

**CITY OF TEMPE
DEVELOPMENT REVIEW COMMISSION**

**Meeting Date: 08/23/2022
Agenda Item: 5**

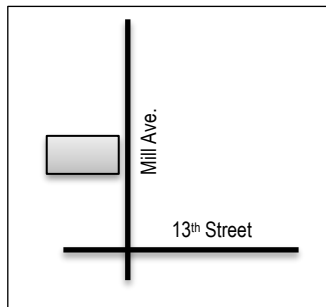
ACTION: Request a Zoning Map amendment from R-2H, Multi-Family Residential District with an Historic Overlay Property Designation and removal of a portion of the Historic Overlay Property Designation from the new rear lot within +/-0.08 acres for the BUTLER (GRAY) HOUSE property, located at 1220 South Mill Avenue. The applicant is the City of Tempe.

FISCAL IMPACT: While this ordinance change does not directly impact revenue, the planned development will result in collection of the standard development fees, calculated according to the approved fee structure at the time of permit issuance.

RECOMMENDATION: Staff – Approve, subject to conditions
Historic Preservation Commission – Approve (7-0 vote, 1 abstention, 1 absent)

BACKGROUND INFORMATION: BUTLER (GRAY) HOUSE (PL220161) consists of a request to amend the historic overlay designation of the property, and remove such overlay from the proposed new rear lot for the property. This request is being processed on behalf of the property owner, by the City of Tempe, as a result of a resolution agreement granted by the City Council (R2022.54). In return, the property owner has agreed to, and has signed and recorded a 5-year façade conservation easement over the property, to avoid any future modifications or demolition of the historic site. The request includes the following:

ZON220004 Zoning Map Amendment from “R-2(H), Multi-Family Residential District w/ Historic Overlay to “R-2, Multi-Family Residential District for the proposed new rear lot on approximately 0.086 acres.



Property Owner	Ken Mushet, Mushet Revocable Trust
Applicant	Ryan Levesque, City of Tempe
Zoning District (current/proposed)	R-2(H) / R-2
Gross / Net site area	Lot 1 = 0.086 acres (vacant) R-2 Lot 2 = 0.133 acres (Butler House) R-2(H)
Density / Number of Units	10 du/ac / 2 units max.

ATTACHMENTS: Development Project File

STAFF CONTACT(S): Ryan Levesque, Deputy Community Development Director (480) 858-2393

Department Director: Jeff Tamulevich, Community Development Director
Legal review by: N/A
Prepared by: Ryan Levesque, Deputy Community Development Director

COMMENTS:

The item before the Commission includes a request for 1220 South Mill, a zoning map amendment from “R-2(H), Multi-Family Residential District with a Historic Overlay” to “R-2, Multi-Family Residential District” for a portion of the site of approximately 0.08 acres located on the rear half of the lot, while preserving the historic Butler (Gray) House on the proposed front lot and maintaining the historic overlay designation. The subdivision lot split is not being acted on by the Commission and requires a separate action by City Council. But for reasons of the request for the Historic Overlay amendment, its important to share the plat for context of the amendment request.

The ultimate goal and objective of the historic overlay amendment is to achieve a greater level of preservation and protection for the historic Butler (Gray) House. That objective was shared with the Historic Preservation Commission, when a decision of “denial” was made by HPC when a demolition permit was brought forward back on December 8, 2021. The City was afforded a 180-day stay of any demolition on the property and was able to negotiate alternatives from demolition of the property.

By amending the historic overlay boundaries and removing it from the proposed reference rear lot, the subdivision creates an additional layer of separation from the single-family Butler (Gray) House by creating a rear property line for both new lots. As the property is zoned R-2, the rear yard setbacks for any new buildings is 15 feet on both sides. That would mean at least a 30’ separation from any dwelling proposed on the new lot from the existing home. Because the property is zoned R-2 (multifamily), the property has density rights to up to 2 dwelling units on the existing property, based on the size of the property. This property could be redeveloped or added onto in several different ways, including just attaching another dwelling as a multifamily unit, or creating a much larger footprint of a building that would no longer preserve the Butler (Gray) House. Staff believes the alternative of having a detached second dwelling, on its own lot, provides that additional protection for the historic home. This would result in less alternatives for the historic home if we are faced with another redevelopment request in the future. And the new lot provides a greater opportunity for home-ownership on a smaller and more affordable lot. The removal of this historic overlay on the rear of the property will avoid any unnecessary review of historic preservation as that portion of the property. There are a number of properties within the Maple-Ash Neighborhood and other surrounding communities that have multi-family zoning with a property that was originally constructed with a single-family home, that now have added an additional or accessory unit to the back of the property (for both historic and non-historic properties). Most of these conditions occur when a property either has a rear yard alleyway accessible for vehicles or located on corner lots where there is an additional side street. The type of infill development where the existing home is maintain and new dwelling is added behind the primary residence has been a typical tend within the neighborhood that has been more acceptable means than to redevelopment or losing a historic home.

