CASE# <u>C15-2012-0001</u> ROW# 10692834

CITY OF AUSTIN 18-0208060106 APPLICATION TO BOARD OF ADJUSTMENT GENERAL VARIANCE/PARKING VARIANCE

WARNING: Filing of this appeal stops all affected construction activity.

PLEASE: APPLICATION MUST BE TYPED WITH ALL REQUESTED INFORMATION COMPLETED.	
STREET ADDRESS: 813 E. 13 th Street	
LEGAL DESCRIPTION: Subdivision – Original City of Austin	
Lot(s) Block Outlot 41 Division B	
Jim Wittliff / Land Answers, Inc. on behalf of myself as authorized agent for Roger Easely affirm that on November 1, 2011,	
nereby apply for a hearing before the Board of Adjustment for consideration to:	
check appropriate items below)	
X ERECT ATTACH COMPLETE REMODEL MAINTAIN	
A residence with an 8 foot front setback (25 feet front setback required).	
n a <u>SF-3-NP</u> district. Cuffel Cast (zoning district)	
NOTE: The Board must determine the existence of, sufficiency of and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional support documents.	

VARIANCE FINDINGS: I contend that my entitlement to the requested variance is based on the following findings (see page 5 of application for explanation of findings):

REASONABLE USE:

1. The zoning regulations applicable to the property do not allow for a reasonable use because: A 49 inch diameter Live Oak tree is located in the center of the lot, where the residential structure would normally be located. In order to protect the Critical Root Zone of this Heritage tree and develop this property with a Two Family Residential use, it will be necessary to reduce the front building setback from 25 feet to 8 feet. [Note: The property owner just rezoned this property from LR-NP to SF-3-NP, in order to build a new Two Family Residential use on the property. Under the LR zoning, the front building setback was required to be zero feet, under Austin's Commercial Design standards.]

HARDSHIP:

2. (a) The hardship for which the variance is requested is unique to the property in that:

The 49 inch diameter Live Oak tree is located near the center of the property. This property originally contained two residences, as shown on the attached survey. These residences were built in 1909 and 1930, and surrounded the 49 inch Live Oak on three sides. In order to accommodate the tree, these residences were built with a zero foot front setback for the 1930 house at 813 ½ E. 13th Street, and an 8 foot front setback for the 1909 house at 813 E. 13th Street. The 1909 house has been demolished, and the 1930 house is scheduled to be demolished in 2012.

(b) The hardship is not general to the area in which the property is located because:

None of the surrounding lots are encumbered with a large established Heritage tree in the center of their property, which prevents the standard homesite location and setback.

AREA CHARACTER:

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

There were originally two homes on the site, which were constructed in 1909 and 1930, and both of which had reduced front setbacks. The home built in 1930, which is scheduled to be demolished, has a front setback of zero feet, and in fact encroaches into the 13th Street right-of-way. The home built in 1909, which was recently demolished, had a front setback of 8 feet. Therefore, this proposed home with an 8 foot front setback will be in character with the prior established use of this site. This proposed setback will assist the property owner in complying with the City's Heritage Tree Ordinance critical root zone protection requirements, per the approved Tree Ordinance permit (attached). Per the attached petition, 26 of the surrounding property owners have endorsed this reduced front setback variance request, and the Swede Hill Neighborhood Association has issued a letter of support.

PARKING: (Additional criteria for parking variances only.)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed Section 479 of Chapter 25-6 with respect to the

number of off-street parking spaces or loading facilities required it it makes findings of fact that the following additional circumstances also apply:
1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonable require strict or literal interpretation and enforcement of the specific regulation because:
N/A
2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:
<u>N/A</u>
3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:
<u>N/A</u>
4. The variance will run with the use or uses to which it pertains and shall not run with the site because:
N/A

	l cannot grant a variance that would provide the applicant with a special privilege not yothers similarly situated or potentially similarly situated.
	FIFICATE $-I$ affirm that my statements contained in the complete application to the best of my knowledge and belief.
Signed	Mail Address 3606 Winfield Cove
City, State & Zip Au	stin, TX. 78704
Printed Jim Wittliff	Phone <u>512-416-6611</u> Date <u>9/30/2010</u>
	TCATE – I affirm that my statements contained in the complete application are true st of my knowledge and belief.
Signed Roy 2	Mail Address 813 ½ E. 13th Street
City, State & Zip Au	stin, TX. 78701
Printed Roger Easley	Phone Date <u>11/18/2011</u>



