

May 17, 1996

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON
700 Central Building
810 Third Avenue
Seattle, Washington 98104
Telephone (206) 296-4660 Facsimile (206) 296-1654

**REPORT AND DECISION ON APPLICATIONS FOR
REASONABLE USE EXCEPTIONS FROM SENSITIVE AREAS ORDINANCE CODES
AND APPLICATION FOR ZONING CODE VARIANCE**

SUBJECT: Department of Development and Environmental Services File Nos. **L95RU005,
L96RU007 & L96VA009**

BRIAN & GERI VALENTINE
Reasonable Use Exception Application
Zoning Code Variance Application

Location: North side of NE 137th Street, at approximately 224th Avenue NE (if extended), Lot No. 1, Lake of the Woods, Division II

SUMMARY OF RECOMMENDATIONS:

Division's Preliminary:	DENY Reasonable Use Exception Application L95RU005 and L96RU007; DENY Zoning Code Variance Application L96VA009
Division's Final:	DENY Reasonable Use Exception Application L95RU005 and L96RU007; DENY Zoning Code Variance Application L96VA009
Examiner:	DENY Reasonable Use Exception Application L95RU005 and L96RU007; APPROVE/SUBJECT TO CONDITIONS Zoning Code Variance Application L96VA009

PRELIMINARY REPORT:

The first Preliminary Report from the Department of Development and Environmental Services on the above-referenced applications was received by the Hearing Examiner on March 11, 1996. The Department issued a second Preliminary Report, received by the Hearing Examiner on April 25, 1996.

PUBLIC HEARING:

After reviewing the Reports of the Department and examining available information on file with the applications, the Examiner conducted a public hearing on the appeal as follows:

The appeal hearing on Item Nos. L95RU005, L96RU007 & L96VA009 was opened by the Examiner at 1:00 p.m., March 27, 1996, in Room No. 2, Department of Development and Environmental Services, Eastpointe Plaza Building, 3600 - 136th Place S.E., Suite A, Bellevue, Washington, and adjourned at 4:30 p.m. The hearing continued at 9:18 a.m., May 9, 1996, and closed at 5:25 p.m. Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Office of the King County Hearing Examiner.

FINDINGS & CONCLUSIONS: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. The subject property is "Lot 1" of Lake of the Woods, Division II, and comprises 75,563 square feet. As regulated by "Sensitive Areas Regulations" contained in the King County zoning code, the subject property is comprised of 38,776 square feet of regulated wetland and wetland buffer, with 36,787 square feet remaining. The area of wetlands on Lot No. 1 is 23,926 square feet. Exhibit 26.D.6.

2. Brian and Geri Valentine (the Applicants) propose to fill approximately 26,415 square feet of wetland and wetland buffer, in order to accommodate development of the subject property consistent with the Applicants' plans.

The Applicants seek approval pursuant to any one of the following:

- A. Reasonable Use Exception (RUE). Pursuant to KCC 21A.24.070. For the reasons indicated in finding No. 3, below, the Applicants augmented this initial application by adding the following listed applications. However, this application for RUE pursuant to KCC 21A.24.070 is not withdrawn. The relevant KCC Title 21A provisions are contained on pages 3 through 5 of the Department of Development and Environmental Services (hereinafter, either DDES or the "Department") Preliminary Report to the Hearing Examiner dated March 11, 1996, entered in this hearing record as Exhibit No. 1, and are incorporated here by this reference.
 - B. Variance pursuant to KCC 21.58. The required showings for a variance pursuant to KCC Title 21 are set forth in KCC 21.58.020 as stated on page 8 of the Department's May 9, 1996 Preliminary Report to the Hearing Examiner (Exhibit No. 24), incorporated here by this reference.
 - C. RUE pursuant to KCC 21.54.060. The relevant regulations and criteria are stated on pages 4 through 8 of the Department's Preliminary Report to the Hearing Examiner dated May 9, 1996 (Exhibit No. 24), incorporated here by this reference.
3. The Applicants first requested RUE approval pursuant to KCC Title 21A, a new zoning code adopted by the Metropolitan King County Council on June 7, 1993. No variance application pursuant to KCC Title 21A was submitted.¹ The adoption date of KCC Title 21A would suggest on the surface that KCC Title 21A properly applies in this case. However, on April 24, 1995, the Council adopted this addition to KCC 21A.01.040:

Except for the requirements of K.C.C. 21A.43, any lot created by subdivision or short subdivision for which a complete subdivision or short subdivision application was submitted prior to February 2, 1995, may be developed pursuant to the standards of resolution 25789 as amended (former K.C.C. Title 21), including any application P-suffix conditions in adopted community plans and area zoning in effect on February 1, 1995, for a period of six years from the date of recording of the applicable final plat or short plat.

The subject property was created as a single family residential building lot upon recording of the plat of Lake of the Woods, Division II, July 25, 1989. Thus, the six year period cited by Ordinance No. 11765 expired July 25, 1995. However, the underlying building permit application in this case was filed May 3, 1995 (Building Permit Application No. B95R0820).

4. The circumstances discussed in finding No. 3, above, lead to these ancillary issues:
 - A. Is the subject proposal subject to KCC Title 21A or KCC Title 21? The parties and the examiner agree that the application may be submitted pursuant to either code. Prior to the March 11, 1996 hearing, the Department had determined that a RUE could not be granted pursuant to KCC Title 21. For that reason, the initial request sought RUE approval pursuant to KCC Title 21A. Although the Department has indicated that the Applicants must submit pursuant to **either** KCC Title 21 **or** KCC Title 21A, the Applicants indicate that all three applications (filed pursuant to both codes) are still in effect.
 - B. Is **any** variance or RUE required? The Applicants argue that the Ordinance 11765 language quoted above exempts them from sensitive areas regulations. The basis for this argument is as follows: King County sensitive areas regulations were adopted by Ordinance No. 9614 in 1990. Lake of the Woods Division II was recorded as a final plat, as indicated above, on April 25, 1989. Therefore, it is argued, that applications for building permits are subject to the 1989 codes sans sensitive areas regulations.

¹ Typically, because KCC 21A.24.070 makes clear that a RUE is to be considered when all other avenues of approval have been shown to "deny all reasonable use of the property", a variance application either precedes or accompanies a RUE application.

