

**CITY OF TEMPE
DEVELOPMENT REVIEW COMMISSION**

**Meeting Date: 11/14/2023
Agenda Item: 3**

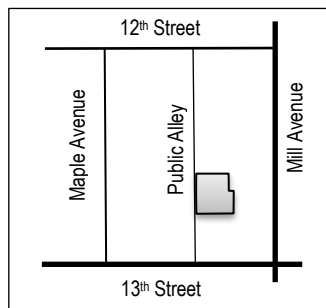
ACTION: Request for a Use Permit Standard to reduce the required front yard setback from 20 feet to 16 feet for MILL AVENUE RESIDENCES, located at 1216 South Mill Avenue. The applicant is Steve Cross of Morgan Taylor Homes.

FISCAL IMPACT: There is no fiscal impact on City funds.

RECOMMENDATION: Approve, subject to conditions

BACKGROUND INFORMATION: MILL AVENUE RESIDENCES (PL230243) is located on the west side of Mill Avenue in the Maple Ash neighborhood association. The subject lot was created through a lot split in 2022 and fronts a public alley that is accessible from 12th Street to the north and 13th Street to the south. The property is zoned Multi-Family Residential (R-2). The proposed development includes the construction of a new two-story home with two bedrooms and three bathrooms on the vacant lot. The face of the front-facing garage is proposed to be set back approximately 16 feet from the front property line to address the lot's size and irregular boundaries. The request includes the following:

ZUP230057 Use Permit Standard to reduce the front yard setback 20% from 20 feet to 16 feet.



Property Owner	3K Growth LLC
Applicant	Steve Cross, Morgan Taylor Homes
Zoning District	R-2
Gross / Net site area	3,667 s.f.
Total Bedrooms	2 bedrooms
Total Building Area	1,085 s.f.
Lot Coverage	29.6% (45% maximum allowed)
Building Height	25'7" (30' maximum allowed)
Building Setbacks	16'1" front, 10'2" south side, 10' north side, 15' rear (20', 10', 10', 15' min.)

ATTACHMENTS: Development Project File

STAFF CONTACT(S): Chris Jasper, Senior Planner (480) 350-8096

Department Director: Jeff Tamulevich, Community Development Director

Legal review by: N/A

Prepared by: Chris Jasper, Senior Planner

Reviewed by: Mailen Pankiewicz, Principal Planner

COMMENTS:

This site is located between within the Maple Ash Neighborhood Association and is in the Downtown Tempe/Rio Salado/ASU/Northwest Neighborhood Character Area. The original parcel was established in 1924 as Lot 13 of the Park Tract subdivision plat, and it was designated as an historic property in 2004. The parcel was subsequently split in 2022, and the historic designation was removed from the subject site. Coincident with the lot split, a façade conservation easement was placed on 1220 S. Mill Avenue, also known as the Butler House Property, through Resolution R2022.54, effective from June 1, 2022, to June 1, 2027.

Prior to the lot split, the portion of the site that is proposed for development was primarily utilized for vehicle parking. The subject lot's irregular eastern property line is the result of the lot split, which was intended to preserve the existing single-family residential property located at 1220 S Mill Avenue, while allowing for new development on the newly created parcel. As detailed in Resolution R2022.54, a two-story residential structure was contemplated for the subject site at the time of the lot split.

The site is located on the east side of a public alley that runs north to 12th Street and south to 13th Street. Directly east of the property is a single-family residential home that is utilized as a short-term rental. Directly south of the property is the Tempe Club House, formerly known as the Tempe Woman's Club. Across the alley to the west is a currently vacant lot that is proposed to be developed as four single-family homes. A four-foot wide access and utility easement is located on the northern property line of the subject site, into the adjoining property to the east, to allow for a water line and for mail, trash, and recycling services that require access through both lots. An additional five-foot wide sewer line easement runs along the southern property line and through the adjoining property to the east.

The property owner is seeking to develop the subject lot as a two-story single-family residential home. The house will include two bedrooms and three bathrooms, with a total building footprint of 1,085 square feet. A porch is proposed at the front of the house, and an approximately 17-square-foot patio is proposed at the rear of the house off the second story. Due to the proposed layout of the structure, the applicant is seeking a reduction to the front yard setback to place an attached front-facing garage approximately 16 feet from the western property line, which is allowed with the approval of a Use Permit Standard.

This request includes the following:

1. Use Permit Standard to reduce the front yard setback from 20 feet to 16 feet.

The applicant is requesting the Development Review Commission take action on the item listed above.

PUBLIC INPUT

- A neighborhood meeting was required per the City's Maple Ash Neighborhood notification policy.
- The neighborhood meeting was held on October 12, 2023, from 5:30 p.m. to 7:00 p.m. at Hatton Hall, located at 34 E. 7th Street.
- See attached summary of meeting provided by the applicant.
- Community Development staff attended the meeting.
- Approximately 15 residents attended the meeting.
- Residents had questions about the proposed height and layout of the home, impacts to adjoining walls and vegetation on the north side of the property, trash pickup processes, and the architecture of the building. Residents identified concerns with lighting in the alley and requested that it be paved from 13th Street to 12th Street, and expressed that they preferred a one-story building.
- Staff has received three emails in opposition to the Use Permit Standard request. Neighboring residents' concerns primarily related to the height and design of the development, and stated that it was out of character with the Maple Ash neighborhood.

PROJECT ANALYSIS

GENERAL PLAN

The site is designated Residential within the 2040 General Plan and is located within a Cultural Resource Area, which is intended to maintain the established character of a given neighborhood consistent with the densities present for that area in 2003. The site is also designated as a Cultural Resource Area in the General Plan 2050, which combined the land use and density maps into one map. The proposed development and its associated Use Permit Standard request do not include a request to modify the land use designation or density of the General Plan, and it is consistent with both the Cultural Resource Area designation and with the R-2 zoning in place as of 2003.

CHARACTER AREA PLAN

The subject property is located at the southeast corner of the Downtown Tempe/Rio Salado/ASU/Northwest Neighborhood Character Area. More specifically, it is located within the Northwest Neighborhoods subsection of the Character Area, in the Maple-Ash neighborhood. As a custom, single-family residential project, the proposed development is exempt from design review in the entitlement process. The project aligns with the Character Area Plan by providing doors and porches and related lighting oriented toward the adjacent alley, which both activates and increases security of the alleyway. These design considerations increase neighborhood visibility and safety and promote safe design and creative parking solutions through active use of the alley. The architectural form guarantees permanence through durability, usefulness, and compatibility and does not rely on landscape elements to hide or screen architectural form. The proposed development demonstrates compliance with and implements the Character Area Plan.

ZONING

The subject property is zoned Multi-Family Residential (R-2), which permits both multi-family residential and single-family residential developments. The site was formerly the rear of a single lot comprising of the single-family residence located at 1220 S. Mill Avenue. The length and width of the property lines that resulted from the lot split meet the minimum dimensions required by the Zoning and Development Code, but are slightly less than the minimum required area for a garage of sufficient size to park two (2) vehicles when attached to a home, which necessitated the requested Use Permit Standard. The quantity of parking provided is compliant with required parking ratios for single-family residential uses. The proposed development is likewise compliant with respect to all development standards present in the R-2 zoning district, and a rezone is neither required nor requested.

USE PERMIT STANDARD

The proposed use requires a use permit standard to reduce the front yard setback from 20 feet to 16 feet to permit the construction of a single-family residential home. The applicant has provided a letter of explanation for this request that addresses the criteria for a Use Permit, described in Section 6-308 E of the Zoning and Development Code (*in italics*):

1. *Any significant increase in vehicular or pedestrian traffic.* The proposed Use Permit Standard will not increase traffic to the home. The driveway will be approximately 16 feet in length and will provide access to an attached two-vehicle garage. The driveway will be paved, and the alley will be paved from the nearest street to the northernmost property line of this development, unless otherwise improved by the adjacent Skybridge Maple development.
2. *Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions.* The setback reduction is not anticipated to generate nuisances beyond those present at the site.
3. *Contribution to the deterioration of the neighborhood or to the downgrading of property values, the proposed use is not in conflict with the goals objectives or policies for rehabilitation, redevelopment or conservation as set forth in the city's adopted plans or General Plan.* The proposed development aligns with the goals, objectives, and policies detailed in the adopted General Plan, and is consistent with the Downtown Tempe/Rio Salado/ASU, NW Neighborhoods Character Area Plan, as detailed in the analysis above. The development represents new investment into the historic Maple Ash neighborhood and is not anticipated to contribute to the deterioration of the neighborhood or to property values therein.
4. *Compatibility with existing surrounding structures and uses.* The development will front and be accessed via a public alley, a condition that is present elsewhere in the northwest neighborhoods, such as at 1217 S Maple Avenue, and 1105-1109 S McKemy Street. Likewise, numerous property owners along Mill Avenue and within the Maple Ash neighborhood utilize the alley to park their vehicles, most commonly in detached accessory buildings located at or near the property line adjacent to the public alley. Similar setback reductions are also present throughout the vicinity of the site. They include the following:
 - 1217 S. Maple Avenue, the property directly west of this site, received a Use Permit Standard on October 24, 2023, to reduce the side yard setbacks from 10' to 8' and the front yard setbacks from 20' to 16' for four (4) single-family residences to be constructed.
 - 1015 S. Farmer Avenue received a Variance on September 28, 2022, for a side yard setback reduction from 10' to 6'.
 - 1203 S. Ash Avenue received a Variance March 4, 2002, for a north street side yard setback from 25' to 8'.