SUBJECT TRACT
ZONING BOUNDARY

CASE#: C15-2012-0001 LOCATION: 813 E 13TH ST

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by the Planning and Development Review Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



Town Lake Center • 721 Barton Springs Road • Austin, Texas • 78704

November 15, 2011

Roger Easley 813 E. 13th St

Austin, Texas 78702

Via email to: Jim Wittliff at landanswers@sbcglobal.net

Re:

813 E. 13th Street

E. 64.2 ft of lot 29 OLT 41 DIV B

Dear Mr. Easley & Mr. Wittliff,

Austin Energy (AE) has reviewed your application for the above referenced property requesting to reduce the front setback from 25 ft to 8 ft in order to construct a new residence. Austin Energy has does not oppose this application as requested and shown on the attached red-stamped sketch.

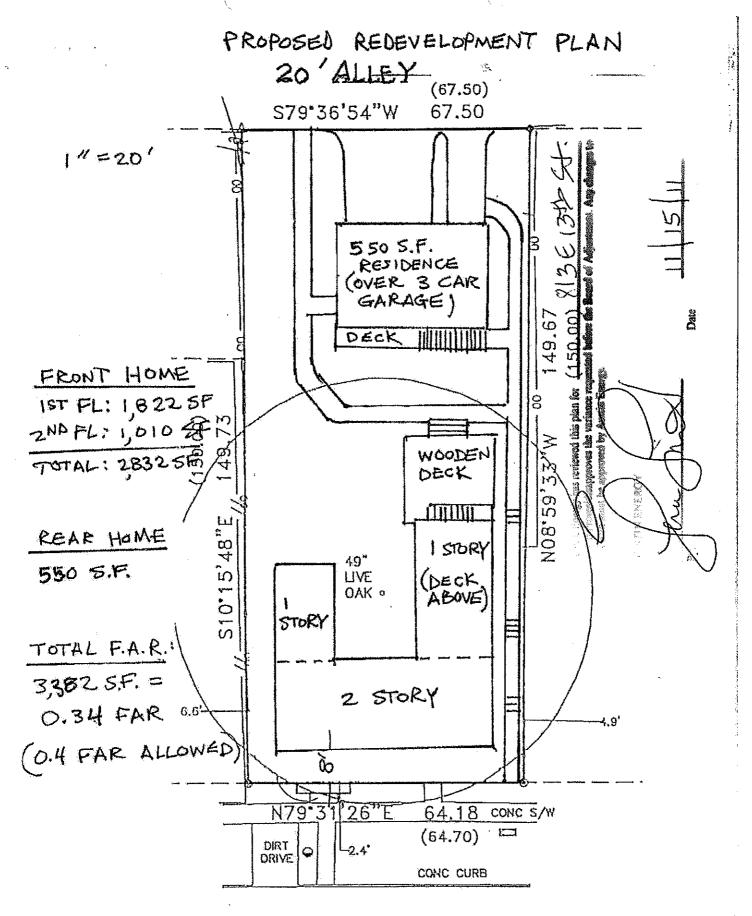
Thank you for checking with us in advance. Should you have any questions, please feel free to contact me at 322-6587.