5. In addition to the findings above, these findings are relevant to the RUE criteria established by KCC 21.54.060 and KCC 21A.24.070:
- A. As required by KCC 21A.24.070.B.2 and KCC 21.54.060.B the Examiner has consulted with the Prosecuting Attorney and has conducted a public hearing pursuant to the provisions of KCC 20.24.080.
 - B. As noted in finding No. 1, above, approximately 36,787 square feet are located outside the identified sensitive area (wetland) and buffer area within the subject property's boundaries.
 - C. A drainfield and reserve drainfield location has been identified and approved by the Seattle-King County Department of Public Health. Approximately one-third of the approved drainfield location is located within the fifty foot wide class II wetland buffer (see Exhibit 26.D.6).
 - D. The lot area, dimensions, and shape is typical for the neighborhood (see, for instance, Exhibit Nos. 2.D.8, 15, 29, and 39).
 - E. The proposed site development plan calls for approximately 14,000 square feet of wetland clearing and filling (**not** 10,400 square feet as indicated on page 1 of Exhibit No. 1) and clearing of approximately 8,500 square feet of buffer. All of the wetland clearing and filling would be for the purpose of obtaining additional yard area for family recreation purposes. Except for a small unmeasured portion of the proposed house location, and for location of approximately one-third of the (reserve) drainfield area, the same is true for the proposed clearing of the wetland buffer.
 - F. The house contains an irregular front which is set back from Northeast 137th Street in varying distances ranging from 40 feet (testimony, Applicant Brian Valentine) to at least 83 feet (scaled from Exhibit 26.D.6).
- The Lake of the Woods private restrictions apparently suggest, but do not mandate, a setback of forty feet from the street right-of-way. Numerous exceptions to this rule exist within Lake of the Woods (testimony, Department). Although Lake of the Woods has an architectural control committee (upon which sits the Applicants' permit application agent, Steve Burnstead), the Applicants have not sought any reduced front yard approval.
- G. The Applicants propose three driveways and parking areas which require, altogether, four driveway curb cuts along NE 137th Street. The Department estimates that these driveways comprise approximately 600 square feet of impervious surface. Approximately 200 square feet of driveway would extend into the wetland buffer.
 - H. The Applicants propose a 6,400 square foot building footprint including the house and attached garages. Thus, combined with the multiple driveways, the Applicants propose approximately 12,400 square feet of development within the 36,787 square foot area which is located outside the wetland and buffer.
 - I. By comparison, single family residential lot sizes in King County range upward from 5,000 square feet for sewerred lots, and from approximately 12,500 square feet for unsewerred lots which depend upon on-site septic drainfields.
 - J. Excluding the driveway and parking areas to be located on each side of the proposed building footprint, the Applicants propose side yards ranging from approximately 30 feet to approximately 65 feet.
 - K. The Applicants argue that there are no other viable alternatives to the 6,400 square foot (building foot-print) residence and three (or four, depending on how they are counted) driveways. The Applicants' architectural design was determined prior to lot purchase. It is based upon the Applicants' interests and plans, which include art collecting, providing housing for visiting students and, possibly, for the Applicants' parents. Having finally set this footprint upon the property plot plan, only one drainfield area remains viable. This drainfield area is proposed to be partially located within the wetland buffer area.
 - L. DDES recommends that a revised site plan be submitted which includes buffer averaging as a means of allowing for the proposed drainfield. The Department observes that a redesigned, scaled-down version could be approved without needing any variance or reasonable use exception.

- M. There are other lots in the immediate area which are smaller than the unrestrained area on the subject property. There are homes within the same zone and vicinity which would fit on the subject lot without intruding into the wetland and buffer. In fact, even the proposed house could be situated on the property consistent with KCC 21 standards if the east end of the structure were rotated slightly southward (see Exhibit No. 25.D.6 or Exhibit No. 26.D.6). These findings are relevant to the variance review criteria established by KCC 21.54.020.
- N. The Applicants have offered "mitigation" in the form of monetary compensation to a fund which might be administered by King County, or by Lake of the Woods Homeowners Association, which would be directed toward wetland maintenance, preservation and/or enhancement. However, the hearing record contains no indication that either King County or the Lake of the Woods HOA would be willing to receive such monies. In fact, the HOA Board of Directors opposes granting the requested variance or RUE.
- O. The Applicants propose to fill the subject property with fill material which is sufficiently granular to maintain the hydrological function and value of the filled wetland.
- Prior to the hearing, the Department indicated to the Applicants that the proposal lacked supporting documentation (such as hydrologic analysis) to support this assertion. The Applicants' Building Permit Application agent, Steve Burnstead, testified (based upon his observations of a property he previously owned in Snohomish County) that a land fill of this type will work satisfactorily. However, the hearing record contains no evidence which would indicate the functional capacity of the fill located at the unidentified site in Snohomish County, or on the subject property.
- Because the proposed filling would comprise a relatively small portion of a much larger wetland (Bear Creek Wetland No. 27, also known as Welcome Lake), the Applicants contend that the adverse impact would be negligible.
- P. See, also, the following findings.
6. In addition to the findings above, these findings are relevant to the variance review criteria established by KCC 21.54.020:
- A. See, particularly finding No. 5, above.
- B. Although there are extensive portions of the subject property which are restricted by natural constraints (wetlands and buffers), there are comparably extensive areas (approximately 36,776 square feet of the total lot) which are available for house and yard.
- C. Homes constructed prior to the adoption of KCC 21.54 can not be used as the "sole basis" for approval of a variance (see KCC 21.58.020.A).
7. Any portion of any of the following conclusions which may be construed as a finding is incorporated here by reference.