- 1121 S. Ash Avenue received a Use Permit Standard for a setback reduction on March 23, 2021, from 9' to 8' for a detached accessory building.
- 1217 S. Ash Avenue received a Variance August 2, 2005, for a south side yard setback reduction from 5' to 3' for an open patio structure.
- 1220 S. Ash Avenue received a Variance July 1, 2003, for a south side yard setback reduction from 10' to 2'3" and a Variance to reduce the setback for an eave from 3' to 1'.
- 510 W. 11th Street received a Variance on May 17, 2006, for an east side setback reduction from 10' to 7'3" and the west side setback reduction from 10' to 6'4".

The proposed setback reduction is consistent and compatible with the surrounding area and with surrounding structures and uses.

5. *Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public.* The proposed development is not anticipated to generate nuisances or disruptive behavior beyond existing conditions.

The manner of conduct and the building for the proposed use will not be detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public welfare in general, and that the use will be in full conformity to any conditions, requirement or standards prescribed therefore by this code.

REASONS FOR APPROVAL:

1. The project meets the General Plan Projected Land Use and Projected Residential Density for this site.
2. The project will meet the development standards required under the Zoning and Development Code for the R-2 Zoning District.
3. The proposed project is in character with the surrounding area and meets the objectives of the Downtown Tempe/Rio Salado/ASU/NW Neighborhoods Character Area Three.
4. The proposed project meets the approval criteria for a Use Permit Standard.

Based on the information provided and the above analysis, staff recommends approval of the requested Use Permit Standard. This request meets the required criteria and will conform to the conditions.

USE PERMIT CONDITIONS OF APPROVAL:

EACH NUMBERED ITEM IS A CONDITION OF APPROVAL. THE DECISION-MAKING BODY MAY MODIFY, DELETE OR ADD TO THESE CONDITIONS.

1. This Use Permit is valid only after a Building Permit has been obtained, the required inspections have been completed, and a Final Inspection has been passed.
2. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during the building plan check process.

CODE/ORDINANCE REQUIREMENTS:

THE BULLETED ITEMS REFER TO EXISTING CODE OR ORDINANCES THAT PLANNING STAFF OBSERVES ARE PERTINENT TO THIS CASE. THE BULLET ITEMS ARE INCLUDED TO ALERT THE DESIGN TEAM AND ASSIST IN OBTAINING A BUILDING PERMIT AND ARE NOT AN EXHAUSTIVE LIST.

USE PERMIT STANDARD:

- The use permit approval shall be void if the use is not commenced or if an application for a building permit has not been submitted, whichever is applicable, within twelve (12) months after the use permit is granted or within the time stipulated by the decision-making body.

STANDARD DETAILS:

- Access to Tempe Supplement to the M.A.G. Uniform Standard Details and Specifications for Public Works Construction, at this link: <https://www.tempe.gov/government/engineering-and-transportation/engineering/standards-details> or purchase book from the Public Works Engineering Division.
- Access to refuse enclosure details DS116 and DS118 and all other Development Services forms at this link: <https://www.tempe.gov/government/community-development/building-safety/applications-forms>. The enclosure details are under Civil Engineering & Right of Way.

BASIS OF BUILDING HEIGHT: Measure height of buildings from top of curb at a point adjacent to the center of the front property line.

HISTORIC PRESERVATION: State and federal laws apply to the discovery of features or artifacts during site excavation (typically, the discovery of ancestral (human) remains or associated funerary objects). Arizona Revised Statutes [§ 41-865](#) stipulates that “any landowner with intention to disturb human remains or having unintentionally disturbed human remains shall immediately cease any activity in the vicinity of the remains and shall notify the Arizona State Museum Repatriation Office of the encounter. Any human remains and funerary objects shall not be further disturbed without obtaining written permission from the Repatriation Office.” Additional information about requirements related to encountering and disturbing ancestral (human) remains and funerary objects on private land can be found on the Arizona State Museum [website](#). While not required, applicants are encouraged to enlist the services of a qualified archaeological firm to conduct monitoring during ground-disturbing activity on private property that is Archaeologically Sensitive (AS). Contact the Historic Preservation Officer with general questions.

TRAFFIC ENGINEERING:

- Correctly indicate clear vision triangles at driveways on the site and landscape plans. Identify speed limits for adjacent streets at the site frontages. Begin sight triangle in driveways at point 15’-0” from face of curb. Consult Intersection Sight Distance memo, available from Traffic Engineering if needed <https://www.tempe.gov/home/showpublisheddocument/6815/635323967996830000>. Do not locate site furnishings, screen walls or other visual obstructions over 2’-0” tall (except canopy trees are allowed) within each clear vision triangle.

FIRE:

- Clearly define the fire lanes. Ensure that there is at least a 20’-0” horizontal width, and a 14’-0” vertical clearance from the fire lane surface to the underside of tree canopies or overhead structures. Layout and details of fire lanes are subject to Fire Department approval.

CIVIL ENGINEERING:

- An Encroachment Permit or License Agreement must be obtained from the City for any projections into the right of way or crossing of a public utility easement, prior to submittal of construction documents for building permit.
- Maintain a minimum clear distance of twenty-four (24) feet between the sidewalk level and any overhead structure.
- All existing overhead utilities on or adjacent to site must be placed underground, including street crossings, per City of Tempe Code, Section 25-120 thru 25-126 & Ord # 88.85 except for transmission lines (greater than 12.5 kv).
- Coordinate site layout with utility provider(s) to provide adequate access easement(s).
- Clearly indicate property lines, the dimensional relation of the buildings to the property lines and the separation of the buildings from each other.
- Verify location of any easements, or property restrictions, to ensure no conflict exists with the site layout or foundation design.
- 100-year onsite retention required for this property, coordinate design with requirements of the Engineering Department.

ZONING AND DEVELOPMENT CODE:

- Specific requirements of the **Zoning and Development Code (ZDC)** are not listed as a condition of approval but will apply to any application. To avoid unnecessary review time and reduce the potential for multiple plan check submittals, become familiar with the ZDC. Access the ZDC through www.tempe.gov/zoning or purchase from

Community Development.

LANDSCAPE:

- Trees shall be planted a minimum of 16'-0" from any existing or proposed public utility lines. The tree planting separation requirements may be reduced to no less than 8'-0" from utility lines upon the installation of a linear root barrier. Per Detail T-460, the root barrier shall be a continuous material, a minimum of 0.08" thick, installed to a minimum depth of 4'-0" below grade. The root barrier shall extend 6'-0" on either side of the tree parallel to the utility line for a minimum length of 12'-0". Final approval is subject to determination by the Public Works, Water Utilities Division.

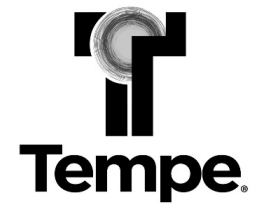
DUST CONTROL: Any operation capable of generating dust, include, but not limited to, land clearing, earth moving, excavating, construction, demolition and other similar operations, that disturbs 0.10 acres (4,356 square feet) or more shall require a dust control permit from the Maricopa County Air Quality Department (MCAQD). Contact MCAQD at <http://www.maricopa.gov/aq/>.

HISTORY & FACTS:

November 26, 1894	Subject site and surrounding area is annexed into Tempe.
July 10, 1924	The Common Council of the Town of Tempe approved the Park Tract Plat, establishing streets from 10 th Street to 13 th Street, and from Mill Avenue to the railroad tracks west of Ash Avenue. The subject site was included in Lot 12 of this subdivision.
1939	The Butler House Property is developed with a single-family residential home.
June 10, 2004	The Butler House Property is designated an Historic Property by the City Council.
November 16, 2021	Property owner submits a Building Permit application to demolish the Butler House at 1220 S Mill Avenue. The application is denied pending evaluation and action by the Historic Preservation Commission.
December 8, 2021	The Historic Preservation Commission denied the request for a demolition, which prohibited the demolition of the structure for 180 days.
April 28, 2022	City Council approves Resolution R2022.54 to accept a façade conservation easement and to waive fees for a lot split and zoning map amendment for the Butler House, located at 1220 South Mill Avenue.
August 18, 2022	City Council approves a lot split, known as the Subdivision Plat for 1220 S. Mill Avenue, creating the subject lot and dedicating utility easements.
September 22, 2022	City Council approves Ordinance O2022.36 to amend the zoning map to remove the Historic Overlay from the subject property, and designating it R-2, Multi-Family Residential.
October 12, 2023	The applicant held a neighborhood meeting.
November 14, 2023	This request is scheduled to be heard by the Development Review Commission.

