

**RESOLUTION NO. 2009-179**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE  
APPROVING A VARIANCE FOR A SWIMMING POOL AND SPA  
AT 9111 SHIRE OAKS LANE PROJECT EG-09-026  
ASSESSOR PARCEL NUMBER 127-0970-007-0000**

**WHEREAS**, the Planning Department of the City of Elk Grove received an application on June 9, 2009, from Mr. and Mrs. Okwuosa (the "Applicant") requesting a Variance for a swimming pool and spa at 9111 Shire Oaks Lane; and

**WHEREAS**, the proposed project is located on real property in the incorporated portions of the City of Elk Grove more particularly described as Assessor Parcel Number 127-0970-007-0000; and

**WHEREAS**, all required services and access to the proposed parcels in compliance with the City's standards are available; and

**WHEREAS**, upon review, staff determined that the Applicant's request meets the required findings pursuant to the Elk Grove Zoning Code, Section 23.16.040 (Variance); and

**WHEREAS**, the Planning Commission held a duly noticed public hearing as required by law to consider all of the information presented by staff, information presented by the project proponent, and public testimony presented in writing and at the meeting; and

**WHEREAS**, the Planning Commission denied the Variance request on August 6, 2009 and the Applicant appealed the denial on August 10, 2009; and

**WHEREAS**, the City Council held a duly noticed public hearing as required by law to consider all of the information presented by staff, information presented by the project proponent, and public testimony presented in writing and at the meeting.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Elk Grove hereby approves the Variance for a swimming pool and spa at 9111 Shire Oaks Lane within the 75 foot building setback but outside the 25 foot landscape setback, based on the following findings:

**Findings**

**California Environmental Quality Act (CEQA)**

**Finding:** The proposed project is exempt from CEQA review under §15303 (New Construction or Conversion of Small Structures) of the CEQA Guidelines.

Evidence: The Applicant is requesting a Variance to allow construction of a swimming pool and spa within a 75 foot building setback and 25 foot landscape easement. Section 15303 of the CEQA guidelines provides a specific exemption for small structures including swimming pools from environmental review. No further special circumstances exist that would create a reasonable possibility that the proposed swimming pool and spa will have a significant effect on the environment.

## **Variance**

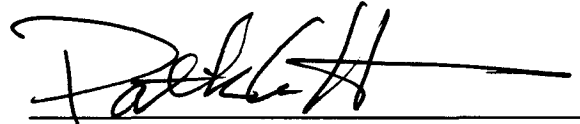
The City Council may approve and/or modify any Variance application in whole or in part, with or without conditions, only if the applicant can demonstrate to the City Council that the circumstances of their particular case can justify making all of the following findings:

- a. That there are special circumstances applicable to the property, including size, shape, topography, location or surroundings, such that the strict application of the Zoning Code deprives such property of the privileges enjoyed by other property in the vicinity and under identical land use zoning district classifications.
- b. That granting the Variance does not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and land use zoning district which such property is located.
- c. That granting the Variance will not adversely affect the interests of the public or the interests of residents and property owners in the vicinity of the premises in question.
- d. That granting the Variance is consistent with the objectives of the General Plan and Zoning Ordinance.

Evidence: As identified in the staff report, findings can be made to grant a Variance for the swimming pool and spa at 9111 Shire Oaks Lane. Special circumstances exist within the subject property that would deprive the property of privileges enjoyed by adjacent properties if the setback conditions of approval are strictly applied. The existing oak trees, which must be maintained onsite, are located in the only alternative location for the proposed swimming pool and spa. Granting this Variance does not constitute a special privilege as other adjacent properties enjoy less stringent development standards with regards to these types of accessory structures. In addition to the restrictions that result from preservation of onsite oak trees, other buildable areas of the property are within the flood plain or bisected by leach lines, further reducing the buildable area within the lot. Given the location of the proposed swimming pool and spa behind the existing home, no adverse impacts to the general public or property owners within the vicinity of the site are anticipated. The Variance is consistent with the objectives and development standards of the General Plan and the Zoning Code.

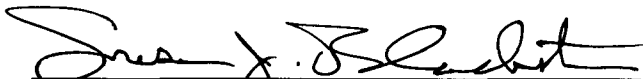
**BE IT FURTHER RESOLVED**, that the City Council of the City of Elk Grove approves the Variance allowing a swimming pool and spa at 9111 Shire Oaks Lane in the 75 foot building setback and denying a Variance allowing a swimming pool and spa in the 25 foot landscape setback, as identified in Exhibit A.