Sincerely

Lena Lund

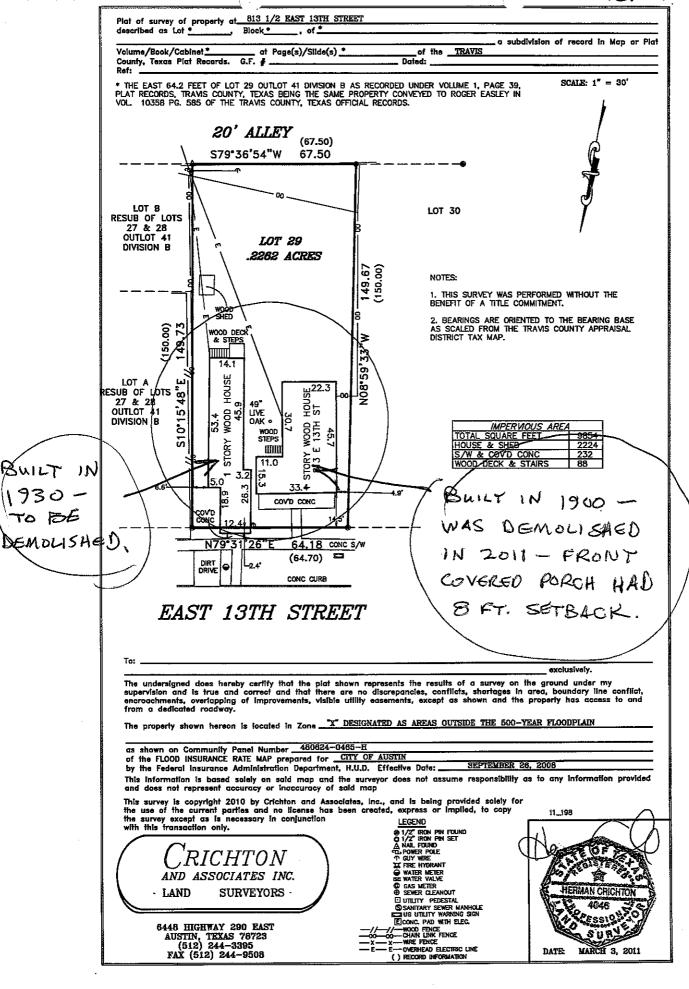
Public Involvement/Real Estate Services

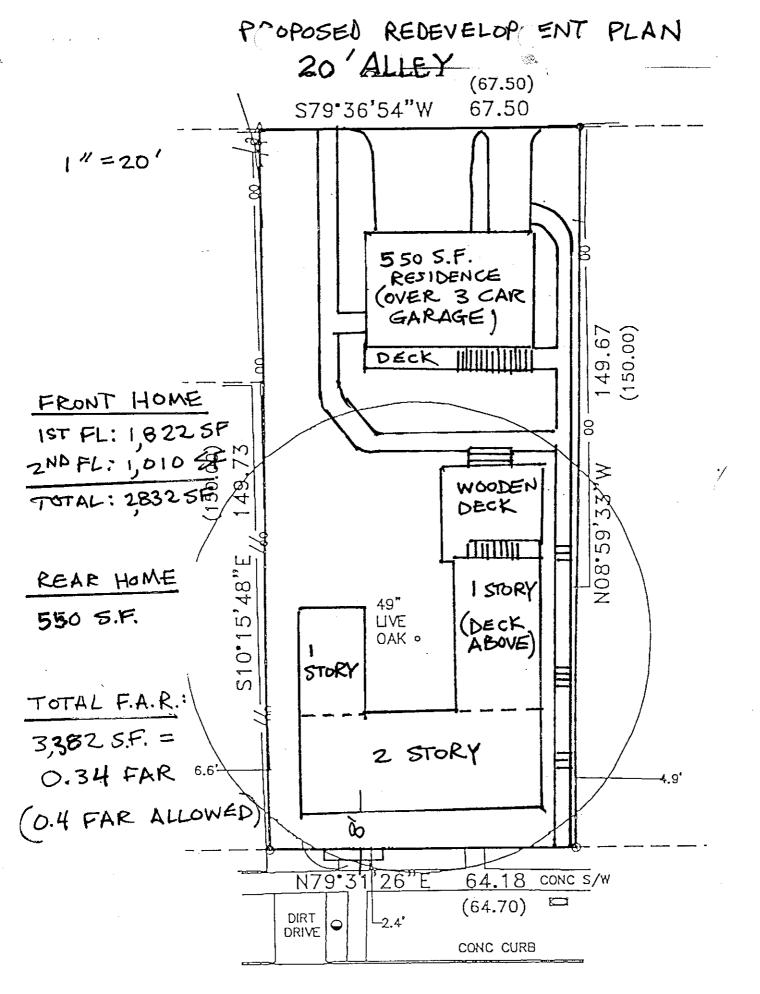
Cc: Diana Ramirez and Susan Walker



EAST 13TH STREET

PRIOR SITE DEVELOPMENT





EAST 13TH STREET

SWEDE HILL NEIGHBORHODD ASSN.