ZONING AND DEVELOPMENT CODE REFERENCE:

Section 6-308, Use Permit



DEVELOPMENT PROJECT FILE

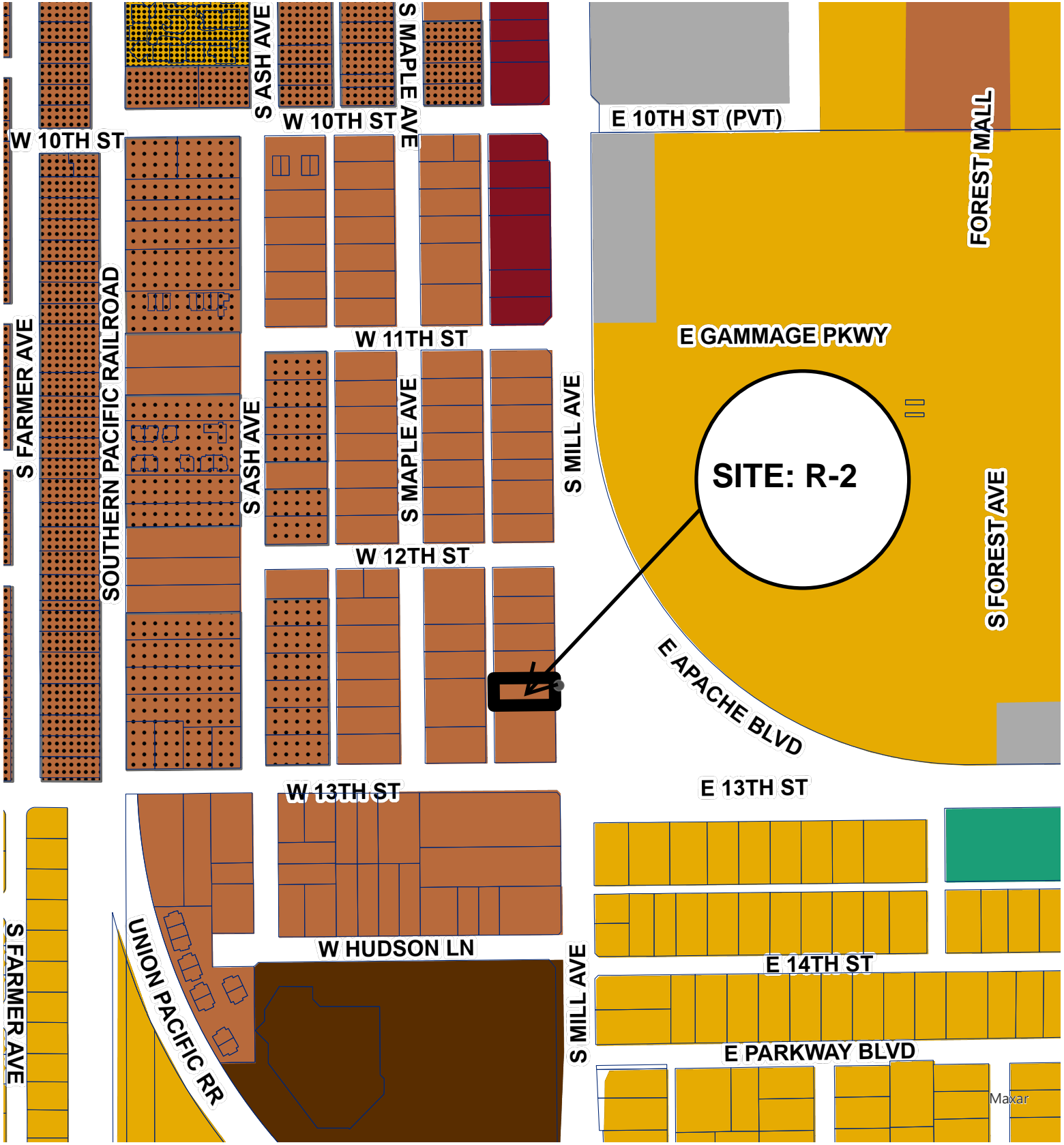
for

MILL AVENUE RESIDENCES (PL230243)

ATTACHMENTS:

- 1-3. Site Context (Location Map, Site Photos)
- 4. Applicant's Letter of Explanation
- 5-6. Site Design (Site Plan, Floor Plan)
- 7-9. Building Design (Color Elevations, Renderings)
- 10-20. Neighborhood Meeting Summary and Public Input
- 21-27. Supplemental Information
 - Signed Resolution R2022.54
 - Signed Ordinance O2022.36
 - Signed C2022-89 – Façade Conservation Easement

MILL AVE RESIDENCES



- City Center (CC)
- Mixed Use Educational (MU-ED)
- Residential/Office (RO)
- Single-Family Residential (R1-6)
- Single-Family Residential Planned Area Dev (R1-PAD)
- Multi-Family Residential (R-2)
- Multi-Family Residential Restricted (R-3R)

- Multi-Family Residential Limited (R-3)
- Multi-Family Residential General (R-4)
- Parcels

Twelve Point
CenterlineSubType
ADOT

- Canal
- Monument
- Private
- Railroad
- Street
- <all other values>

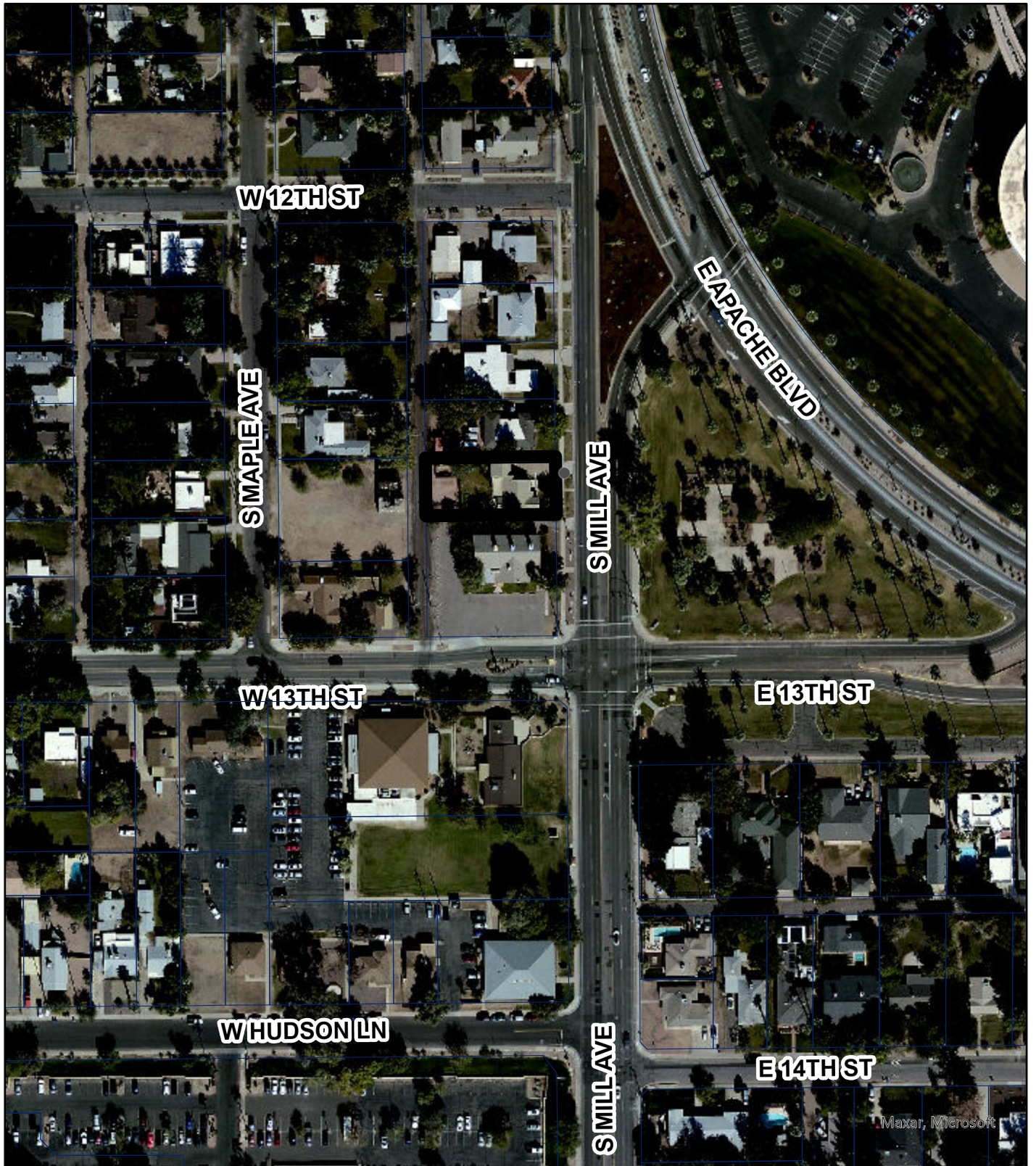




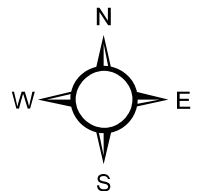
Tempe

PL230243


MILL AVE RESIDENCES



Aerial Map





 NORTH
 SCALE: 1" = 20'-0"

CONTEXT PLAN

Morgan Taylor Homes
10045 E. Dynamite Blvd., Suite F200
Scottsdale, AZ 85262

August 14, 2023

City of Tempe
Community Development Department
31 E. 5th Street
Tempe, AZ 85281

Re: 1220 S. Mill Avenue, (AKA 1216) Tempe, Use Permit Request

TO WHOM IT MAY CONCERN:

We respectfully request a Use Permit Standard to reduce the required front yard setback and required driveway from 20' to 16' (20% reduction). The reduced setback is only necessary proximate to the proposed two-car garage for a single-family detached residence, see the proposed architectural plans. The home will be similar in size and character to other homes within the Maple and Ash Neighborhood. The property will comply with all height, setbacks and lot coverage as required in the R2 Zoning Designation. The home will not produce any more than typical vehicular or pedestrian traffic. The residence will not produce out of the ordinary emissions of odor, dust, gas noise, vibration, smoke, heat, or glare. This proposal will be a contribution to the fabric of the community as well as help maintain or improve property values. The architectural character will be compatible and complementary to the neighborhood.