**PASSED AND ADOPTED** by the City Council of the City of Elk Grove this 26<sup>th</sup> day of August 2009.



PATRICK HUME, MAYOR of the  
CITY OF ELK GROVE

ATTEST:



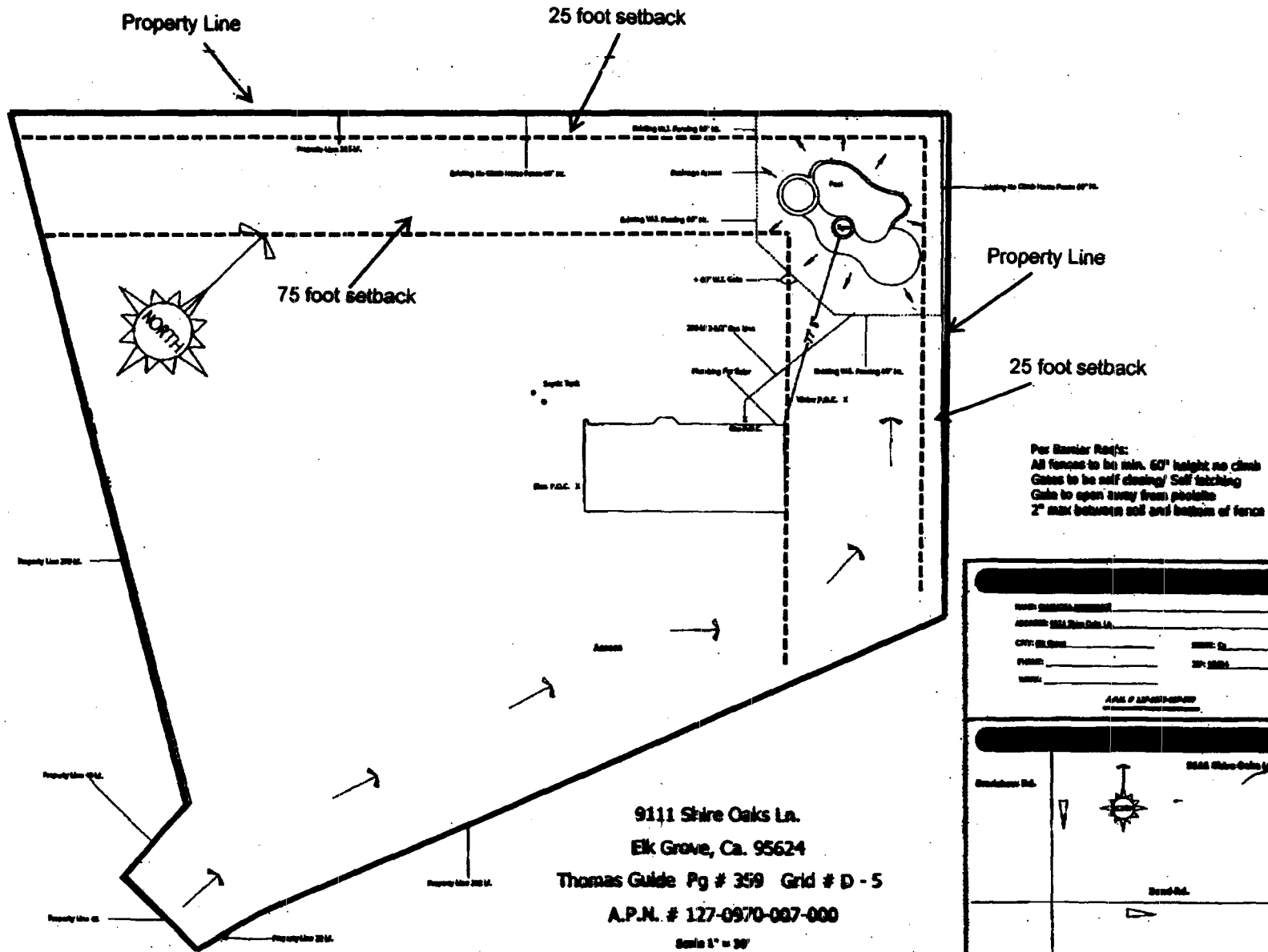
SUSAN J. BLACKSTON, CITY CLERK

APPROVED AS TO FORM:



SUSAN COCHRAN, CITY ATTORNEY

EXHIBIT A



<p>NAME: _____</p> <p>ADDRESS: 9111 Shire Oaks Ln.</p> <p>CITY: EL GROVE STATE: CA</p> <p>PHONE: _____ ZIP: 95624</p> <p>DATE: _____</p> <p>NAME OF APPLICANT: _____</p>	
<p>Structure No. _____</p>	<p>9111 Shire Oaks Ln. 2</p> <p>Structure No. _____</p>

**CERTIFICATION  
ELK GROVE CITY COUNCIL RESOLUTION NO. 2009-179**

**STATE OF CALIFORNIA            )**  
**COUNTY OF SACRAMENTO        )**     **ss**  
**CITY OF ELK GROVE             )**

***I, Susan Blackston, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on August 26, 2009 by the following vote:***

**AYES :            COUNCILMEMBERS:     Hume, Davis, Detrick**

**NOES:            COUNCILMEMBERS:     Scherman**

**ABSTAIN :        COUNCILMEMBERS:     None**

**ABSENT:          COUNCILMEMBERS:     Cooper**

  
**Susan Blackston, City Clerk  
City of Elk Grove, California**