October 6, 2011

Jim Wittliff Land Answers, Inc. 3606 Winfield Cove Austin, TX. 78704

RE: Letter of Support for proposed rezoning and BOA variance for 813 E. 13th Street

Dear Mr. Wittliff:

Based on the presentations that you made to the Swede Hill Neighborhood Association on June 7th and September 6th, 2011, and based on the petitions that you provided for the referenced rezoning and setback variance requests, which was signed by a total of 27 surrounding residents, Swede Hill N.A. voted unanimously on October 4th to also support your requests, and to issue this letter for your use in the Planning Commission, City Council and Board of Adjustment public hearings. We appreciate your willingness to meet with us proactively on these applications.

This letter will support a rezoning from LR-NP to SF-3-NP, to allow the property owner to construct a Two Family Residential Use on the property, and a Board of Adjustment variance request to reduce the front building setback line for an SF-3 use from 25 feet to eight feet, in order to preserve the 49 inch diameter Live Oak tree on the property.

Sincerely,

William Minor, President

Swede Hill Neighborhood Association

1000 E. 15th Street, Austin 78702

512-657-6697

swedehillna@gmail.com

Jim Wittliff

From:

Mars, Keith [Keith.Mars@ci.austin.tx.us]

Sent: To: Friday, May 06, 2011 09:32 AM landanswers@sbcglobal.net

Subject: Attachments: 813 1/2 E. 13th Street 813 1-2 E. 13th street.pdf

Jim,

Attached is the approved with conditions tree permit in conjunction with demolition of the existing structure. I know demo will be challenging on this site given the lot dimensions and size of the tree. If you need to followup with any questions about tree preservation during demolition please let me know. It's worthwhile to hire an arborist before demolition to make sure the tree is cared for during demolition. This is a recommendation not a requirement. Please see the attached permit for requirements. Thanks.

Also, after looking over our previous correspondence I only have one change. Since the 1/2 critical root zone correspondes to the diameter of tree the correct 1/2 critical root zone for this tree is 24.50', not 20' as we previously discussed.

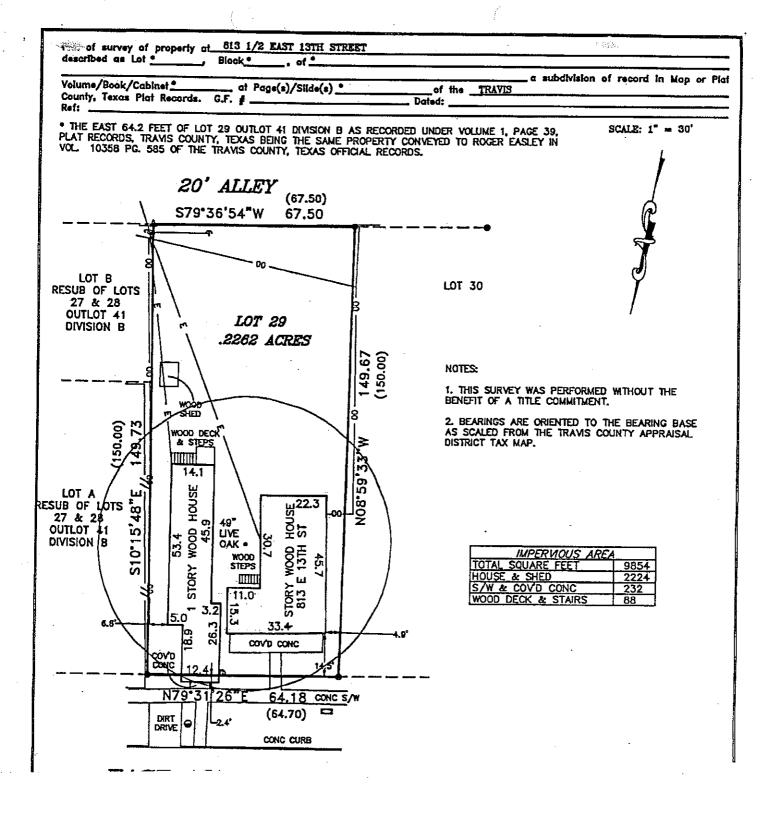
Thanks for your work and communication on this project.