Neighborhood Meeting:

On June 30, 2022, at 6 pm, City staff held a neighborhood meeting to discuss the Historic Overlay amendment and subdivision lot split. The meeting was held at Hatton Hall at 34 East 7th Street. Five members of the public attended the meeting. Attendees were provided a draft subdivision plat of the proposed two lots, explained the amendment to remove the rear portion of the historic overlay from the property, and provided an explanation of the intent to preserve a historic home while allowing the owner to construct an additional dwelling on the rear of the property that meets the R-2 zoning for the property. Nearby owners attended the meeting and seemed accepting of the proposal. Karyn Gitlis, in attendance, shared her concerns that she and others have concerns that the property owner shouldn't be granted this type of incentive (assistance for lot split, no payment of fees) for the property. The meeting was completed in about 45 minutes.

BACKGROUND:

When the City staff started consultation and negotiations with the property owner, Ken Mushet, we looked at various alternatives to preserving the historic home. Updates and directions were shared at monthly meeting with the Commission, including consultations with our past Historic Preservation Commission Chair, Chuck Buss. At the time, Interim Historic Preservation Officer, Robbie Aaron and Deputy Community Development Director, Ryan Levesque were involved in the majority of the discussions.

In March of 2022, a draft letter of intent was provided to the owner, providing a summary of proposed terms the City of Tempe is prepared to present to City Council to prevent the demolition of the home. The City was prepared to initiate the process to split the lot at 1220 S. Mill Avenue into two parcels, thereby creating a front parcel of approximately 6,800 square feet and a back parcel of approximately 3,800 square feet. In order to create this new plat, the City was willing to waive all administrative fees to split the property and execute any additional development entitlements that are needed to create a new parcel. The City was also willing to procure the requisite survey and technical engineered drawings and record the new plat with the Maricopa County Recorder's Office, upon the standard plat approval process at a future Regular City Council Meeting. The City would also process an amendment to the Historic Designation Overlay on the property, thus removing the designation from vacant new lot that does not contain the Butler House, in the form of a rezoning process. The City intended to engage in the required public notification process for the historic overlay change, which includes legal notification to neighboring properties and the placement of a hearing sign on the property.

In exchange for the proposed City splitting the lot and amending the historic overlay, Ken Mushet, the property owner, agreed to allow the city a façade conservation easement to the City of Tempe for a period of 5 years. Although no financial compensation was provided to the property owner, the easement has a value back to the City and the surrounding neighborhood, that ensures preservation of historic home, unlike any other protections the City has to consider.

On April 28, 2022, at the Regular City Council meeting, Council approved Resolution No. R2022.54, authorizing the waiving of city fees for processing of a subdivision plat for a new lot, zoning map amendment to remove a portion of the historic overlay, at 1220 South Mill Avenue, an historic designated property. In return, city accepted the signed Façade Conservation Easement for a term of 5 years. Both the resolution and the now recorded façade conservation easement are provided as attachments to this report.

Staff recommends the Commission approve the requested zoning map amendment for the Historic Overlay on the property. The decision will then be forwarded to the Development Review Commission and future City Council hearing before a final decision is made.

ZONING

Section 6-304 C.2. Approval criteria for Zoning amendment (*in italics*):

1. *The proposed zoning amendment is in the public interest.*
2. *The proposed zoning amendment conforms with and facilitates implementation of the General Plan.*

REASONS FOR APPROVAL

The site will comply with the existing development standards required under the Zoning and Development Code. The Zoning Map Amendment, with the removal of a portion of the historic overlay from the rear of the property will allow the agreement to maintain a 5-year façade conservation easement over the Butler (Gray) House, and allow the rights of an R-2 zoned property to build a second detached dwelling unit off the rear of the property. Thus, creating and added protection and barrier from the historic home. Based on the information provided and the above analysis, staff recommends approval of the requested Zoning Map Amendment. This request meets the required criteria and will conform to the conditions.

**ZONING AMENDMENT
CONDITIONS OF APPROVAL:**

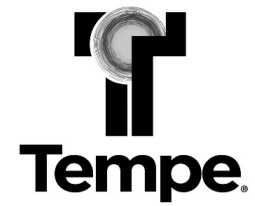
EACH NUMBERED ITEM IS A CONDITION OF APPROVAL. THE DECISION-MAKING BODY MAY MODIFY, DELETE OR ADD TO THESE CONDITIONS.

1. The property owner(s) shall sign a waiver of rights and remedies form. By signing the form, the Owner(s) voluntarily waive(s) any right to claim compensation for diminution of Property value under A.R.S. §12-1134 that may now or in the future exist, as a result of the City's approval of this Application, including any conditions, stipulations and/or modifications imposed as a condition of approval. The signed form shall be submitted to the Community Development Department no later than 30 days from the date of City Council approval, or the Zoning Map Amendment approval shall be null and void.