If you have any questions regarding this request, please contact me at [REDACTED]
or [REDACTED]

Sincerely,

[REDACTED]
Steve Cross

PROJECT DATA

DESIGNER / BUILDER
MORGAN TAYLOR HOMES
10045 E DYNAMITE BLVD, SUITE F200
SCOTTSDALE AZ 85262
PHONE: (602)462-0462
CONTACT: STEVE CROSS
EMAIL: STEVE.CROSS@MORGANTAYLORHOMES.COM

PROJECT DATA
ADDRESS: 1220 SOUTH MILL AVENUE
TEMPE, AZ 85281
1220 S MILL AVENUE, LOT 1)

COMMONLY KNOWN AS THE 'BUTLER HOUSE' PROPERTY, WITH A HISTORIC PROPERTY OVERLAY LISTED ON THE TEMPE HISTORIC PROPERTY REGISTER

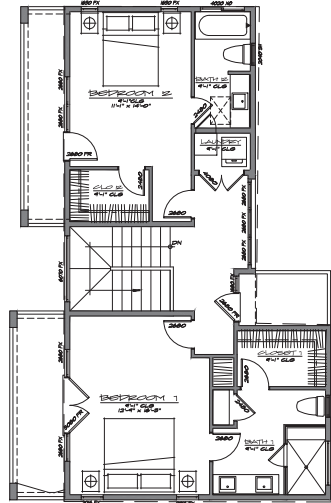
LEGAL DESCRIPTION:
A REPLAT OF LOT 12, BLOCK 3 OF PARK TRACT AS RECORDED IN BOOK 13, PAGE 21, MARICOPA COUNTY RECORDER, ALSO BEING PART OF THE NORTHWEST QUARTER OF SECTION 22, TOWNSHIP 1 NORTH, RANGE 4 EAST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA

TAX ASSESSORS PARCEL NUMBER: 132-48-154
(A PART OF 132-48-042)
ZONING: R-2
PARCEL AREA: 3,667 SQ. FT. (0.086 ACRES)
SUBDIVISION: 1220 S MILL AVENUE
LOT #:

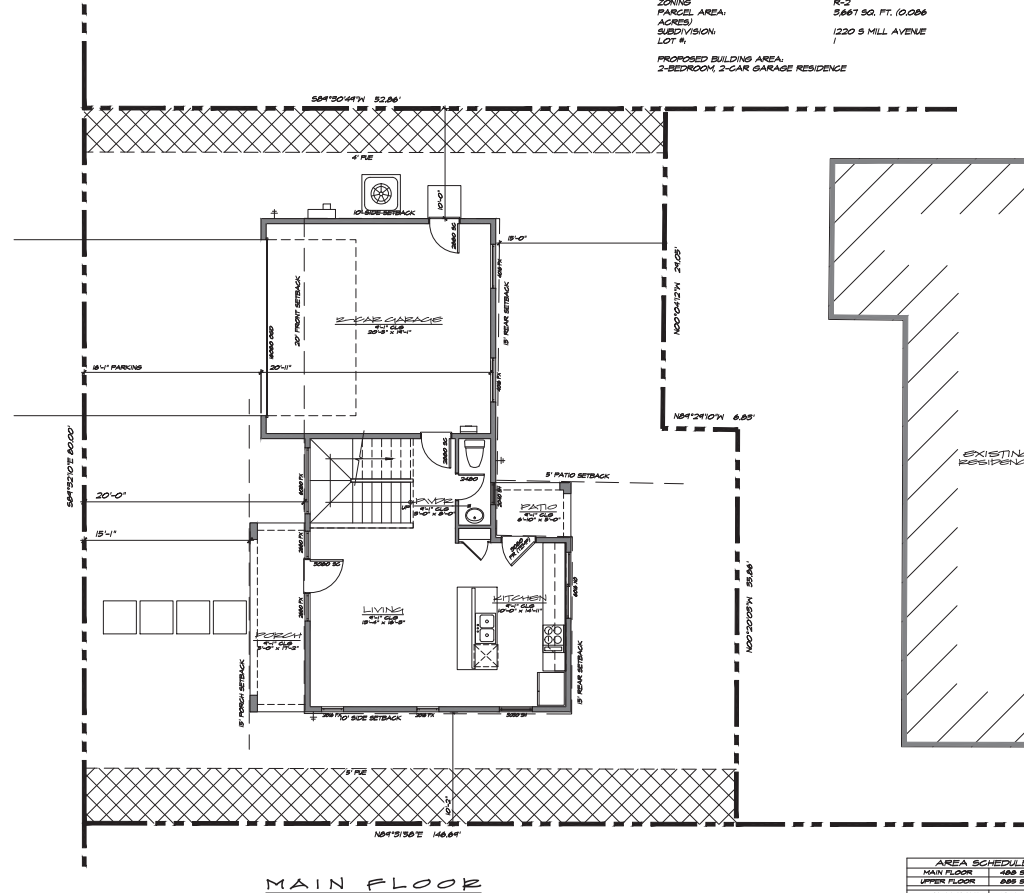
PROPOSED BUILDING AREA:
2-BEDROOM, 2-CAR GARAGE RESIDENCE

REQUEST
WE RESPECTFULLY REQUEST A USE PERMIT STANDARD TO REDUCE THE REQUIRED FRONT YARD SETBACK AND REQUIRED DRIVEWAY FROM 20' TO 16' (20% REDUCTION). THE REDUCED SETBACK IS ONLY NECESSARY PROXIMATE TO THE PROPOSED TWO-CAR GARAGE FOR A SINGLE-FAMILY DETACHED RESIDENCE. SEE THE PROPOSED ARCHITECTURAL PLANS. THE HOME WILL BE SIMILAR IN SIZE AND CHARACTER TO OTHER HOMES WITHIN THE MAPLE AND ASH NEIGHBORHOOD. THE PROPERTY WILL COMPLY WITH ALL HEIGHT, SETBACKS AND LOT COVERAGE AS REQUIRED IN THE R2 ZONING DESIGNATION. THE HOME WILL NOT PRODUCE ANY MORE THAN TYPICAL VEHICULAR OR PEDESTRIAN TRAFFIC. THE RESIDENCE WILL NOT PRODUCE OUT OF THE ORDINARY EMISSIONS OF COOK, DUST, GAS, NOISE, VIBRATION, SMOKE, HEAT, OR GLARE. THIS PROPOSAL WILL BE A CONTRIBUTION TO THE FABRIC OF THE COMMUNITY AS WELL AS HELP MAINTAIN OR IMPROVE PROPERTY VALUES. THE ARCHITECTURAL CHARACTER WILL BE COMPATIBLE AND COMPLEMENTARY TO THE NEIGHBORHOOD.

IF YOU HAVE ANY QUESTIONS REGARDING THIS REQUEST, PLEASE CONTACT STEVE CROSS AT (602)462-0462 OR STEVE.CROSS@MORGANTAYLORHOMES.COM