Keith Mars
Environmental Program Coordinator
City Arborist Program
City of Austin
505 Barton Springs Road, 4th Floor
Austin, TX 78704
Phone: (512) 974-2755
Fax: (512) 974-2423

Tree Ordinance Review Application City of Austin Founded by Congress, Republic of Texas, 1839 Watershed Protection and Development Review Department One Texas Center, 505 Barton Springs Road

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\$85 T	-
OD NOBD ITS	

One Texas Center, 505 Barton Springs P.O. Box 1088, Austin, Texas 78767 Phone: (512) 974-1876 Fax: (512) 9	•	Paid: Yes/No Receipt Number: Inspection Date:	
This application requests (speci	fy all that apply):	-	
a removal of a protected			
Tool zone of a protected	-size tree;	r encroachment within the critical	
removal of more than 30)% of a protected-size tree's crown.		
Additional tree information may be Manual (Section 3), or the City of A	e obtained from the Land Developmer ustin Urban Forestry web page (http://ww	nt Code (25-8), Environmental Criteria ww.cl.austin.tx.us/trees/).	
Please attach an aerial drawing tha application and payment (check to	at includes the location of trees, properties City of Austin for \$25 per tree) carrier to City personnel completing this	osed development, and utilities. The n be mailed or delivered to the above application. If relevant, indicate the	
Address of Property (including zip co	ode): 813 ½ E. 13 TH ST.	AUSTIN TX 78702	
	ROSER EASLEY an	L JIM WITTLIFF	
Building Permit Number (if applicable	e):N/A		
Telephone Number: 416-66	Fax Number:	416-6610	
Type of Tree: Live Oak	Location on L	ot: <u>Center</u>	
Tree Trunk(s) Circumference at 4 ½	Feet Above Ground (inches): 49	9" Diameter	
General Condition: Diameter	Good	<u> </u>	
Reason for Request: Demoli-	ion of Structur	<i>a</i>	
Owner Applicant Signature	4/26/11 Cr	ee attached comment on Keith Mars regard his tree.	-
O BE COMPLETED AFT.	ER DETERMINATION FROM CITY ARBORIST	PROGRAM PERSONNEL	
Resolution: Approved • Approved	With Conditions • Denied • Statutor	y Denial/More Information Required	
	vary. 15 used to de	no hour apply	
a ld Inch layer of	mulch within the	La contral port zone.	
free tencing is needed	When possible, Board	ds may be needed asked.	
Conditions of Approval: None;	As described within Arborist Comm	ents (see above); and/or,	
mandan or two inches in caliber w	container urel) on the lot prior to obtaining a Certif idth. Prior to development, applicant ag g (minimum five-foot, chain-link type) pro	roce to europly a root zone mulch faces !	
		Z 51C/11	
*Owner/Applicant Signature	Date City Arboris	et Signature Date	



Jim Wittliff

From: Sent:

Mars, Keith [Keith.Mars@ci.austin.tx.us] Thursday, February 10, 2011 09:07 AM

To:

Subject:

Jim Wittliff
Re: 813 and 813 1/2 East 13th Street, Critical Root Zone Setback Requirements

A. 85 34.

Jim,

Thank you for the summary. My only change is regarding roots and airspading. Pier location should be relocated if roots greater than 3" are encountered.

Keith

Sent from my iPhone

On Feb 9, 2011, at 10:25 AM, "Jim Wittliff" < landanswers@sbcglobal.net> wrote:

Dear Keith,

Thank you for meeting me on site last week to discuss setback requirements from the approximately 40 inch diameter Live Oak tree on the property. As you recall, there are two existing homes on this lot. The home at 813 was constructed in 1900, and the home at 813 ½ was constructed in 1930. Both homes encroach significantly into the approximate 20 foot radius critical root zone. Estimated setbacks from the tree are approximately 7 feet to the north, 3 feet to the west, and 8 feet to the east. I have hired a surveyor to survey the locations of the tree, the footprint of both houses, and the foundation pier locations.