HISTORY & FACTS:

July 10, 1924	The Subdivision Plat for "Park Tract" was approved by the Common Council of the Town of Tempe.
November 16, 2021	Building permit application filed for demolition of the Butler (Gray) House at 1220 South Mill Avenue, a property listed on local Tempe Register with an Historic Overlay.
December 8, 2021	The Historic Preservation Commission denied the request for a demolition permit (BP212611) for the Butler House, located at 1220 S. Mill Avenue. Per § 14-7(h) of the Tempe City Code, "If a request for a proposed demolition or removal is denied by the Commission, no demolition or removal will be permitted for a period of no more than one hundred eighty (180) days from the date on which the request was denied.
April 28, 2022	City Council approves Resolution No. R2022.54, authorizing the waiving of city fees for processing of a subdivision plat for a new lot, zoning map amendment to remove a portion of the historic overlay, at 1220 South Mill Avenue, an historic designated property. In return, city accepts the signed Façade Conservation Easement for a term of 5 years.
June 30, 2022	City staff holds a neighborhood meeting at 6 pm on June 30, 2022, at the Hatton Hall, 34 East 7 th Street.
August 10, 2022	Historic Preservation Commission recommended approval for the request for a Zoning Map Amendment, removing a portion of the Historic Overlay on 1220 South Mill Avenue, for the proposed new rear lot.
August 18, 2022	City Council Regular meeting for this request (Amended Subdivision lot split).
August 23, 2022	Development Review Commission scheduled public hearing for the request for a Zoning Map Amendment, removing a portion of the Historic Overlay on 1220 South Mill Avenue, for the proposed new rear lot.
September 8, 2022	City Council scheduled introduction and first public hearing for a Zoning Map Amendment, removing a portion of the Historic Overlay on 1220 South Mill Avenue, for the proposed rear lot.
September 22, 2022	City Council scheduled second and final public hearing for a Zoning Map Amendment, removing a portion of the Historic Overlay on 1220 South Mill Avenue, for the proposed rear lot.

