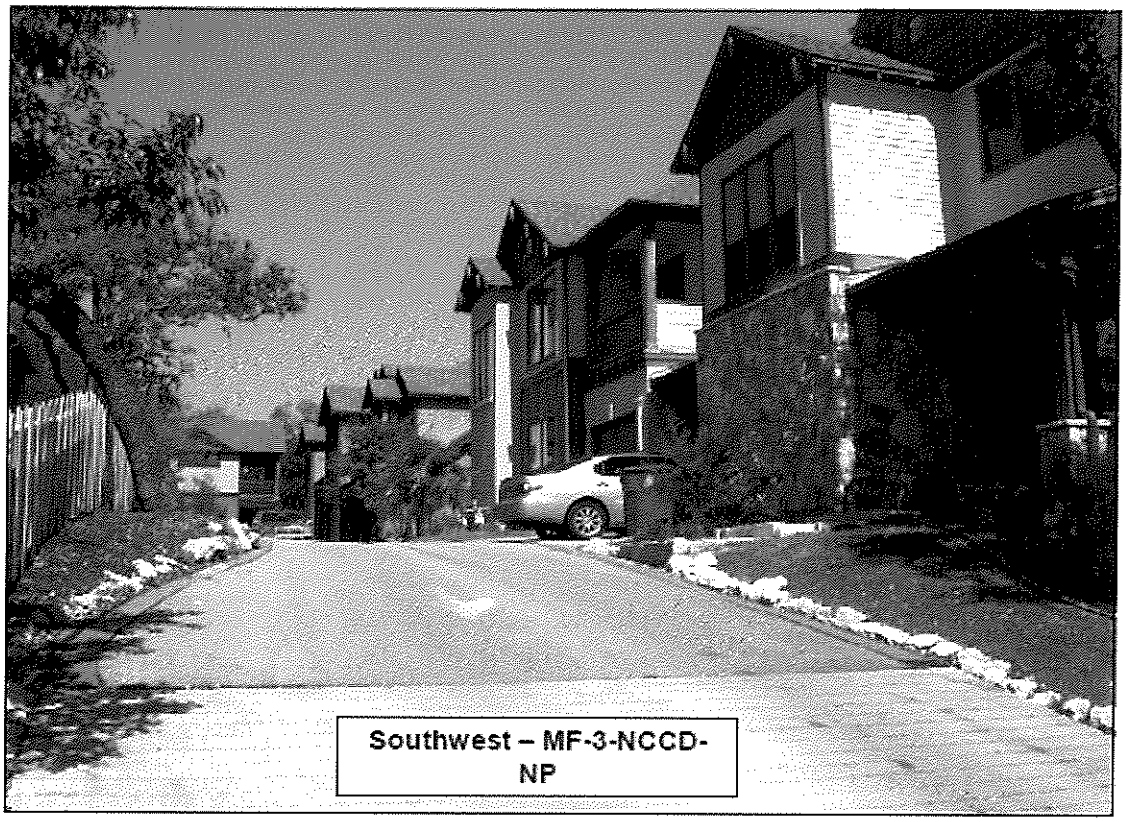
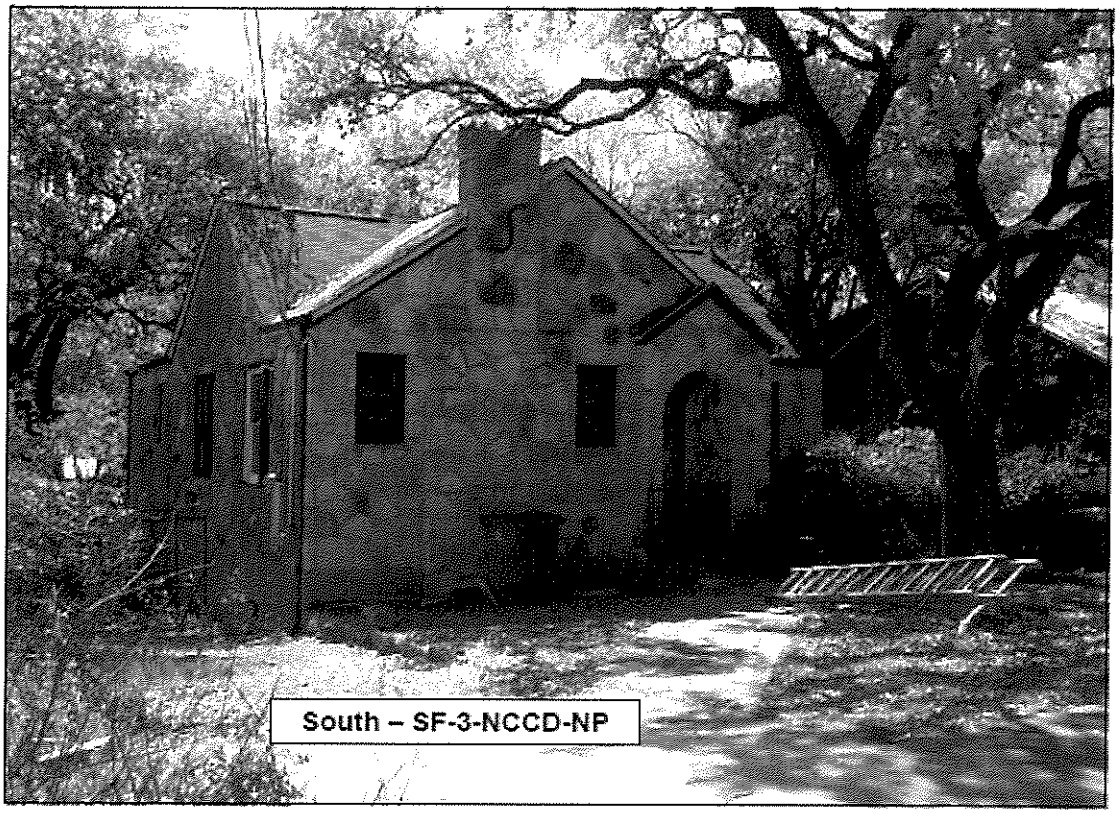