CONCLUSIONS:

1. Except as indicated in the Order which follows below, the variance request will be DENIED for the following reasons:
- A. The Applicants have failed to demonstrate that special circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, conjoined with a strict application of the zoning code, would deprive the subject property of rights and privileges enjoyed by other properties in the vicinity and under the identical zone classification. On the contrary, the record amply demonstrates that it would be possible to place a 6,000 square foot house on the subject property with minimal adjustment from the presently proposed site plan.
- And what if the house were reduced to 5,000 square feet? It would still be within the general house size range of the neighborhood.

Further KCC 21.58.020 requires that the enjoyment of "rights and privileges" by other properties in the vicinity and under identical zone classification can not be used as a basis for variance for those properties which were developed under regulations in force prior to the adoption of Ordinance No. 9614. Specifically, KCC 21.58.020.A says that such property developments "shall not be the sole basis for granting of a variance."

- B. The Applicants have not demonstrated that granting the variance would not be materially detrimental to the public welfare, or injurious to property or improvements in the vicinity and zone. Considering the purposes of KCC 21.54.010 it must be concluded that approval of the proposed land fill and clearing within the wetland would be contrary to the goals and purposes of the sensitive areas code.
 - C. Finally, the Applicants have not shown that the variance granted would be the minimum necessary to accommodate the permitted uses. In fact, the Department's argument is closer to the obvious truth, that a comparably sized home could be placed on the subject property with modest adjustments to the present site plan.
 - D. However, some adjustment to the required buffer area should be provided in order to accommodate the proposed drainfield area. The evidence of record suggests that the drainfield area is located where it must be located to meet Health Department standards; unfortunately, that location extends into the buffer area.
2. Both reasonable use exception applications will be DENIED for the following reasons:
- A. The evidence of record overwhelmingly demonstrates that "all reasonable use of the property" will not be prohibited by the wetland protection regulations at issue. In fact, review of the Applicants' site plan demonstrates that almost any reasonable use would be feasible without granting an exception. There is plenty of room on the subject property's 36,787 square foot development area. This generous site condition is enhanced further by the variance which is granted below; a variance which provides additional development area by allowing encroachment of the proposed drainfield into the buffer area. Even this encroachment, however, does not approach the actual wetland, further evidence that a reasonable use exception would be unreasonable, as well as unjustifiable pursuant to KCC 21.54.060.
 - B. The reasonable uses of the remaining 36,787 square feet would certainly impose less impact on the sensitive area by virtue of the fact that they can be accomplished without any landfill within the sensitive area while at the same time providing ample room to dwell, barbecue, play croquet, and so on. The hearing record contains absolutely no evidence that the proposed land fill is the "minimum necessary" to allow for reasonable use.

DECISION AND ORDER:

- 1. BOTH reasonable use exception (RUE) applications are DENIED.
- 2. The variance application is APPROVED in part, SUBJECT to the following conditions and limitations:
 - A. The buffer boundary may be moved northward only the minimum distance necessary to exclude the approved drainfield location as shown on Exhibit No. 26.D.6 from the required buffer area.
 - B. In all other respects, the requested variance is DENIED.
 - C. This variance shall be null and void if not exercised by obtaining all necessary and legally required permits and approvals within 2 years following the date of transmittal indicated below. Time required for appeals and litigation directly related to this decision will not be included in this required implementation deadline.

ORDERED this 17th day of May, 1996.

R. S. Titus, Deputy
King County Hearing Examiner

TRANSMITTED this 17th day of May, 1996, to the following parties and interested persons:

Steve Burnstead	Jerry Cudney
Pat DeAngelis	Joel Haggard
John Furnstrom	Jeff Harrison
Johan/Didi Jansen	Garet P. Munger
Leo Suver	Brian & Geri Valentine

Mason Bowles, DDES/LUSD, Site Development Services
 Mark Carey, DDES/LUSD, Manager
 Jon Hansen, DDES/LUSD, Site Development Services
 Cassandra Newell, Prosecuting Attorney's Office, Civil Division
 Michaelene Manion, DDES/LUSD, Site Plan Review Section
 Lisa Pringle, DDES/LUSD, Site Plan Review Section
 Sherie Sabour, DDES/LUSD, Site Plan Review Section
 Karen Scharer, DDES/LUSD, Site Plan Review Section

NOTICE OF RIGHT TO APPEAL

The Examiner's decision shall be final and conclusive unless proceedings for review of the decision are properly commenced in Superior Court within twenty-one days of issuance of the decision.

MINUTES OF THE MARCH 27, 1996 AND MAY 9, 1996 PUBLIC HEARINGS ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILES L95RU005, L96RU007 AND L96VA009 - BRIAN & GERI VALENTINE:

R. S. Titus was the Hearing Examiner for this matter. Participating in the March 12, 1996 pre-hearing conference were Brian Valentine/Applicant, Steve Burnstead, Leo Suver, Jeff Harrison, Jerry Cudney and Karen Scharer/DDES. Participating in the March 27, 1996 hearing were Joel Haggard, Mason Bowles/DDES, and Sherie Sabour/LUSD. Participating in the May 9, 1996 hearing were Brian Valentine/Applicant, Geri Valentine/Applicant, Joel Haggard, Steve Burnstead, Garet Munger, Patricia DeAngelis, Cassandra Newell/PAO-Civil, Jon Hansen/DDES, and Karen Scharer/DDES.

On March 27, 1996, the following exhibits were offered and entered into the record:

- | | |
|---------------|---|
| Exhibit No. 1 | Department of Development and Environmental Services Preliminary Report to the King County Hearing Examiner, dated March 11, 1996 |
| Exhibit No. 2 | Application for reasonable use exception <u>L95RU005</u> , received November 3, 1995: |
| | D-1 Application |
| | D-2 Legal description |
| | D-3 Justification |
| | D-4 Sensitive area review record |
| | D-5 not entered |
| | D-6 Project plans (identified by DDES as same plans in Exhibit 26/D-15; 1 copy only/in this Exhibit - no copy entered in Exhibit 26/D-15) |
| | D-7 not entered |
| | D-8 Assessor map (identified by DDES as same assessor map in Exhibit Nos. 25/D-8 and 26/D-8; 1 copy only - no copy entered in Exhibit 25/D-8 or Exhibit 26/D-8) |
| | D-9 King County certificate of water availability |
| | D-10 King County Department of Public Health site application, dated March 10, 1995/received March 31, 1995 (copies also entered as Exhibit No. 10, and Exhibit Nos. 25/D-10 & 26/D-10, and as attachment to Exhibit No. 19) |
| | D-11 not entered |
| | D-12 Wetland survey map |
| | D-13 Black-and-white photocopies of Lake of the Woods Div. II, backyard photos, Lot 1 (ORIGINAL color photos entered as Exhibit 26/D-13) |
| | D-14 Black-and-white photocopies of Aerial photos, Lake of the Woods Div. II (ORIGINAL color photos entered as Exhibit 26/D-14) |
| | D-14 Aerial photos |
| | D-15 Wetland evaluation |
| | D-16 Mitigation plan |
| | D-17 Property development plan checklist, Lake of the Woods Div. II, Lot 1, received November 3, 1995 |
| | D-18 News article |
| | D-19 Reasonable use exception application, stamped received by DDES on November 3, 1995 |
| | D-20 Certification and transfer of Applicants status, stamped received on November 3, 1995 |
| Exhibit No. 3 | Affidavit of posting, received February 16, 1996, showing date of posting as February 14, 1996 |
| Exhibit No. 4 | 500-foot radius notice, mailed February 5, 1996 |
| Exhibit No. 5 | Hearing Examiner's pre-hearing Order, dated March 14, 1996, re: DDES file no. L95RU005/Valentine |
| Exhibit No. 6 | March 18, 1996 Land Use Services Division response to pre-hearing order, with attachments |
| Exhibit No. 7 | Letter, dated March 21, 1996, from Joel Haggard, to R. S. Titus |
| Exhibit No. 8 | Fax, dated January 8, 1996, from Karen Scharer/DDES, to Steve Burnstead with attached memo from Mason Bowles (dated January 4, 1996) |
| Exhibit No. 9 | Memo to Hearing Examiner requesting March 12, 1996 date for public hearing of Valentine |