ZONING AND DEVELOPMENT CODE REFERENCE:
Section 6-304, Zoning Map Amendment

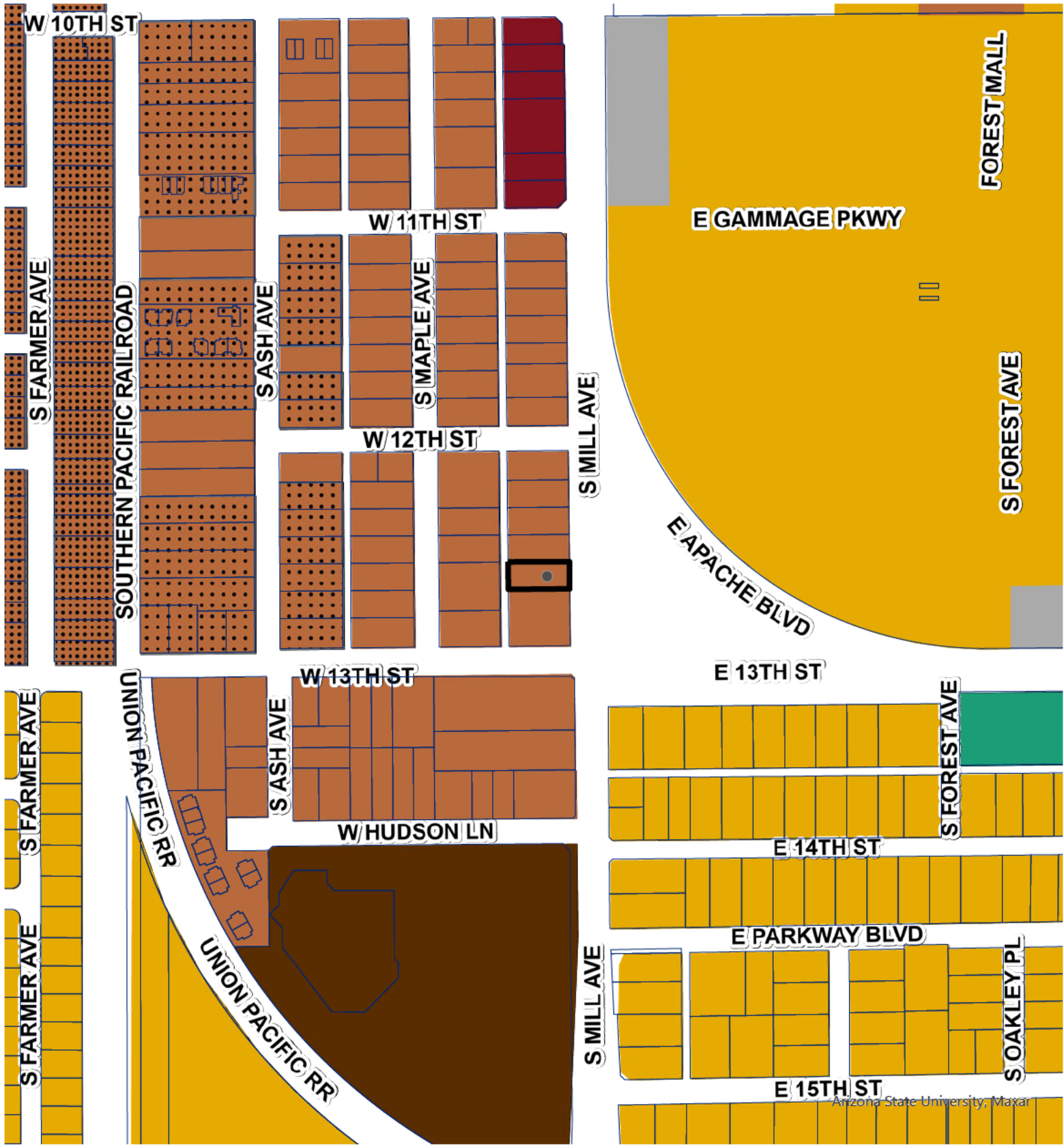


PROJECT FILE
for
1220 SOUTH MILL
(PL220161)

ATTACHMENTS:

1. Location Map
2. Aerial
- 3-4. Subdivision Plat for 1220 South Mill
- 5-7. Tempe Historic Property Register info for Butler (Gray) House
- 8-9. Resolution No. R2022.54
- 10-14. Façade Conservation Easement for Butler (Gray) House

1220 South Mill



- | | | | |
|--|----------------------------------|--|--|
| | City Center (CC) | | Multi-Family Residential (R-2) |
| | Mixed Use Educational (MU-ED) | | Multi-Family Residential Restricted (R-3R) |
| | Residential/Office (RO) | | Multi-Family Residential Limited (R-3) |
| | Single-Family Residential (R1-6) | | ATTACHMENT 1 Residential General (R-4) |

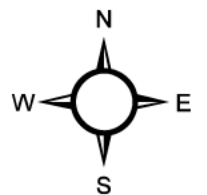


1220 South Mill Avenue

PL220161



Aerial Map



SUBDIVISION PLAT
FOR

1220 S. MILL AVENUE

A REPLAT OF LOT 12, BLOCK 3 OF PARK TRACTAS RECORDED IN BOOK 13, PAGE 27, 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

DEDICATION:

THAT MUSHET REVOCABLE TRUST, AS OWNER, HAS SUBDIVIDED UNDER THE NAME OF "1220 S. MILL AVENUE", LOT 12, BLOCK 3 OF PARK TRACT, A PART OF THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 1 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, AND HEREBY PUBLISHES THIS PLAT OF "1220 S. MILL AVENUE", AND DECLARES THAT SAID PLAT SETS FORTH THE LOCATION AND GIVES THE DIMENSIONS OF THE LOTS AND EASEMENTS CONSTITUTING SAME, AND THAT THE LOTS AND SHALL BE KNOWN BY THE NUMBER OR NAME GIVEN EACH RESPECTIVELY ON SAID PLAT AND HEREBY DEDICATES TO THE CITY OF TEMPE FOR PUBLIC USE SUCH STREETS AND EASEMENTS AS SHOWN ON SAID PLAT AND IS INCLUDED IN THE ABOVE DESCRIBED PREMISES.

OWNER AUTHORIZATION:

MUSHET REVOCABLE TRUST:

BY: _____ DATE: _____

IT'S: _____

TRUST DISCLOSURE:

THE MUSHET REVOCABLE TRUST ESTABLISHED JULY 5, 2016 HAS NOT BEEN REVOKED AND IS STILL IN EFFECT. FURTHER BE ADVISED THAT SAID TRUST AGREEMENT HAS NOT BEEN FURTHER AMENDED SINCE _____

BENEFICIARY: _____

ADDRESS: _____

BENEFICIARY: _____

ADDRESS: _____

BENEFICIARY: _____

ADDRESS: _____

TRUSTEE: _____ DATE: _____

TRUSTEE: _____ DATE: _____

LEGAL DESCRIPTION (PRIOR TO SUBDIVISION)

LOT 12, BLOCK 3, PARK TRACT, ACCORDING TO THE PLAT OF RECORD IN THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, RECORDED IN BOOK 13 OF MAPS, PAGE 27, AND BEING A PART OF THE NORTHWEST QUARTER OF SECTION 22, TOWNSHIP 1 NORTH, RANGE 4 EAST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA.

