

City of Piedmont
COUNCIL AGENDA REPORT

DATE: August 7, 2023

TO: Mayor and Council

FROM: Rosanna Bayon Moore, City Administrator

SUBJECT: Piedmont Community Pool – Declaration of Restrictions on the Adjacent
Corey Reich Tennis Center Parcel

RECOMMENDATION

Approve the attached resolution authorizing the recordation of a Declaration of Restrictions on the recently created Corey Reich Tennis Center Parcel adjacent to the Piedmont Community Pool Parcel.

BACKGROUND

On March 6, 2023 the Piedmont City Council adopted a resolution to establish two distinct parcels from three existing parcels. One parcel includes the Corey Reich Tennis Center and the other includes the Piedmont Community Pool and the Recreation Department.

During the course of the design for the new Piedmont Community Pool Complex, it was determined that the type of construction and certain materials require fire separation between the new buildings within the Complex and any potentially adjacent structures that could be built in the future. Currently, due to the lack of any existing structures on the Corey Reich Tennis Center Parcel, the required fire separation is not problematic. However, future fire separation requires that proposed structures be located a sufficient distance from the Pool Complex.

To proactively ensure that fire separation issues will not arise in the future, Building, Public Works, Engineering and the City Attorney's office propose that a Declaration of Restriction be recorded on the Corey Reich Tennis Center Parcel (attached). The Declaration of Restriction prohibits the construction of any structures on the Corey Reich Tennis Center Parcel within ten feet (10') of the southerly property line of the parcel. Per Declaration 4 in the document, the Declaration will remain in full force and effect until the City records a release.

Staff is requesting that the City Council approve the attached resolution and direct staff to record the Declaration of Restriction.

FISCAL IMPACT:

There is no anticipated fiscal impact associated with the Declaration of Restriction on the Tennis

Court Parcel.

Exhibit A – Resolution

Exhibit B - Declaration of Restrictions

By: Daniel Gonzales, Public Works Director
John Wanger, City Engineer

RESOLUTION No. _____**A RESOLUTION DIRECTING THE RECORDATION OF A DECLARATION OF RESTRICTIONS ON THE COREY REICH TENNIS COMPLEX PARCEL, AND DIRECTING THE RECORDATION OF A CERTIFICATE OF COMPLIANCE FOR THE PARCELS**

WHEREAS, the City of Piedmont is pursuing the construction of a new Piedmont Community Pool; and

WHEREAS, based on the type of construction materials being used and the location of the new structure within the Community Pool complex, certain fire separation requirements are needed from any future structures on adjacent parcels; and

WHEREAS, to ensure that proper fire separation requirements are adhered to on the adjacent Corey Reich Tennis Complex Parcel, a Declaration of Restrictions is necessary to prevent any future structures from being constructed within ten feet (10') of the southerly property line of the parcel; and

WHEREAS, a Declaration of Restrictions, a legal description and plat have been prepared showing the restricted area needed to ensure proper fire separation from the Piedmont Community Pool structures; and

WHEREAS, to comply with both the Municipal Code, the City Council must direct the recording of the deeds with the Alameda County Recorder's office;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PIEDMONT AS FOLLOWS:

1. Directs the recordation of the Declaration of Restriction as attached hereto.
2. All portions of this resolution are severable. Should any individual component of this Resolution be adjudged to be invalid and unenforceable by a body of competent jurisdiction, then the remaining resolution portions shall be and continue in full force and effect, except as to those resolution portions that have been adjudged invalid. The City Council of the City of Piedmont hereby declares that it would have adopted this Resolution and each section, subsection, clause, sentence, phrase and other portion thereof, irrespective of the fact that one or more section subsection, clause sentence, phrase or other portion may be held invalid or unconstitutional.

[END OF RESOLUTION]

DECLARATION OF RESTRICTIONS

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Piedmont
Attn: City Clerk
120 Vista Avenue
Piedmont, CA 94611

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

DECLARATION OF RESTRICTIONS

This Declaration of Restrictions (this "Declaration") is made as of July __, 2023, by the City of Piedmont, a municipal corporation (referred to herein as "Declarant").

WHEREAS, Declarant is the owner of real property (the "Property") situated in the City of Piedmont, County of Alameda, State of California, commonly known as the Piedmont Community Tennis Courts, being portions of Assessor Parcel Numbers 50-4626-1 and 50-4626-2-2 and more particularly described in Exhibit "A" and depicted in Exhibit "B", both exhibits of which are attached hereto and by this reference incorporated herein; and

WHEREAS, the City's Aquatic Center is being constructed on the adjacent parcel; and

WHEREAS, based on the materials used, the fire separation requirements needed for the type of construction, and the location of the Aquatic Center, a minimum separation of ten feet (10') from any structure is required; and

WHEREAS, Declarant desires to, and hereby does, encumber the Property with a covenant prohibiting the installation or construction of any structure within the southerly ten feet (10') of the Property;

NOW, THEREFORE, Declarant declares as follows:

1. Recitals. The recitals set forth above are true and correct and incorporated herein by this reference.

2. Covenant Running with the Land. The covenants contained in this Declaration shall run with the land, shall be binding upon Declarant and each subsequent owner of the Property (each, an "Owner"), and their successors and assigns.

3. Creation of the Restriction Upon the Property. Declarant and each subsequent Owner of the Property, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to prohibit the installation or construction of any structure within the southerly ten feet (10') of the Property unless and until the Aquatic Center structure is demolished or otherwise brought into conformance with all applicable zoning, building, and fire

protection laws, ordinances, and regulations as determined in the sole and absolute discretion of the City, as the beneficiary of the equitable servitude imposed hereunder (the "Beneficiary").

4. Condition To and Termination of this Declaration. This Declaration shall remain in full force and effect until the date on which the Beneficiary shall record a release of this Declaration.

5. Successors and Assigns Bound. Declarant shall comply with these covenants, conditions and restrictions burdening the Property in perpetuity. Subject to the limitations contained in this Declaration, and without modifying its terms, the provisions of this Declaration shall be enforced as equitable servitudes, and conditions, restrictions, and covenants running with the land, and shall be binding upon the agents, representatives, trustees, assignees, successors, and future owners of the Property and each of them, unless and until this Declaration is terminated as provided for herein.

6. Estoppel. The Beneficiary shall, at any time and from time to time upon not less than ten (10) days' prior written notice from any Owner, execute, acknowledge and deliver to the requesting Owner a statement (a) certifying this Declaration, including all of the terms and conditions herein, are unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Declaration of Restrictions, as so modified, is in full force and effect); and (b) acknowledging that there are not, to the actual knowledge of the Beneficiary, any uncured defaults on the part of the requesting Owner (or specifying such defaults if any are claimed). The Beneficiary's failure to deliver such statement to the requesting Owner as required in this Section 6 shall be deemed to constitute the Beneficiary's agreement (a) that this Declaration is in full force and effect, without modification except as may be represented by the requesting Owner; and (b) that to the Beneficiary's knowledge, there are no uncured defaults in the performance of the requesting Owner. Said written statement shall be binding upon the Beneficiary in favor of any persons relying on the statement in good faith.

DECLARANT:

CITY OF PIEDMONT,
a municipal corporation

By _____
Name: _____
Title: _____

Date: _____

A notary certificate is required.

EXHIBIT 'A'
LEGAL DESCRIPTION
DECLARATION OF RESTRICTION

Lying within the City of Piedmont, County of Alameda, State of California and being a portion of the lands of the City of Piedmont, a municipal corporation, as described by Grant Deed recorded in Book 5833 of Official Records at Page 28, Alameda County Records, said portion being more particularly described as follows:

Being all that portion lying 10.00 feet northerly of the following described line:

COMMENCING at the point of intersection of the southerly right-of-way of Vista Avenue with the easterly right-of-way of Hillside Avenue as shown on that Map of Bishop's Subdivision of Block 1 Piedmont Park filed in Book 27 of Maps at Page 77, Alameda County Records; thence along said easterly right-of-way of Hillside Avenue, South 22°18'47" East 150.00 feet to the westerly common corner of the lands of John T. Igo and Eunice W.A. Igo, Trustees of The Igo Family Trust U/T/D dated April 3, 1992, as described by Grant Deed recorded under Document Number 2003-300296, Alameda County Records, and the lands of the City of Piedmont as described by Grant Deed recorded in Book 3680 of Official Records at Page 93, Alameda County Records; thence leaving said westerly common corner and said easterly right-of-way of Hillside Avenue, along the common boundary of said lands of Igo Family Trust and said lands of the City of Piedmont as described by Grant Deed recorded in Book 3680 of Official Records at Page 93, parallel with said southerly right-of-way of Vista Avenue, North 67°30'27" East 150.00 feet to the westerly boundary of said lands of the City of Piedmont as described by Grant Deed recorded in Book 5833 of Official Records at Page 28; thence along the easterly line of said lands of Igo and said westerly boundary of said lands of the City of Piedmont, parallel with said easterly right-of-way of Hillside Avenue, North 22°18'47" West 29.55 feet to point from which the northwest corner of said lands of the City of Piedmont as described by Grant Deed recorded in Book 3680 of Official Records at Page 93 and the southerly right-of-way of Vista Avenue bears North 22°18'47" West 120.45 feet, said point being the POINT OF BEGINNING of the herein described line; thence leaving said easterly boundary of the lands of Igo and said westerly boundary of lands of the City of Piedmont, North 67°42'27" East 211.26 feet to the easterly boundary of said lands of the City of Piedmont and westerly right-of-way of Bonita Avenue, and the TERMINUS of the herein described line, from which the point of intersection of said southerly right-of-way of Vista Avenue with the westerly right-of-way of Bonita Avenue bears North 22°17'33" West 121.19 feet.

The northerly line of the herein described easement shall be lengthened or shortened to terminate at the easterly and westerly boundary of said lands of City of Piedmont as described by Grant Deed recorded in Book 5833 of Official Records at Page 28, Alameda County Records.

Containing 2,113 square feet, more or less.

END OF DESCRIPTION

Being a portion of APNs 50-4626-1 & 50-4626-2-2

EXHIBIT 'A'
LEGAL DESCRIPTION
DECLARATION OF RESTRICTION

Basis of Bearings: Being the California Coordinate System, Zone 3, NAD 83, Epoch 2017.50 as determined locally by a line between Continuous Global Positioning Systems (CGPS) station EBMD and station P224; being North 47°28'39" East as derived from geodetic values published by the California Spatial Reference Center (CSRC).

Prepared by Cinquini & Passarino, Inc.


Anthony G. Cinquini, PLS 8614



8/2/2023
Date