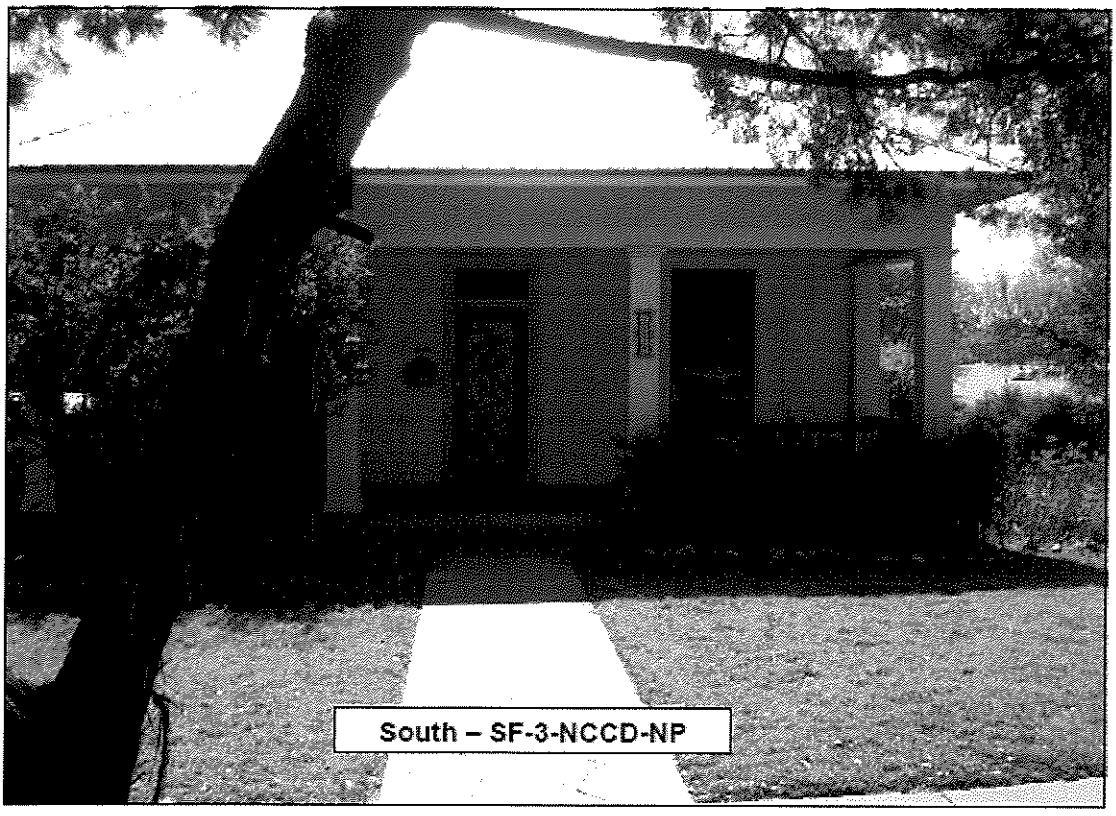

Northwest – across
street – MF-3-NCCD-NP


West – across street –
MF-2-H-NCCD-NP


Southwest – MF-3-NCCD-NP


Southwest – SF-3-H-NCCD-NP


South – SF-3-NCCD-NP


South – SF-3-NCCD-NP