RATIFICATION:

BY THIS RATIFICATION _____ DULY AUTHORIZES SIGNATORY OF _____ ACKNOWLEDGES THE RESPONSIBILITIES DEDICATED HEREIN.

BY: _____ DATE: _____

IT'S: _____

ACKNOWLEDGMENT:

ON THIS _____ DAY OF _____, 20____, BEFORE ME, THE UNDERSIGNED PERSONALLY APPEARED, _____, WHO ACKNOWLEDGED HIMSELF/HERSELF TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE INSTRUMENT WITHIN, AND WHO EXECUTED THE FOREGOING INSTRUMENT FOR THE PURPOSES HEREIN CONTAINED.

IN WITNESS WHEREOF, I HEREUNTO SET MY HAND AND OFFICIAL SEAL.

BY: _____

NOTARY PUBLIC _____ MY COMMISSION EXPIRES _____

APPROVALS:

APPROVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA ON THIS _____ DAY OF _____, 2022.

BY: _____ MAYOR _____ DATE _____

ATTEST: _____ CITY CLERK _____ DATE _____

BY: _____ CITY ENGINEER _____ DATE _____

BY: _____ COMMUNITY DEVELOPMENT _____ DATE _____

FLOOD PLAIN CERTIFICATION:

THIS IS TO CERTIFY THAT THE ABOVE SUBJECT PROPERTY LIES WITHIN ZONE SHADED "X" AS DESIGNATED ON THE FLOOD INSURANCE RATE MAP NUMBER 04013C2240M, DATED SEPTEMBER 18, 2020. AREAS OF 0.2% ANNUAL CHANCE FLOOD; AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS LESS THAN 1 SQUARE MILE; AND AREAS PROTECTED BY 1.0 FEET FROM 1% ANNUAL CHANCE FLOOD.

OWNER:

MUSHET REVOCABLE TRUST
6 TIDEMARK
LAGUNA NIGUEL, CA 92677-4244

REFERENCES:

- | | |
|--|--------------------|
| 1. PARK TRACT SUBDIVISION | BOOK 13, PAGE 27 |
| 2. HAZELTON PROPERTY REPLAT | BOOK 664, PAGE 55 |
| 3. RECORD OF SURVEY, LOT 8, BLOCK 6 | BOOK 969, PAGE 48 |
| 4. RECORD OF SURVEY, LOT 9, BLOCK 3 | BOOK 1087, PAGE 10 |
| 5. RECORD OF SURVEY, 1190 S. MAPLE AVE | BOOK 1369, PAGE 9 |

BENCHMARK:

BRASS CAP IN HANDHOLE AT THE INTERSECTION OF UPRR AND APACHE BOULEVARD AND BEING THE WEST QUARTER CORNER SECTION 22, TOWNSHIP 1 NORTH, RANGE 4 EAST.

CITY OF TEMPE BENCHMARK #144 - ELEVATION 1161.06 (CITY OF TEMPE DATUM)

BASIS OF BEARINGS:

THE SOUTH MIDSECTION LINE OF THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 1 NORTH, RANGE 4 EAST, GILA & SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA. MEASURED BEARING OF NORTH 89°27'53" EAST, RECORD BEARING OF WEST AS SHOWN IN BOOK 13, PAGE 27, MCR, BEING ALSO NORTH 89°27'48" EAST AS PER THE COT SURVEY CONTROL PLAT.

CERTIFICATION

THIS PLAT IS ONLY VALID IF IT BEARS THE ORIGINAL SEAL AND INKED SIGNATURE OF THE CERTIFYING PROFESSIONAL LAND SURVEYOR.

THIS IS TO CERTIFY THAT THE SURVEY OF THE PREMISES DESCRIBED AND PLATTED HERON WAS MADE UNDER MY DIRECTION DURING THE MONTH OF JUNE, 2022; THAT THE SURVEY IS TRUE AND COMPLETE AS SHOWN; THAT THE MONUMENTS SHOWN ACTUALLY EXIST OR WILL BE SET AS SHOWN; THAT THEIR POSITIONS ARE CORRECTLY SHOWN; AND THAT SAID MONUMENTS ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

JASON P GRAHAM, RLS 47537



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F 602.957.2838
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1220 S. MILL AVENUE
A PART OF THE NORTHWEST QUARTER, SECTION 22,
TOWNSHIP 1 NORTH, RANGE 4 EAST, GILA & SALT RIVER
MERIDIAN, MARICOPA COUNTY, ARIZONA