UPPER FLOOR

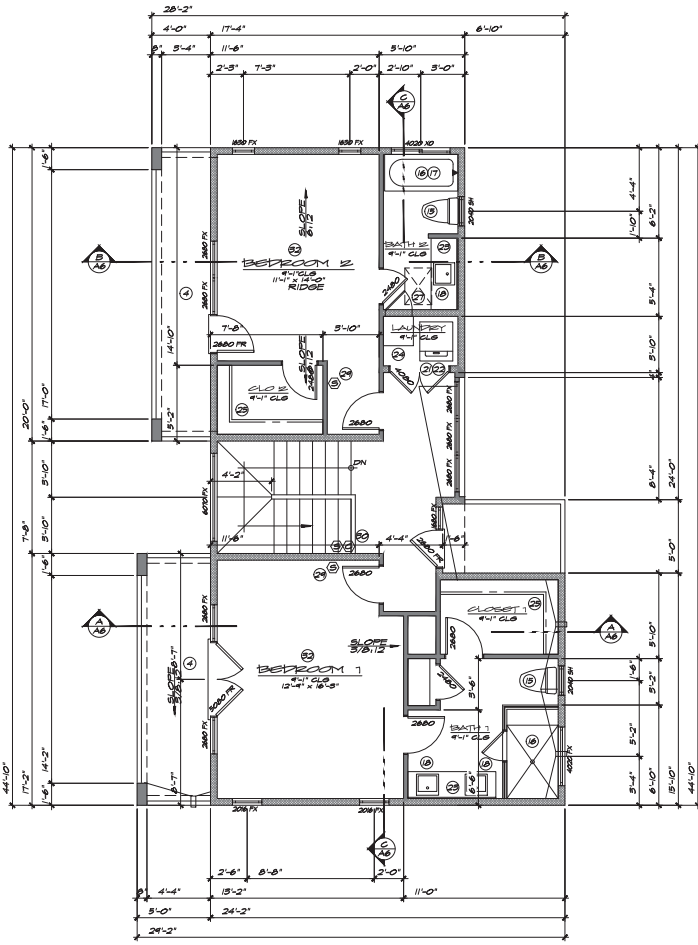


MAIN FLOOR

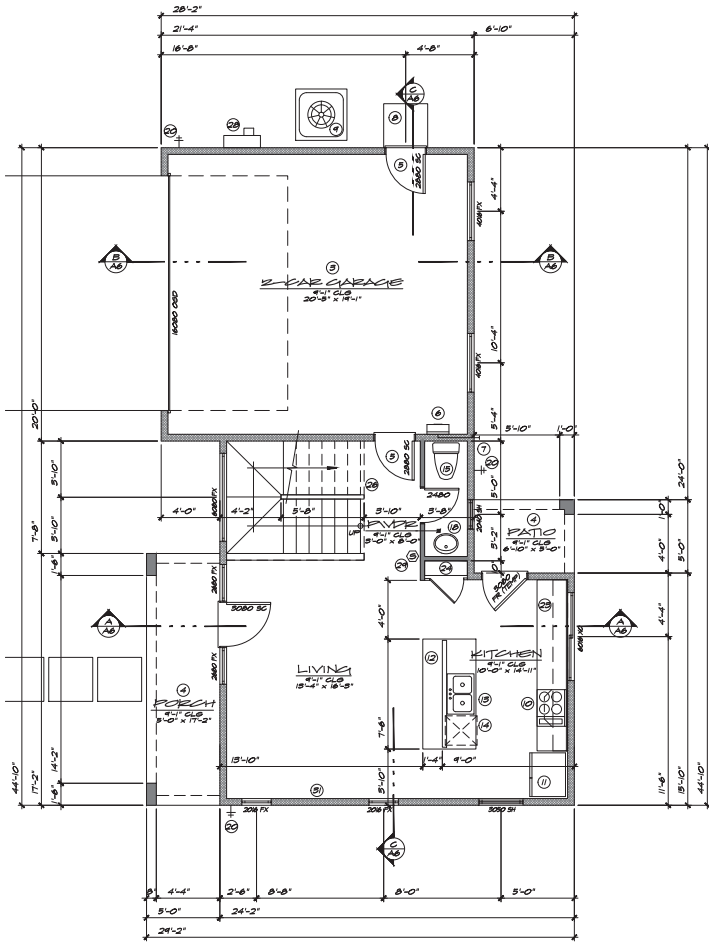


FLOOR PLAN
SCALE: 3/16" = 1'-0"

AREA SCHEDULE	
MAX FLOOR	468 SQ. FT.
UPPER FLOOR	688 SQ. FT.
TOTAL LIVABLE	1174 SQ. FT.
2-CAR GARAGE	400 SQ. FT.
PORCH	66 SQ. FT.
PATIO	17 SQ. FT.
UNDER ROOF	188 SQ. FT.
FOOTPRINT	1089 SQ. FT.
BUILDING HEIGHT	20'-0"
LOT AREA	3667 SQ. FT.
COVERAGE	29.4%
MAX COVERAGE	40% (R-2)
MAX FOOTPRINT PER POSSIBLE	1700 SQ. FT.



Second Floor Plan
1/4" = 1'-0"



First Floor Plan
1/4" = 1'-0"

- NOTES**
GENERAL INFORMATION
- INSULATION: R-38 BLOW-IN @ ROOF - UNO, ON PLAN; R-21 BATT @ EXT. WALLS - UNO, ON PLAN
 - PROVIDE R-11 BATT 2"X WALL INSULATION BETWEEN GARAGE & ALL LIVABLE SPACES
 - PROVIDE 5/8" TYPE 'X' GYPSUM BOARD ON WALLS & CEILING IN GARAGE PER CODE REQUIREMENTS
 - MAINTAIN A MAXIMUM SILL HEIGHT OF 44" IN BEDROOM ESCAPE WINDOWS
 - SEE COVER SHEET FOR GENERAL NOTES AND SPECIFICATIONS. SEE DETAIL SHEETS FOR STANDARD CONSTRUCTION DETAILS
 - PROVIDE 2"X INSULATION AT HALL LOCATIONS SEPARATING CONDITIONED FROM NON-CONDITIONED AREAS
 - PROVIDE FIRE / DRAFT STOPS IN ALL WALLS GREATER THAN 10'-0" IN HEIGHT & AT FIREPLACE
 - SEE SHEET ADD FOR INTERIOR ELEVATIONS
 - BOTTOM OF WINDOW ROUGH OPENINGS TO BE 3/4" OR MORE ABOVE FINISH FLOOR OR PROVIDE A GUARDRAIL AND WINDOW FALL PROTECTION PER IRC SECTION R512
 - WINDOWS AND DOORS TO BE FLASHED WITH APPROVED MATERIALS PER MANUFACTURER'S SPECIFICATIONS
 - WINDOW EGRESS: WINDOW OPERABLE FROM THE INSIDE CLEAR OPENING OF 5.0 SQ. FT. NET CLEAR OPENING 24" HIGH AND 20" WIDE W/ SILL HEIGHT NOT TO EXCEED 44"

- KEY NOTES**
- 2x4 STUDS AT 24" O.C. INTERIOR WALL W/ 1/2" GYP BD EA SIDE
 - 2x8 STUDS - PLUMBING HALL / BEARING WALL 16" O.C. INTER. OCCURS ON PLAN. 2x12 JOIST
 - PROVIDE ONE LAYER 5/8" TYPE 'X' GYPSUM BOARD AT WALLS AND CEILING IN GARAGE
 - PROVIDE 1/2" MOISTURE RESISTANT GYPSUM BOARD AND MOISTURE PROTECTIVE BARRIER AT ALL NET WALLS. AT BUILDING EXTERIOR USE 1/2" SOFFIT BOARD W/ WATER RESISTANT FACE PAPER
 - 1/2" THICK SOLID CORE DOOR FILL - GLOSING TIGHT FITTING GASKETS & SNEEZ
 - TANKLESS WATER HEATER AND SOFT WATER LOOP - INSTALL PER MANUFACTURER'S SPECS
 - 1/4" P RELIEF LINE TO BE FULL SIZE STEEL PIPE OR HARD DRAWN COPPER TIEING TO THE EXTERIOR AND TERMINATING IN A DOWNWARD POSITION AT A MINIMUM 8' ABOVE GRADE PER IRC SECTION R403.6.1
 - PROVIDE A WINDOW 36"x36" CONCRETE LANDING @ EACH EXTERIOR DOOR
 - CONCRETE A.C. COMPRESSOR PAD - VERIFY LOCATION WITH MECHANICAL
 - RANGE OVEN W/ MICROWAVE & VENT HOOD
 - REFRIGERATOR / FREEZER - PRE-PLUMB FOR ICE MAKER
 - KITCHEN ISLAND W/ BASE CABINETS BELOW
 - DOUBLE SINK W/ DISPOSAL
 - DISHWASHER - PROVIDE APPROVED AIR GAP
 - 1/4" GALV. FLUSH WATER CLOSET PROVIDE A (MIN) 15" ON EACH SIDE & 24" (MIN) CLEAR IN FRONT
 - MOISTURE RESISTANT GYP. BD. @ WALL W/ TILE MARBLE OR EQUAL TO 1/2" ADRY DRAIN
 - SHOWER TUB COMBO - SEE SPECS FOR SIZE
 - SINK WITH 40" HIGH MIRROR ABOVE AND 14"x36" RECESSED M/C AS SHOWN (AT +40")
 - HOSE BIB W/ BACK FLOW PREVENTION
 - HOSE BIB W/ BACK FLOW PREVENTION & SHUT OFF VALVE
 - STACK WASHER LOCATION - PROVIDE WATER HAMMER ARRESTOR
 - STACK ELECTRIC DRYER W/ 4" VENT THROUGH ROOF W/ RAINGAP NOT TO EXCEED 15'-0" W/ (2) 40" OFFSETS INSTALL PER IRC G243.4
 - BASE CABINET W/ COUNTER TOP PER OWNER
 - 2" UPPEERS AS SHOWN
 - 5 SHELVES EQUALLY SPACED AT A MINIMUM 14" SEPARATION
 - ROD AND SHELF SYSTEM AT CLOSET PER SPECS
 - LINE OF SOFFIT / CEILING CHANGE - 0" TYP. UNO. PER PLAN
 - 2x2x8" ATTIC ACCESS W/ INSUL. DAM + WEATHER STRIPPED AND INSULATED EQUIVALENT TO ATTIC ELECTRICAL SERVICE PANEL AND METER
 - CEILING/HALL MOUNTED SMOKE ALARM WIRED TO HOUSE WIRING
 - CELLING/HALL MOUNTED CARBON MONOXIDE SMOKE ALARM WIRED TO HOUSE WIRING
 - PROVIDE ADDITIONAL SUPPORT BLOCKING AT TELEVISION VERIFY HEIGHT AND SIZE
 - ALL BEDROOM ESCAPE WINDOWS SHALL COMPLY WITH THREE CONDITIONS 1) THE OPERABLE AREA SHALL BE 5.7 SQ. FT. OR GREATER, 2) SHALL MEET A MINIMUM 24" HEIGHT AND 20" WIDTH, 3) 44" MAX FROM FINISH FLOOR TO FINISH WINDOW OPENING

AREA SCHEDULE

MAIN FLOOR	488 SQ. FT.
UPPER FLOOR	288 SQ. FT.
TOTAL LIVABLE	1074 SQ. FT.
2-CAR GARAGE	280 SQ. FT.
PORCH	88 SQ. FT.
PATIO	17 SQ. FT.
LANDSCAPE	188 SQ. FT.
FOOTPRINT	1058 SQ. FT.
BUILDING HEIGHT	28'-0"
LST AREA	5867 SQ. FT.
COURTYARD	2450
MAX COVERAGE	488 (R-2)
MAX FOOTPRINT	1700 SQ. FT.