There is an existing demolition permit for 813 and 813 ½ is expected to also be demolished within the next few months. The new owner will construct a new structure in approximately the same locations as the existing buildings. Some building setbacks from the tree will likely be increased, but in no case will any of the building setbacks be less than the current structures provide.

Per our meeting, you indicated that you would agree to allow setbacks that are closer to the tree than the Standard Critical Root Zone setback of approximately 20 feet radius, with the following stipulations:

1) The building foundation must be pier and beam, not slab on grade, for all areas that fall within the approximately 20 foot radius critical root zone.

- 2) Wherever possible, pier locations should be in the same location as the existing piers. Where new pier locations are proposed, initial excavation to a depth of two feet should be done with an air spade, to minimize the likelihood of damage to significant roots. If the proposed pier location is found to contain a significant root (i.e., diameter over six inches), the pier location should be moved to a more suitable location.
- 3) Tree maintenance should occur prior to construction. This will include removing vines, and dead, diseased, or damaged branches.
- 4) Tree protection during construction should include armoring the truck of the tree with 2 x 4's strapped to the trunk, fencing off as much of the critical root zone as possible, and preventing soil compaction for the other areas within the critical root zone by laying mulch and sheets of plywood over the soil surface.
- 5) Tree maintenance after construction should include a two year period of care by a certified arborist, to include soil aeration, fertilization, and monitoring the tree's general health.

If you feel that any modifications or additions need to be made to this list of conditions, please note them. Thank you for your advice and assistance to help the new property owner protect the health of this magnificent tree.

Sincerely,

Jim Wittliff

Land Answers, Inc.

3606 Winfield Cove

Austin, TX. 78704

(512) 416-6611

Fax (512) 416-6610

LETTER OF REZONING AND SETBACK VARIANCE SUPPORT

Attn:

Swede Hill Neighborhood Association

City of Austin Zoning Review Staff
City of Austin Planning Commission

Austin City Council

City of Austin Board of Adjustment

To Whom It May Concern:

We are neighbors living within 200 feet of 813 and 813 ½ East 13th Street. This property is also known as the Eastern 64.2 feet of Lot 29; Outlot 41, Division B, Original City of Austin. By our signatures below, we wish to register our opinions and support as follows:

- 1. This 9,626 sq. ft. property is currently developed as an SF-3 Family Residence land use, and until recently, this property was used as a Two Family Residential use. Recently, one of the two existing residences on this property was demolished, due to severe deterioration. The remaining residence at 813 ½ E. 13th Street currently also has an approved demolition permit. The adopted Future Land Use Map for the Central Ease Austin Neighborhood Planning Area, which includes this property, calls for the future land use of this tract to be Single-Family. WE, THE SURROUNDING NEIGHBORS STRONGLY PREFER THAT THE FUTURE REDEVELOPMENT OF THIS PROPERTY REMAIN RESIDENTIAL.
- 2. Although the adopted Neighborhood Plan's Future Land Use Map calls for this property to be used as a Single-Family land use, the adopted Neighborhood Plan currently has the property commercially zoned as LR-NP. The LR-NP category does not allow this property to be redeveloped as a Two Family Residential Land Use. Therefore, we are requesting your support to allow this property to be rezoned from LR-NP to SF-3-NP, per the wishes of Mr. Roger Easely, the current property owner, and Mr. Ray Guidone, the proposed buyer, both of whom wish for the property to be redeveloped as a Two Family Residential land use, rather than as a commercial land use, in accordance with our wishes.
- 3. The property contains a beautiful 49 inch diameter Live Oak tree near the front center portion of this lot. The current property owner, the proposed buyer, and we the surrounding property owners all agree that this tree should be protected and preserved. The current property owner filed a Tree Ordinance Review Application with the City of Austin's Heritage Tree Arborist, Mr. Keith Mars, in May 2011. Mr. Mars laid out tree protection criteria associated with the redevelopment of this tract, which the current property owner and the proposed buyer are in agreement with. In order to protect the Critical Root Zone of this tree, it will be necessary to obtain a front yard setback variance for the residential redevelopment of this property. AS NEIGHBORS, WE URGE YOU TO SUPPORT AND APPROVE A BOARD OF ADJUSTMENT FRONT SETBACK VARIANCE, TO