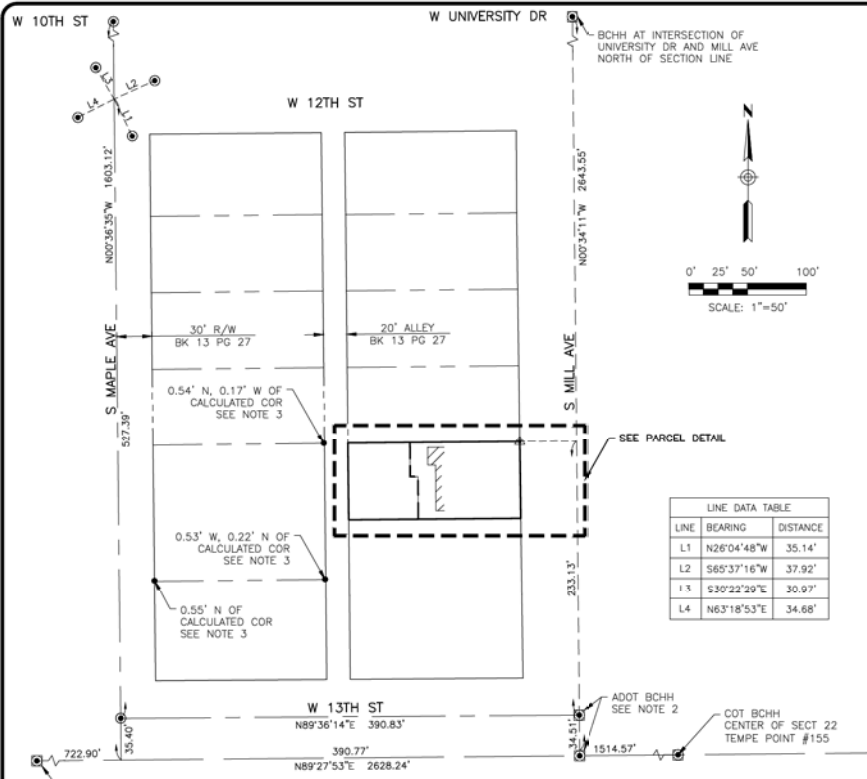
DS221009 SBD220016 REC220084

PROJECT NO: 1022124	DATE: AUG 2022	SCALE: AS SHOWN
SURVEYED: JUNE 2022	DRAWN: ACC	REVIEWED: JPG
FIELD WORK: AND/JRK		REVIEWED:
REVISIONS:		



SHEET 1 OF 2

NOT RECORDED IN THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, UNTIL THE DATE AND TIME SHOWN ON THIS PLAT.



LINE	BEARING	DISTANCE
L1	N26°04'48"W	35.14'
L2	S65°37'16"W	37.92'
L3	S30°22'29"E	30.97'
L4	N63°18'53"E	34.68'

CITY OF TEMPE NOTES:

1. THIS SUBDIVISION IS LOCATED WITHIN THE CITY OF TEMPE AND HAS BEEN DESIGNATED AS HAVING AN ASSURED WATER SUPPLY.
2. LOT CORNERS TO BE SET WITH 1/2" REBAR. RLS#47537.
3. ALL NEW AND EXISTING, AS WELL AS ON-SITE AND OFF-SITE UTILITY LINES (OTHER THAN TRANSMISSION LINES) SHALL BE PLACED UNDERGROUND.
4. THIS LOT REQUIRES A 100-YEAR ON LOT RETENTION AND MUST RETAIN THE RUNOFF VOLUME OF THE 100-YEAR STORM ON LOT. ANY RETENTION SYSTEM AS SHOWN ON THE GRADING AND DRAINAGE PLANS SHALL BE THE SOLE RESPONSIBILITY OF THE PROPERTY OWNER TO: (1) REGULARLY INSPECT THE SYSTEM (AT LEAST ANNUALLY), AND (2) MAINTAIN THE SYSTEM IN A CONDITION THAT WILL ALLOW THE SYSTEM TO STORE AND DISSIPATE THE VOLUME OF STORM WATER AS SHOWN ON THE DESIGN PLANS. THE FOREGOING RESTRICTION CANNOT BE CHANGED WITHOUT PRIOR WRITTEN CONSENT OF THE CITY OF TEMPE ENGINEER.

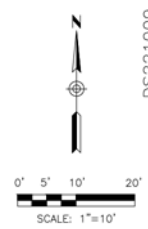
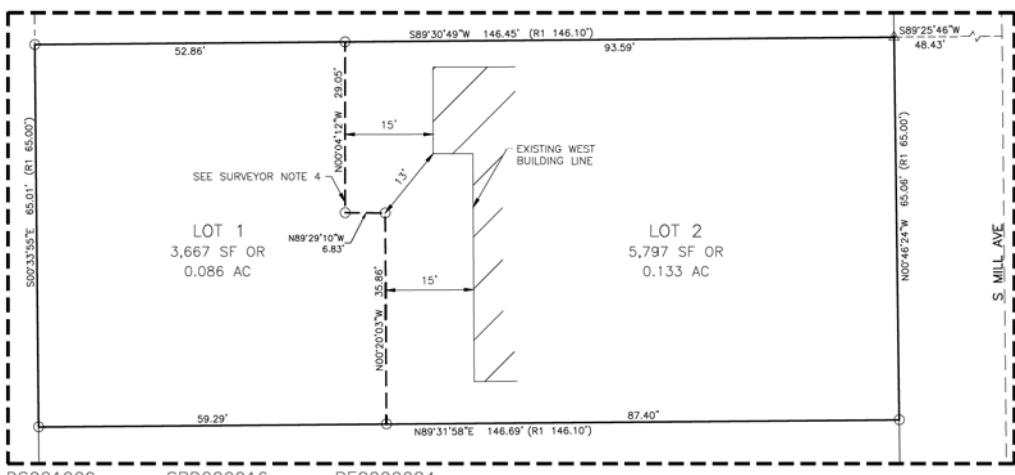
SURVEYORS NOTES:

1. SEVERAL CENTERLINE MONUMENTS FOR MILL AVENUE BETWEEN 13TH STREET AND UNIVERSITY DRIVE, WHICH ARE NOTED IN PREVIOUS SURVEYS, WERE NOT ABLE TO BE LOCATED AS A PART OF THIS SURVEY. THIS MAY BE DUE TO RECENT CONSTRUCTION ALONG MILL AVENUE. PREVIOUS SURVEYS WITHIN THE PARK TRACT SUBDIVISION, WHICH CALLED OUT FOUND ORIGINAL BURIED PIPE LOT CORNER MONUMENTS, ORIGINAL STONE ROADWAY CENTERLINE MONUMENTS AND SECTIONAL MONUMENTS WERE USED TO RECREATE A BEST FIT WITH THIS SURVEY'S FOUND ORIGINAL LOT CORNER MONUMENT AND SECTIONAL CONTROL.
2. TWO ADOT MONUMENTS SUPPOSING TO ALIGN MILL AVENUE AT 13TH AVENUE, APPEAR TO BE 1.5'± WEST OF POSITION THAT WOULD BE CONFERRED BY THE ACCEPTANCE OF ORIGINAL FOUND LOT CORNER MONUMENTS ON THE WEST SIDE OF MILL AVENUE. SEE RECORD OF SURVEY FOR LOT 9 OF BLOCK 3 OF PARK TRACT RECORDED IN BOOK 1087 OF SURVEYS PAGE 10, MCR.
3. THE REBAR AND CAPS LOCATED ON THE HAZELTON PROPERTY DO NOT MATCH THE CALCULATED LOCATION OF LOT CORNERS, THE ALLEY RIGHT OF WAY OR MAPLE AVENUE RIGHT OF WAY DEDICATED IN THE PARK TRACT SUBDIVISION USING THE METHODOLOGY LINED OUT IN NOTE 1. ADDITIONALLY, NO RECORDED DOCUMENT ASSOCIATED WITH THE RLS NUMBER ON THE CAP WAS ABLE TO BE LOCATED. THUS, THE MONUMENTS WERE NOT ACCEPTED.
4. BOUNDARY BETWEEN PARCEL 1 AND 2 SHOWN ON THIS SHEET BASED ON CITY OF TEMPE BUILDING OFFSET REQUIREMENTS.

LEGEND:

- ⊗ FND BRASS CAP IN HANDHOLE
- ⊙ FND BRASS CAP FLUSH
- FND REBAR AND CAP "RLS 48460" UNLESS OTHERWISE NOTED
- ▲ FND BURIED PIPE, ORIGINAL CORNER
- SET REBAR WITH CAP LS 47537
- MID-SECTION LINE
- CENTERLINE
- PARCEL BOUNDARY
- - - PROPOSED LOT BOUNDARY
- RIGHT OF WAY LINE
- EASEMENT LINE
- MONUMENT LINE
- PROPERTY LINE
- FND BCF FOUND BRASS CAP FLUSH
- FND BCHH FOUND BRASS CAP IN HANDHOLE
- R/W RIGHT OF WAY
- COT CITY OF TEMPE
- MCR MARICOPA COUNTY RECORDS
- DDC RECORDED DOCUMENT NO

PARCEL DETAIL



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MERIDIAN, MARICOPA COUNTY, ARIZONA

PROJECT NO: 1022124 DATE: AUG 2022 SCALE: AS SHOWN
SURVEYED: JUNE 2022 DRAWN: ACC REVIEWED: JPK
FIELD WORK: AND/JRK REVISIONS:

SHEET 2 OF 2

Butler (Gray) House

1220 South Mill Avenue
Tempe Historic Property Register

Survey Number: **HPS-430**
Year Built: **1939**
Theme: **Residential**



THEME / CONTEXT

This 1939 single family residential building is associated with community planning and development patterns and social history in Tempe before 1950. It falls under the theme of custom housing, reflecting residential development practices in the City's early, upscale neighborhoods. The upscale character of this house also illustrates its association with original owner Audley Butler, a prominent citizen who was important for his contribution and tenure at Salt River Project. (SRP)

This home is located in the Park Tract subdivision in Tempe. Park Tract was an earlier "suburban" residential subdivision that was platted in August of 1924 in response to a housing shortage in the City. It was designed to provide comfortable and modern family

houses, influencing some of Tempe's prominent citizens to purchase lots and have their homes built here. Park Tract experienced peak construction from 1928 to 1930. A second boom of activity occurred in the late 1930s and the neighborhood was almost completely built out shortly after World War II.