23-008

DATE	8/9/2023
REVISION	
DESCRIPTION	1 DRIVE EXTENSION
REV.#	

MORGAN TAYLOR HOMES
10045 E. Dynamite Blvd. Suite F200
Scottsdale, AZ 85262
TEL: (480)626-1555

Mill Ave Residence
1220 S Mill Ave
Tempe, AZ 85281
APN 132-45-134

DATE: 7/31/2023
DRAWN BY:
Floor Plan

A2



8/10/2023 10:42 AM
C:\Users\morgantaylor\Documents\23-008\23-008.dwg



REAR ELEVATION
SCALE: 3/16"=1'-0"



LEFT ELEVATION
SCALE: 3/16"=1'-0"



FRONT ELEVATION
SCALE: 1/4"=1'-0"



RIGHT ELEVATION
SCALE: 1/4"=1'-0"





ROOF PLAN
SCALE: 1/4"=1'-0"

Neighborhood Meeting Summary-1216 S. Mill Avenue

Neighborhood meeting was at Hatton Hall, October 12, 2023 from 5:30-7:00 PM. Hatton Hall is located at 34 E. 7th Street, Tempe, AZ 85281

Eight people signed into the meeting. A copy of the sign-in sheet will be provided. Approximately 15 people were in attendance.

Color 24X36 renderings of the Site Plan, Elevations and Floor Plan were displayed. Reduced 8”X11” renderings of the same were mailed to residents and neighborhood groups within 600 ft. of the subject property.

Discussions centered on about five subjects:

- Two-stories verses one-story.
- The architectural character of the eclectic neighborhood.
- Side and rear yard fencing.
- The possibility to preserve the perimeter tree to the North.
- Alley Access

██████████ the neighbor to the West
Blake Mc Kee, Sky Bridge, Maple and Ash

Looks great, thanks for sharing. Happy to give that opinion to anyone that'll listen.

██████████ - the neighbor to the North
Bryan Sandell

Interesting build, figure progress is good. Kills some of the privacy factor once I do build my backyard out. Questions or concerns would be more along the property line. Got some beautiful trees that would help keep privacy in place. Open to discuss wall options, as I am looking to fence in the backyard. Okay with a two-story to the side of my property. Maybe an on-site discussion might need to happen.

██████████, adjacent neighbor to the East.
Henry Wong

We have spoken with Henry a few times prior to the neighborhood meeting. We exchanged emails prior to the neighborhood meeting. He was gracious to meet at our office as well.

The two issues Henry brought up were sunlight blocking and construction noise. He would prefer a single-story home.

We will cooperate with Henry regarding installation of sewer and water utilities.

Construction noise is regulated by City Ordinance.

We explained that we are not asking for exceptions to rear yard setback or side yard setbacks. The proposed rear yard abuts Henry's rear yard. Henry's rear yard has approximately the same setbacks as the proposed rear yard setbacks. Henry was appreciative that the proposed rear yard setbacks would not be reduced.

The proposed height of the home is slightly higher than 25 ft., where 30 ft. is allowed. This should help a little with sunlight exposure.

We were very respectful of window placement on the rear wall that is visible from Henry's rear yard. Many of the windows are placed high in the bathrooms and garage. The second story balcony is small. Henry was appreciative of the window configurations. Larger balconies were reserved for the front yard, not visible from Henry's home.

Henry spoke of encroaching in the required front yard to increase the footprint of the home so a single-story could be constructed in lieu of a two-story. We tried to explain that even with liberal expectations to the setback requirements on a 3,667 sq. ft. lot a viable single-story home could not be achieved. The proposed two-story home is only 1,374 sq. ft. (livable).

The Use Permit Standard proposed for a reduction of the front yard setback from 20 ft. to 16 ft., proximate to the garage is not visible from Henry's home.

Henry purchased his home from the original Subdivider Ken Mushet. Numerous disclosures were made to Henry prior to his purchase of the home. Henry knew a home could be built behind his home. Henry was provided the recorded utility easements necessary for the development of a new home. Henry had an opportunity to purchase the vacant lot. These disclosure documents are available.

The meeting space was occupied for an hour and a half. Most of the 15 attendees disperse within an hour.

SIGN-IN SHEET

1216 S. MILL AVENUE, NEIGHBORHOOD MEETING, OCTOBER 12, 2023 SIGN-IN SHEET

NAME	PROPERTY ADDRESS	EMAIL	PHONE NUMBER	COMMENTS
Christy Kirtzel	[REDACTED]	[REDACTED]	[REDACTED]	
Bryan Sandell	[REDACTED]	[REDACTED]	[REDACTED]	
Tyler Coan	[REDACTED]	[REDACTED]	[REDACTED]	
Henry Wong	[REDACTED]	[REDACTED]	[REDACTED]	
Piper LEVESQUE	C.D.T.			
Chris Jasper	City of Tempe			
Seb Pino	[REDACTED]	[REDACTED]	[REDACTED]	

From: [Christy Kimball](#)
To: [Jasper, Chris](#)
Cc: [Bryan Sandell](#); [Henry Wong](#)
Subject: 1216 S Mill Avenue NEW BUILD
Date: Thursday, October 12, 2023 12:59:54 PM



This message could be suspicious

- Similar name as someone in your company.
- This is a personal email address.

Hi Chris,

We plan to attend the neighborhood meeting today but want to make sure our feedback is captured regarding the new single-family residential build at 1216 S. Mill Ave.

We have concerns regarding the size, design, and orientation of the project. This project in no way fits the character of the neighborhood.

I understand this is the first neighborhood meeting for this project. What will the next steps be after this initial meeting?

It seems as though the project is within the zoning but they are requesting a change in setbacks. Is this the only "ask"?

Christy & Jason Kimball


From: [RR](#)
To: [Jasper, Chris](#)
Cc: [christine kimball](#)
Subject: Neighbor comment for tonight's Maple-Ash meeting on " new single-family residential building located at 1216 S Mill Avenue"
Date: Thursday, October 12, 2023 5:27:27 PM

i

This message needs your attention

- This is their first email to you.
- This is a personal email address.

Hi Chris

sorry for this late messaging, as I could not make it to the meeting as I had hoped.

The project, as is now, is clearly not in keeping with the ambience, mood and history of Maple-Ash.

Owners of property, many who never lived here, often want to commercially develop it, seeing opportunity as a mainly financial investment, being proximity to ASU - but it's up to the city to help us residents preserve what perhaps is the last of N.Tempe neighbourhoods reminding us of the great heritage of Tempe and from going quite disruptively urban.

There are quite a few properties in Maple-Ash that are poorly maintained and decrepit and need addressing, But the solution is not crass and often tasteless urbanisation. All of this is subjective -- so it is even more important that the City officials step in to harmonise the new proposals with the history and heritage of Maple-Ash.

There is still ample scope for such adjustment without affecting the ability of developer to benefit from their investment in the neighborhood. As reference, there are quite a few responsible and tasteful and thoughtful examples of very new residential development in the same neighborhood -- so it is very much do-able.

Hope the city will take the inputs of neighbors seriously and encourage the developer to constructively modify the design of this proposal - at the least make it a single story to blend more into the neighborhood.

Also will the developer be required to upgrade the alley paving? the alley is not meant as a main entrance to a main residence.

thanks Chris,

Raja
Raamans



From: [Henry Wong](#)
To: [Jasper, Chris](#)
Cc: [Henry Wong](#)
Subject: letter concerning proposed 1216 S. Mill development
Date: Tuesday, November 7, 2023 10:52:53 AM
Attachments: [letter to DRC and Planning Dept concerning 1216 S. development.pdf](#)

Hi Chris,

See attached for my comments to the Tempe DRC and Tempe City Planning Department in regards to the proposed 1216 S Mill development.

Please include the full attachment in the DRC staff report.

I would like to speak at the Nov 14th DRC 6PM meeting and will bring hard copies of slides to distribute to the DRC. Is there anything else I should know, for example do I need to fill out any forms before the Nov 14th meeting in order to speak or hand out slides, if so where can they be located at, etc?

Regards,
Henry



Dear Development Review Commission and City Planning Department,

Below is a quote from the Tempe Character Area 3 Design Guidelines “Context Matters Neighborhood Scale.”

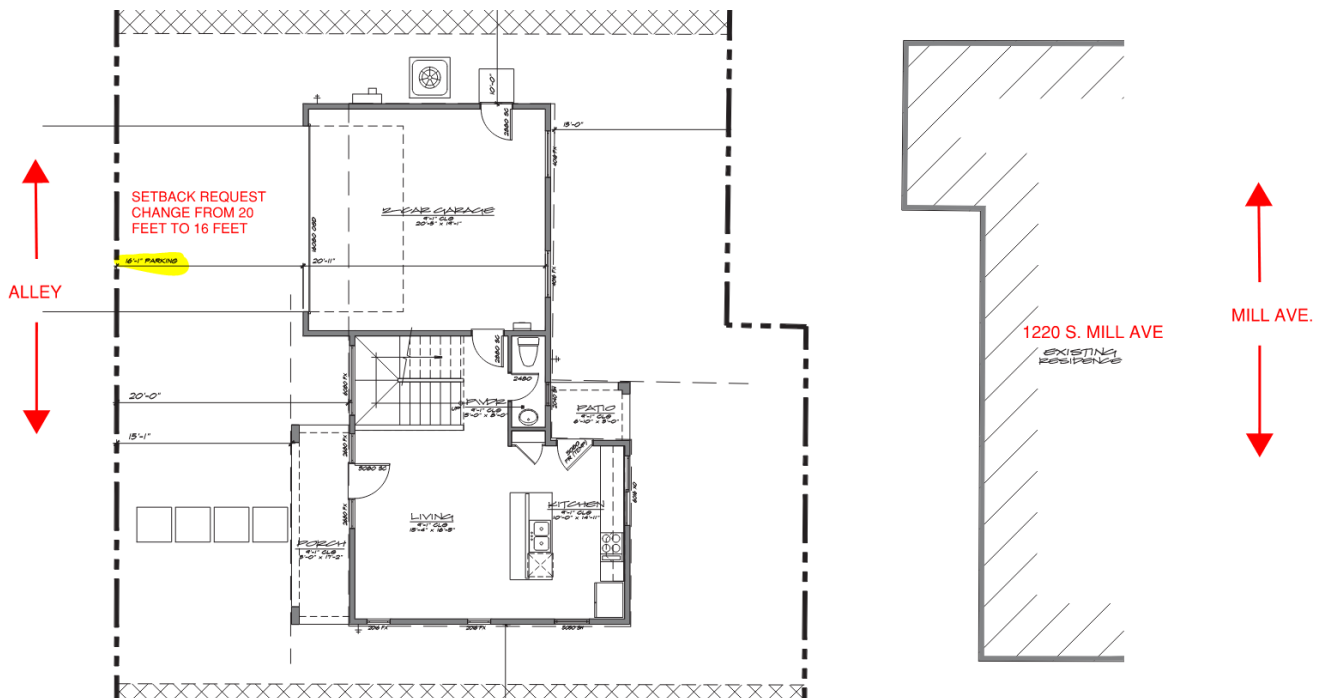
Establishing neighborhood infill projects which are compatible with existing context requires an unusual degree of sensitivity and skill.

We are requesting the DRC and Planning Dept carefully review the proposed 1216 two-story home because it will have a significant negative impact to the Butler House (1220 S. Mill) home character (look and feel), skyline, privacy, and block sky and light. The Bulter house built in 1939 is a historic building on the Temper Historic Register. Specifically, please consider the following:

- Limit the maximum height from 30 feet for a two-story home to 15 feet for a one-story home.
- If it is not possible to decrease the height, then have the city planning department take another look at what can be done to decrease impact for split lot historic homes.

Some background. My wife and I are honored to be the new owners the 1939 Butler House (1220 S. Mill) as of this year February 2023. We have always admired the historic Maple-Ash neighborhood and fully intend to keep this historic home “as is” to preserve its unique architecture, charm, and character. The neighborhood has a high number of history homes clustered into a small area, the area is verdant with green trees, vegetation, grass, most the historic homes are modest cottages. This makes the neighborhood charming to walk the streets. The adjacent proximity to ASU and downtown Tempe makes it even more special. In this way, the Butler house is unique because of its historic nature, but equally important is the surrounding environment so both need to be considered in this context.

Currently a developer has proposed to build a two-story single-family home on the split lot. See figure below for the developer plans.



Below is a picture of the Butler House “as is” looking from Mill Avenue.



Below is a “digital” study of superimposing the proposed two-story home behind the Butler house. As you can see, the two-story house towers over the Butler will have a large negative impact in terms look and feel of the historic nature.



Below is a picture from the current Butler House backyard looking west. There is beautiful open sky and trees.



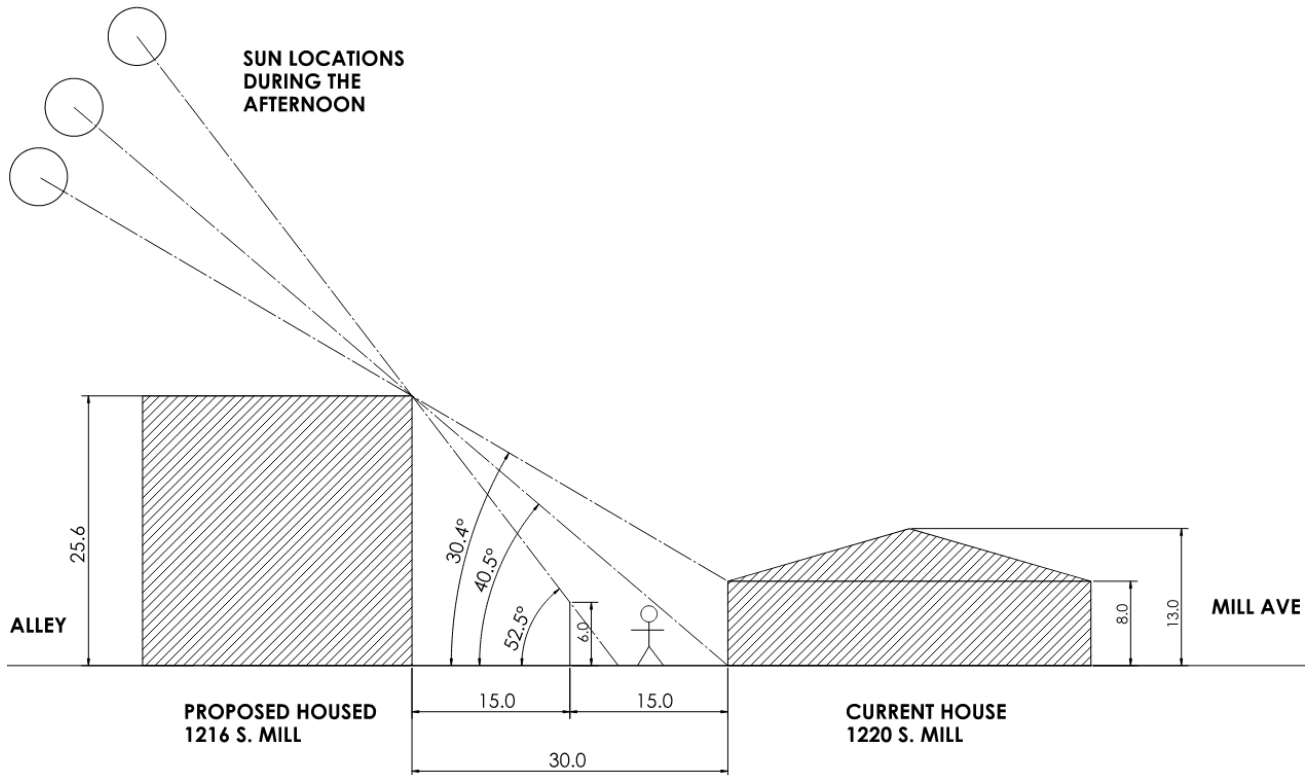
Below is a “digital” study of superimposing the proposed two-story home behind the Butler House. The western sky in early completely blocked. Shadows will engulf the backward for a significant portion of the afternoon. There is no privacy in the backyard.



After speaking to neighbors, other concerns were raised:

- The project's architectural style does not follow the Character Area 3 Design Guidelines
 - ref page 36 Context Matters Neighborhood Scale where infill projects require unusual degree of sensitivity and skill.
 - ref page 37 Neighborhood Character Principles to preserve and promote historic properties.
 - ref page 41 Landscape Principles with shade canopy and vegetation.
 - ref page 43 Housing Principles not adversely impact character of neighborhood.
 - ref page 44 Transition Principles to encourage well-designed transitions from single-family residential parcels adjacent to multi-family land use.
- There is too much house for too small a space (3600 sq foot lot). The request for decreased setback is indicative of this.
- The lack of trees, plants, and other vegetation that are signature landscape in the Maple-Ash neighborhood.
- Concerns associated with public-access alley "development" such as increased car traffic, foot/bike traffic, noise, trash containers, mail boxes, overflow resident and guest parking, etc.
- This split lot is different. Other single-family residence have structures that are alley access, but those structures are Accessory Dwelling Units (ADUs), not single-family residences with their own unique addresses.
- Potential of excessive construction noise, dust, and construction equipment parking which will infringe on neighboring properties.
- A single-story plan would be better for a more cottage-like appearance in keeping with the other homes around it with a canopy of trees and flood irrigated lots.

Below is a side view from the South looking North I created. The proposed two-story home permanently blocks the Western Skyline that would otherwise be open. Starting in the afternoon (52 degrees sun angle) the two-story home will start casting a shadow in the backyard and by mid-afternoon (30 degrees sun angle) the entire backyard will be engulfed in shadow. Street traffic noise on Mill is high. The side yards are narrow and only used for passage. The backyard at this house is the only quiet outdoor place a person could quietly read a book outside or have an enjoyable meal outside with friends and family. The two-story home would be invasive for privacy into the backyard.



We are not against development, it is important for a healthy and vibrant city. The proposed two-story development should also consider context when building next to the historic Butler house.

Regards,
Henry and Sue Wong

████████████████████
████████████████████

RESOLUTION NO. R2022.54

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA WAIVING CITY FEES FOR A SUBDIVISION PLAT, ZONING MAP AMENDMENT AND LOT AT 1220 SOUTH MILL AVENUE, AN HISTORIC DESIGNATED PROPERTY.

WHEREAS, 1220 South Mill Avenue, commonly known as the “Butler House” property, has a historic property overlay listed on the Tempe Historic Property Register; and

WHEREAS, the current property owner, Mushet Revocable Trust, and the City recognize and share a common purpose to conserve and preserve the historical and architectural value and significance of the now-existing house façade on the Butler House property; and

WHEREAS, toward this common purpose, the Mushet Revocable Trust desires to grant, convey, transfer and assign to the City the attached façade conservation easement on the now-existing Butler House property for a term of five years; and

WHEREAS, toward this common purpose, the City will initiate and process in the normal course, a subdivision lot split of the Butler House property (future lot 1 with façade conservation easement) from one lot into two lots, and for the future lot to accommodate a two-story dwelling of up to approximately 3,400 square feet, subject to the typical development standards and review process; and

WHEREAS, toward this common purpose, the City will initiate and process in the normal course, a zoning map amendment to remove the historic property overlay from the future split lot (future lot 2); and

WHEREAS, no entitlements are hereby granted to the future split lot (future lot 2) and the owner of the future split lot (future lot 2) will apply for and process any necessary permits in the normal course to construct a future dwelling unit.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, that:

1. The City Council accepts from Mushet Revocable Trust the executed façade conservation easement for the Butler House at 1220 South Mill Avenue for a term of five (5) years from June 1, 2022, to June 1, 2027, and its request to withdraw the demolition permit.
2. The City Council approves the City initiating and processing a zoning map amendment for the Butler House property.
3. The City Council approves the City initiating and processing a lot split for the Butler House property from one lot to two lots, creating a new lot with the historic home on approximately 6,800 square feet and a vacant rear lot on approximately 3,800 square feet, including an easement on the eastern lot for access and public utilities for the rear western lot.

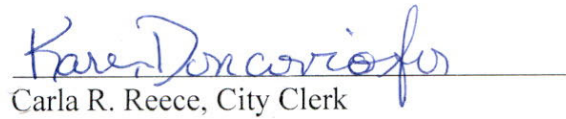
4. The City Council approves the City initiating and processing a zoning map amendment to remove the historic preservation designation from the new vacant rear lot.
5. The City Council waives all fees associated with above-described lot split and zoning map amendment for the Butler House property.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this 28th day of April, 2022.



Corey D. Woods, Mayor

ATTEST:



Carla R. Reece, City Clerk

APPROVED AS TO FORM:



Sonia M. Blain, City Attorney

REC22075-5-1-1--
Hoyp

FAÇADE CONSERVATION EASEMENT

C2022-89

Butler House Property
1220 South Mill Avenue
Tempe, Arizona

C2022-89

A. The City is authorized under Arizona's Uniform Conservation Act, Arizona Revised Statutes, Sections 33-271 through 276, to accept conservation easements to protect property significant in Arizona and Tempe history and culture.

B. The City is a political subdivision and municipal corporation of the State of Arizona whose responsibilities include the protection of the public interest by preserving architecturally significant structures within the City of Tempe.

C. The Mushet Revocable Trust warrants that it is the "Property Owner" of that certain property located at 1220 South Mill Avenue, Tempe, Maricopa County, Arizona, (the "Butler House Property"), including all improvements, fixtures and buildings thereon (the "Structures" and any reference to the Butler House Property includes all Structures.)

D. The Butler House Property is listed on the Tempe Historic Property Register; the Mushet Revocable Trust and the City recognize the historical or architectural value and significance of the Butler House Property and have the common purpose to conserve and preserve the historical and architectural value and significance.

E. The City will initiate and process a lot split and zoning map amendment for the Butler House Property contingent on the Mushet Revocable Trust granting the City of Tempe this Façade Conservation Easement and withdrawing the demolition permit for the Butler House Property.

F. Therefore, the Mushet Revocable Trust desires to grant, convey, transfer and assign to the City and the City, pursuant to the Act, desires to accept this façade conservation easement on the Butler House Property.

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and promises in this Façade Conservation Easement, the Mushet Revocable Trust, as "Grantor", hereby grants and conveys to the City of Tempe, a municipal corporation, as "Grantee", a Façade Conservation Easement for conservation purposes on "Grantor's Property," the Butler House Property, and said easement to be located over the exterior facades of the existing primary structure of Grantor's Property (the "Easement Property"), including all access necessary to evaluate and inspect the exterior façades.

1. Term: The Façade Conservation Easement shall have a term of five (5) years beginning on June 1, 2022, or until June 1, 2027.
2. Maintenance of Easement Property: The Easement Property shall be solely and exclusively maintained at all times by the Grantor, its successors and assigns owning the Grantor's Property, and shall be retained and maintained in good condition and repair and to ensure structural soundness and safety. Grantee shall have no obligation to contribute to the maintenance of the Easement Property or any portion of Grantor's property.
3. Documentation of the Exterior Condition of Easement Property. The exterior facades shall be depicted in an original set of photographs dated thirty (30) days following the date of this Easement as set forth below (collectively, the "Photographs") and filed in the Office of the City of Tempe Historic Preservation Officer, or designated successor. The exterior condition and appearance of Butler House as depicted in the Photographs (collective, the "Present Butler House") is deemed to describe their external nature as of the date thereof.
4. Inspection. To periodically observe the Easement Property, representatives of the City shall have the right to enter the Grantor's Property to inspect the exterior. This inspection will be made at a time mutually agreed upon by the Property Owner and the City.
5. Visual Access. Grantor agrees to refrain from obstructing the Easement Property from adjacent and publicly accessible view areas, such as public streets, to ensure the general public's ability to view the exterior architectural features of the Butler House Property. If the Easement Property is not visible from a public area, then the Property Owner agrees that the general public shall be given the opportunity on a periodic basis, the schedule and duration of which to be as determined by the Grantee, to view the characteristics and features of the Butler House Property which are preserved by this Easement.
6. Enforcement by Grantee. In the event that Grantor or its successors and assigns owning the Grantor's Property fail to maintain the Easement Property or ensure public visibility as required by this easement, Grantor also hereby grants Grantee and its employees and contractors a right of access, ingress and egress over and across Grantor's Property and any other right, permission, or license necessary to correct any such violation to Grantee's satisfaction; provided however, Grantee shall have no duty or obligation to undertake such actions. Grantee may exercise this right upon reasonable notice to Grantor and after providing Grantor with at least fourteen (14) days' notice to address and cure such violations.
7. Indemnification. Grantor expressly agrees to indemnify, defend and hold harmless Grantee and its Mayor, members of its Council, elected or appointed officials, agents, employees and duly authorized representatives ("Grantee's Related Parties") from any and all liability, claims, or demands on account of or arising out of Grantee's acceptance of this

easement. Notwithstanding the foregoing, nothing herein shall require Grantor to indemnify, defend or hold harmless Grantee or Grantee's Related Parties for, from or against any claim resulting from any negligent or willful act of Grantee or Grantee's Related Parties related to Grantee's acceptance of this easement. Grantor shall seek no reimbursement from Grantee for any taxes, mortgages, liens, deed to secure debt, or other obligations attaching to or constituting a lien of the Grantor's Property.

8. Running of Benefits and Burdens, Enforcement; Assignment. The terms contained in this easement shall be a covenant running with the Grantor's Property, and upon recording shall be binding on any subsequent purchaser or occupier of Grantor's Property and can be enforced or removed by Grantee; who can bring proceedings at law or in equity against the person or persons violating or attempting or threatening to violate any of these covenants, to prevent him or them from so doing, and to recover damages for such violations. The prevailing party prosecuting any proceedings at law or in equity hereunder shall have the right to recover, in addition to any damages, a reasonable sum as and for attorney's fees and court costs as determined by a court and not by a jury. Grantee's rights under this easement are personal to Grantee and may not be assigned, conveyed or encumbered. This easement shall not benefit or be enforceable by any third parties or the public.

IN WITNESS WHEREOF, Grantor has executed this Façade Conservation Easement on 16th day of April, 2022.

Mushet Revocable Trust, Grantor

By: Kenneth A. Mushet

Its: Trustee

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

The foregoing Façade Conservation Easement was acknowledged before me this 16th day of APRIL, 2022, by Kenneth A. Mushet, acting as Trustee for the Mushet Revocable Trust, who executed the foregoing instrument for the purposes therein contained.

AH Patel

Notary Public

(SEE ATTACHED
ACKNOWLEDGEMENT)

My Commission Expires: 05/10/2024

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of ORANGE

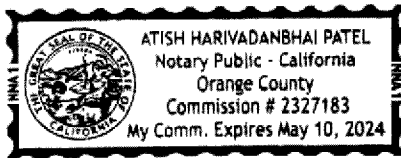
On 04/16/2022 before me, ATISH HARIVADANBHAI PATEL, NOTARY PUBLIC
Date Here Insert Name and Title of the Officer

personally appeared KENNETH A. MUSHET
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Place Notary Seal and/or Stamp Above

Signature Atish Patel
Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: FACADE CONSERVATION EASEMENT

Document Date: 04/16/2022 Number of Pages: 4/4

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

Corporate Officer – Title(s): _____

Partner – Limited General

Individual Attorney in Fact

Trustee Guardian of Conservator

Other: _____

Signer is Representing: _____

Signer's Name: _____

Corporate Officer – Title(s): _____

Partner – Limited General


Individual Attorney in Fact

Trustee Guardian of Conservator

Other: _____

Signer is Representing: _____

Easement Accepted:
The City of Tempe, Grantee

By: 
Its: Mayor

Date: May 3, 2022

ATTEST:

The City of Tempe Clerk


Carla Reece