- reasonable use exception application L95RU005
- Exhibit No. 10 Seattle-King County Department of Public Health application for on-site sewage disposal system, dated March 10, 1995/received March 31, 1995 **(copies also entered as Exhibit Nos. 2/D-10, 25/D-10, and 26/D-10, and as attachment to Exhibit No. 19)**
- Exhibit No. 11 Letter, dated March 6, 1996, from D.R. Strong/ Consulting Engineers Inc., to Leo Suver, Burnstead Construction **(copy also entered as Exhibit No. 19)**
- Exhibit No. 12 Letter, dated March 25, 1996, to Hearing Examiner, from Joel Haggard/Attorney
- Exhibit No. 13 Lake of the Woods Wetland Delineation, dated July 1986, by Shapiro and Associates, Inc.
- Exhibit No. 14 Examiner's Report and Recommendation dated May 4, 1988, on Lake of the Woods Divisions 2, 3, 4, 5 and 6 - File No. 88-227
- Exhibit No. 15 Plat map, Lake of the Woods Division II
- Exhibit No. 16 Computer printout from Dept. of Assessments
- Exhibit No. 17 Summary of real property history as of March 20, 1996 for Lots 2-11, Lake of the Woods Division II
- Exhibit No. 18 M. S. Webb Wetlands Survey, dated July 8, 1995, of Lot 1, Lake of the Woods, Div. II
- Exhibit No. 19 Letter, dated March 6, 1996, from D.R. Strong/ Consulting Engineers Inc., to Leo Suver, Burnstead Construction **(copy previously entered as Exhibit No. 11), with attachment (copies also entered as Exhibit Nos. 2/D-10, 10, 25/D-10, and 26/D-10)**
- Exhibit No. 20 Memo, dated April 24, 1995, from Greg Kipp to DDES re: New Transition Rule to Title 21A
- Exhibit No. 21 Walker & Associates aerial photo of site, dated September 22, 1995
- Exhibit No. 22 Site plan proposal for Valentine residence
- Exhibit No. 23 Soil conservation service map

On May 9, 1996, the following exhibits were offered and entered into the record:

- Exhibit No. 24 Department of Development and Environmental Services SECOND Preliminary Report to the King County Hearing Examiner, dated May 9, 1996
- Exhibit No. 25 Application for variance L96VA009, dated April 3, 1996:
- D-1 Application, received April 5, 1996
 - D-2 Legal description
 - D-3 Justification
 - D-4 Sensitive area review record
 - D-5 not entered
 - D-6 Project plans **(identified by DDES as same plans in Exhibit 26/D-6; 1 copy only - in Exhibit 26/D-6)**
 - D-7 not entered
 - D-8 Assessors map **(identified by DDES as same assessor map in Exhibit 2/D-8; 1 copy only - no copy entered in Exhibit 25/D-8 or Exhibit 26/D-8)**
 - D-9 King County certificate of water availability
- D-10 King County Department of Public Health site application, dated March 10, 1995/received March 31, 1995 **(copies also entered as Exhibit No. 10, and Exhibit Nos. 2/D-10 & 26/D-10, and as attachment to Exhibit No. 19)** Exhibit No. 26 Application for reasonable use exception L96RU007, dated April 3, 1996:
- D-1 Application, received April 5, 1996
 - D-2 Legal description
 - D-3 Justification
 - D-4 Sensitive area review record
 - D-5 not entered
 - D-6 Project plans **(identified by DDES as same plans in Exhibit 25/D-6; 1 copy only/in this Exhibit - no copy entered in Exhibit 25/D-6)**
 - D-7 not entered
 - D-8 Assessors map **(identified by DDES as same assessor map in Exhibit 2/D-8; 1 copy only - no copy entered in Exhibit 25/D-8 or Exhibit 26/D-8)**
 - D-9 King County certificate of water availability
 - D-10 King County Department of Public Health site application, dated March 10, 1995/received March 31, 1995 **(copies also entered as Exhibit No. 10, and Exhibit Nos. 2/D-10 & 25/D-10, and as attachment to Exhibit No. 19)**
 - D-11 not entered
 - D-12 D.R. Strong, Consulting Engineers Inc., on-site sewage disposal map, letters, Shapiro & Assoc. Wetland Delineation
 - D-13 ORIGINAL photos, Lake of the Woods Div. II, backyard photos, Lot 1 **(black-and-white copies of photos entered as Exhibit No. 2/D-13)**
 - D-14 ORIGINAL aerial photos, Lake of the Woods Div. II **(black-and-white copies of photos entered as Exhibit No. 2/D-14)**
 - D-15 Project plans **(identified by DDES as same plans in Exhibit 2/D-6; 1 copy only/in Exhibit No. 2/D-6; no copy entered in Exhibit 26/D-15)**
- Exhibit No. 27 DDES hearing notice, dated April 19, 1996, re: L96VA009 & L96RU007 - Valentine
- Exhibit No. 28 Affidavit of posting of public hearing notice (Exhibit No. 27)
- Exhibit No. 29 Building permit records, Lake of the Woods Div. II, Lots Nos. 2, 3, 4, 5, 6, 7, 8, 10, 29, 30, & 31, and Lake of the Woods South, Lots Nos. 1, 2, 3, 9, & 10
- Exhibit No. 30 Lake of the Woods Draft Environmental Impact Statement, dated November, 1984
- Exhibit No. 31 Lake of the Woods Final Environmental Impact Statement, dated February, 1985

- Exhibit No. 32 Lake of the Woods Div. II, Mitigated Determination of Non-Significance, dated April 5, 1988
- Exhibit No. 33 Shapiro & Associates, Inc. Addendum, dated March 25, 1988, re: Lake of the Woods Wetland Delineation (July 1986)
- Exhibit No. 34 Shapiro & Associates, Inc. letter, dated April 18, 1988, to John McCarthy/General Western Corporation
- Exhibit No. 35 Preliminary plat map, Lake of the Woods Div. 2, 3, 4, 5, & 6, dated September 23, 1987
- Exhibit No. 36 Letter, dated May 1, 1996, from Johan and Didi Jansen, to Mark Carey/DDES, LUSD, Site Development Services Section
- Exhibit No. 37 REVISION to Wetland & Buffer Functions Semi-quantitative Performance Assessment re: L95RU005/ Valentine; original assessment done April 11, 1996 by Mason Bowles/DDES, LUSD, Site Development Services Section; revision done May 7, 1996 by Jon Hansen/DDES, LUSD, Site Development Services Section
- Exhibit No. 38 Copy of Ordinance No. 11765, passed April 24, 1995, re: Title 21A, amending Ordinance 10870/Section 4, and KCC 21A.01.040
- Exhibit No. 39 Lake of the Woods property frontage information sheet, prepared and entered May 9, 1996, by Karen Scharer/DDES, LUSD, Site Plan Review Section
- Exhibit No. 40 Lake of the Woods lot size comparison information sheet, prepared and entered May 9, 1996, by Steve Burnstead/Burnstead Construction
- Exhibit No. 41 Letter, dated May 9, 1996, from Gareth P. Munger/ Terra Associates, Inc., to Steve Burnstead/ Burnstead Construction, re: wetland functional value evaluation
- Exhibit No. 42 Letter, dated May 9, 1996, from Gareth P. Munger/ Terra Associates, Inc., to Steve Burnstead/ Burnstead Construction, re: fill recommendations
- Exhibit No. 43 Letter (rebuttal testimony), entered May 9, 1996 by Karen Scharer/DDES, LUSD, Site Plan Review, written by Patricia DeAngelis/Lake of the Woods Homeowners Association

RST:var

\\misc\\cases\\l95ru005.rpt