The original owners of the Gray Residence (Butler House) were Audley and Stella Butler and their family from 1939-ca. 1985. At the time of his retirement from the Salt River Project in December 1952, Audley C. Butler was the project's oldest employee in point of service having started at SRP July 1, 1909. Beginning his SRP career in the Territorial Period, Butler would take the stage coach out on Apache Trail to assist in construction of Roosevelt Dam. Butler spent 43-years in a variety of positions at SRP including power plant operator at Arizona Falls, South Consolidated, Cross Cut steam plant, and at Roosevelt Dam. In 1919 he became chief operator at Cross Cut and Superintendent at Roosevelt. He was superintendent at Horse Mesa Dam between 1927 and his retirement in 1952.

ARCHITECTURE

This home is an example of infill construction during the late 1930s housing boom in the neighborhood. Many lots had remained vacant from the original subdivision plat. During upswings in the economy, these lots were built on. The result is a mix of older and newer homes, illustrating a palette of popular architectural styles from the 1920s, 1930s, and 1940s in close proximity. This building is one of many residential homes still intact along Mill Avenue south of University. It retains nearly all of its original fabric such as casement windows, wood entry and garage doors, and asbestos roof shingles.

Constructed by an unknown builder in 1939, the Gray Residence (Butler House) is an excellent example of a typical Transitional Ranch Style home looking ahead to many of the character defining elements of the early ranch period. The street façade of small boxlike forms steps back under a low-pitched gable roof of asbestos tile and close eaves. The broadside gable roof and small entry porch at the juncture of the two front wings are typical of the transitional ranch style as is the attached garage also stepped back to emphasize the rhythm of the front facade. Stucco walls with steel casement divided light windows and multiple period fixtures and fitments remain in place adding to overall structural integrity.

LANDSCAPE

The mature trees in the front yard of the Gray Residence (Butler House) are not typical for those Park Tract homes fronting on Mill Avenue, but rather foretell the character of the nearby flood-irrigated yards and dense landscaping throughout the subdivision beyond the arterial street. The building provides a positive contribution to the historic character along Mill Avenue and a preview of, and transition to, the historic Park Tract subdivision, now known as the Maple-Ash Neighborhood.

The Gray Residence (Butler House) is adjacent to the north of the historic Tempe Woman's Club located at 1290 South Mill Avenue which is also listed on the National Register of Historic Places and the Tempe Historic Property Register. Similarities in lush mature landscaping at each of these properties enhance the continuity of the streetscape in the 1200 block of South Mill Avenue.

SIGNIFICANCE

The subject property meets the following criteria for designation, as found in section 14A-4 (a) of the Tempe City Code.

(2) It is found to be of exceptional significance and expresses a distinctive character, resulting from:

a. A significant portion of it is at least fifty (50) years old; is reflective of the city's cultural, social, political or economic past; and is associated with a person or event significant in local, state or national history; and

b. It represents an established and familiar visual feature of an area of the city, due to a prominent location or singular physical feature.

The Butler House is significant for its association with custom neighborhood development in Tempe before 1950 and for its association with Audley Butler, one of the community's prominent citizens in the early twentieth century. The home's Transitional Ranch Style marks the neighborhood's late 1930s boom and the beginning of the shift toward ranch housing styles that would proliferate in the City after World War II. The custom, upscale character of the house is conveyed through the use of more expensive, durable materials such as block walls clad in stucco and asbestos roof tiles. The attached garage is another feature that helps define the home's upscale character.

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.

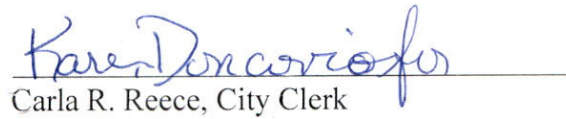
4. The City Council approves the City initiating and processing a zoning map amendment to remove the historic preservation designation from the new vacant rear lot.
5. The City Council waives all fees associated with above-described lot split and zoning map amendment for the Butler House property.

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

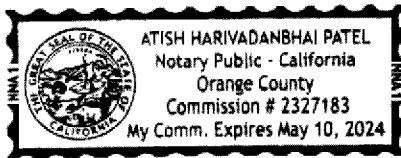
On 04/16/2022 before me, ATISH HARIVADANBHAI PATEL, NOTARY PUBLIC
Date Here Insert Name and Title of the Officer

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 At. 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