REDUCE THE REQUIRED FRONT SETBACK FROM 25 FEET TO EIGHT FEET. We recommend approval of this setback variance for the following reasons:

- The existing residence at 813 ½ E. 13th St. already has a front setback of zero feet, and the recently demolished residence at 813 E. 13th St. had a front setback of eight feet. These reduced front setbacks were used to protect the 49 inch Live Oak tree.
- If this property is developed commercially (under the existing LR-NP zoning), a front setback of zero feet will be <u>required</u>, per the City's Commercial Design Standards ordinance. However, if the property is rezoned to SF-3-NP, a 25 foot front setback will be required. Since our goals are to assure that the redevelopment of this site remains residential, and to protect the 49 inch Live Oak tree, we are urging your support of this front setback variance, to allow the proposed buyer to redevelop this tract as a Two Family Residential use. Because the owner must first rezone the property prior to requesting a Board of Adjustment front setback variance, we are urging you to <u>support both the rezoning and the setback variance request</u>, in order to allow the property owner and the neighborhood to redevelop this tract in a mutually-agreed and mutually beneficial manner.

Thank you for your consideration of our goals and objectives.

Thank you for your consideration of our	godis and objectives.
Sincerely,	
Signature	Address: 100 E. 13th Suchi 7870
Cames Morris	
Printed Name	
you sherme	Address: 801 6 14 in 82 78702
S. MARGE BOKK	
Signature January	Address: 806 1/2 E. 13th St 78702

Mely	Address: 807 Fast 14th Guit 305
Signature	
KELVIN COWEL Printed Name	
printed Name	
Signature	Address: 817 E. 13th St.
1000 min.	
Printed Name	
	- 12+12 C+
Andrew to best	Address: 902 E 13th St
Signature	
ANDREW ROBERTS	
Printed Name	
	Address: 1667 F. 1474 ST
Signature	
Printed Name	
Colt Golln Signature	Address: <u>907</u> F 14.4h 54
COLT GOLDEN Printed Name	

	·
Signature Broce Sheehard Printed Name	Address: <u>903</u> E. 14th
Charles E. Rechar Signature CHARLES RECKSON Printed Name	Address: 1305 WALLER ST #B
Signature Scan Ryan Printed Name	Address: 810 E 13th St
Signature Gretchen Burk Printed Name	Address: 1206 Olander St.
Signatura BYZYYZI MM Mey Printed Name	Address: 1009 b, 14h ~ 76762

Myr Kaplan Signature	Address: 909 E 1344 St
Mysv Kaplan Printed Name	
Signature Signature	Address: QOL CAST 13th of
Printed Name	
Signature	Address: 907 E. 134h
Ann del lau Printed Name	wb
Ellen Rinard Signature	Address: 808 E 13th.
Ellen Rinard Printed Name	·
Am Br Signature	Address: 807 E 14th 5t
Adam Barr Printed Name	

Signature	Address: 1305 A walky &.
Steve McCoour Printed Name	
Signature Scidenberg Printed Name	Address: 1001 € 13 54
Signature Din. fred Jarre	Address: 1001 E 13th St
Printed Name Signature Printed Name	Address: 1006 E. 513+4
Solvedor Signature Statanic Lindgust Printed Name	Address: 1000 E 13th St

Signature RICK ANTOINE Printed Name	Address: 901 F 13 th 57.
Signature Ronnie R. Mendo 201 Printed Name	Address: 817 East 1346 street
Roser Easley Printed Name	Address: <u>813 1/2</u> E, 13 th
Signature Signature Printed Name	Address: 80612 E. 13th
Signature Printed Name	Address: