I have vetoed Ordinance 2357 for the following reasons:

1. No implementable drainage plan, replacing SCS project, to carry out the Hearing Examiner's condition for rezone.

2. Upland Development will be rail-oriented, not providing "broad variety of industrial activities."

3. No adopted and/or implementable comprehensive transportation improvements to relieve existing conditions.


5. Reclassification of land should reflect current need; rezone premature because Kent area is most overbuilt industrially in the Puget Sound region.

6. Only part of the Rezone conditions have been met.
AN ORDINANCE of the City of Kent, Washington, relating to planning and rezoning for land development a portion of certain property originally zoned by the City of Kent as MA (Industrial Agricultural) to M-1 (Industrial Park District) zone. (UNION PACIFIC LAND RESOURCES REZONE II).

WHEREAS, certain land was zoned by the City of Kent by Ordinance 1827 entitled "Ordinance adopting Zoning Code for the City of Kent, Washington" on the 4th day of June, 1973; and

WHEREAS, the effective date of the zoning of said land by said Ordinance 1827 and the effective date of said Ordinance 1827 itself, was the 20th day of June, 1973; and

WHEREAS, as required by Ordinance 2180, a public hearing was held before the Hearing Examiner of the City of Kent, wherein it was recommended that said land be rezoned subject to certain conditions; and

WHEREAS, thereafter the City Council of the City of Kent did on the 21st day of June, 1982 hold a hearing on said recommendation insofar as it related to said certain lands, said hearing being held after proper notice thereof; and after said public hearing the City Council determined that the land should be rezoned M-1 (Industrial Park District) zone; and

WHEREAS, it is found that the rezone of land is in the best interest of the health and welfare of the citizens of the City of Kent and is consistent with Comprehensive Plan of the City of Kent and consistent with good planning, now therefore

THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DO HEREBY ORDAIN AS FOLLOWS:

Section 1. The findings and conclusions of the Hearing Examiner issued May 5, 1982 and May 27, 1982 under the style of RZ-82-1 are hereby adopted as findings and conclusions of the City Council.
Section 2. That certain lands described in Exhibit A attached hereto and incorporated herein by reference situated in the City of Kent, County of King, State of Washington and presently zoned as MA (Industrial Agricultural) is hereby rezoned to M-1 (Industrial Park District) zone.

Section 3. Said rezone is expressly conditioned upon conditions 1 through 4 contained in the recommendations of the Hearing Examiner attached hereto as Exhibit B and incorporated herein by reference.

Section 4. The Planning Director of the City of Kent be and he is hereby authorized and directed to indicate upon the Official Zoning Map of the City of Kent or upon an addendum thereto, the zoning of said property as provided for in Section 2 of this ordinance.

Section 5. That upon said amendment being shown upon the Official Zoning Map of the City of Kent, or upon an addendum thereto, the copy of said map or addendum, shall be filed with the Director of Records and Elections of King County, Washington, and the City Clerk of the City of Kent be and she is hereby authorized and directed to record this ordinance with the County Auditor of King County and pay the filing fee therefor.

Section 6. This ordinance shall take effect and be in force five (5) days from and after its passage, approval and publication as provided by law.

ISABEL HOGAN, MAYOR

MARIE JENSEN, CITY CLERK

APPROVED AS TO FORM:

BARRIE HEAVEY, ACTING CITY ATTORNEY
PASSED the 6 day of July, 1982.

APPROVED the 7 day of July, 1982.

RECEIVED BY THE CITY CLERK ON THE 17 DAY OF JULY, 1982.
PUBLISHED the 26 day of July, 1982.

I hereby certify that this is a true copy of Ordinance No. 2357, passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

[Seal]

MARIE JENSEN, CITY CLERK
EXHIBIT "A"

UNION PACIFIC LAND RESOURCES CORPORATION II

REZONE

Parcel A

A parcel of land situate in the Southwest Quarter (SW 1/4) of Section 11, and the Southeast Quarter (SE 1/4) of Section 10, Township 22 North, Range 4 East of the Willamette Meridian, King County, State of Washington, bounded and described as follows:

Commencing at the southeast corner of the Southwest Quarter (SW 1/4) of Section 11;

thence North 01°01'28" East, 280.0 feet to a point on the north line of a parcel of land deeded to Puget Sound Power and Light Company;

thence along said north line the following four (4) courses:

1) South 79°23'56" West, 735.24 feet;
2) South 82°48'44" West, 950.67 feet;
3) North 89°13'00" West, 180.23 feet to the TRUE POINT OF BEGINNING;
4) North 89°13'00" West, 1,590.07 feet to a point on the easterly right-of-way line of Russell Road;

thence along said easterly right-of-way line North 19°48'46" East, 176.74 feet to the beginning of a curve concave northwesterly having a radius of 1,270.00 feet;

thence northeasterly along said curve and along said right-of-way line through a central angle of 07°11'34", 159.43 feet;

thence South 89°13'00" East, 207.23 feet;

thence North 01°01'56" East, 379.00 feet;

thence South 89°13'00" East, 343.13 feet;

thence North 00°47'00" East, 165.00 feet;

thence North 33°20'46" East, 364.32 feet;

thence North 89°13'00" West, 508.41 feet to a point on the easterly right-of-way line of Russell Road;

thence along said easterly right-of-way line North 33°20'46" East, 1,167.09 feet;

thence South 89°08'37" East, 1,101.12 feet;

thence North 00°51'23" East, 499.06 feet to a point on the east-west centerline of said Section 11;

thence along said east-west centerline South 89°17'53" East, 1,002.95 feet;

thence South 01°05'47" West, 850.73;

thence North 89°17'53" West, 1,469.99 feet;

thence South 01°04'02" West, 1,801.64 feet to the TRUE POINT OF BEGINNING.

Containing an area of 3,340,820 square feet, more or less (76.695 acres, more or less).

Parcel B

A parcel of land situate in the Northwest Quarter (NW 1/4) of Section 14, and the Northeast Quarter (NE 1/4) of Section 15, Township 22 North, Range 4 East of the Willamette Meridian, King County, State of Washington, according to the official plat of said land filed in the District Land Office, said parcel being bounded and described as follows:

Commencing at the northeast corner of the Northwest Quarter (NW 1/4) of said Section 14;

thence along the north line of said Section and along the south line of a parcel of land deeded to Puget Sound Power and Light Company, North 88°59'21" West, 720.32 feet;

thence along an east line of said deeded parcel, South 01°05'47" West, 149.32 feet;

thence along the south line of said deeded parcel, North 89°13'00" West, 1,121.00 feet to the TRUE POINT OF BEGINNING:

thence South 01°05'47" West, 1,171.66 feet;

thence South 89°07'49" East, 50.47 feet;

thence South 01°05'47" West, 424.26 feet;

thence North 89°13'00" West, 50.48 feet;

thence South 01°05'47" West, 679.48 feet to a point on the northerly right-of-way line of South 228th Street;
thence along said northerly right-of-way line the following seventeen (17) courses:

1) North 88°27'57" West, 284.45 feet to the beginning of a curve concave northerly having a radius of 670.16 feet;
2) westerly along said curve through a central angle of 10°41'30", 125.06 feet;
3) North 77°46'27" West, 70.74 feet to the beginning of a curve concave southerly having a radius of 730.00 feet;
4) westerly along said curve through a central angle of 08°33'38", 109.07 feet;
5) North 86°20'05" West, 107.02 feet to the beginning of a curve concave northeasterly having a radius of 320.00 feet;
6) northwesterly along said curve through a central angle of 29°08'45", 162.78 feet;
7) North 57°11'20" West, 76.84 feet to the beginning of a curve concave southerly having a radius of 730.00 feet;
8) northwesterly along said curve through a central angle of 09°46'37", 124.57 feet;
9) North 66°57'57" West, 54.49 feet to the beginning of a curve concave northeasterly having a radius of 180.00 feet;
10) northwesterly along said curve through a central angle of 34°13'22", 107.51 feet;
11) North 32°44'35" West, 87.43 feet to the beginning of a curve concave northeasterly having a radius of 686.78 feet;
12) northwesterly along said curve through a central angle of 13°12'54", 158.40 feet;
13) North 19°31'41" West, 230.14 feet to the beginning of a curve concave southerly having a radius of 595.00 feet;
14) northwesterly along said curve through a central angle of 41°27'51", 430.59 feet;
15) North 60°59'32" West, 188.11 feet to the beginning of a curve concave northeasterly having a radius of 258.86 feet;
16) northerly along said curve through a central angle of 80°48'18", 365.07 feet;
17) North 19°48'46" East, 891.69 feet to a point on the south line of said parcel deeded to Puget Sound Power and Light Company;

thence along said south line, South 89°13'00" East, 1,640.81 feet to the TRUE POINT OF BEGINNING.

Containing an area of 3,534,022 square feet, more or less (81.130 acres, more or less).
FINDINGS AND RECOMMENDATION
OF THE HEARING EXAMINER FOR THE CITY OF KENT

FILE NO: #RZ-82-1
APPLICANT: UNION PACIFIC LAND RESOURCES CORPORATION
REQUEST: RECLASSIFICATION OF 158 ACRES FROM MA, INDUSTRIAL AGRICULTURAL TO MI, INDUSTRIAL PARK.
LOCATION: North of S. 228th and east of the Green River to a line extended generally northward from the intersection of S. 228th and Russell Road.

APPLICATION FILED: 2-18-82
DEC. OF NON-SIGNIFICANCE: 3-9-82
FINAL EIS: 5-15-79
PUBLIC HEARING: 4-21-82
RECOMMENDATION ISSUED: 5-5-82
RECOMMENDATION: APPROVED with conditions
STAFF REPRESENTATIVES: Will Wolfert, Planning Department
Gary Gill, Engineering Department
PUBLIC TESTIMONY: Charles Peck, representing applicant
Ed Dvorak
WRITTEN TESTIMONY: None

INTRODUCTION
After due consideration of the evidence presented by the applicant, all evidence elicited during the public hearing, and as a result of the personal inspection of the subject property and surrounding area by the Hearing Examiner, the following findings of fact and conclusions shall constitute the recommendation of the Hearing Examiner on this application.

FINDINGS OF FACT
1. The applicant is requesting reclassification of the property from MA, Industrial Agricultural, to MI, Industrial Park. The property is 158 acres and is located on the east bank of the Green River north of S. 228th.

2. The present classification of MA permits agricultural uses and single family dwellings. The MA is considered as a holding zone for lands which are considered to be appropriate for industrial development when certain criteria are met. Rezoning to more intensive use shall be predicated upon the documented need for additional industrial land. A fiscal impact analysis shall show that there is sufficient market demand to generate revenues adequate for required municipal services. The MI, Industrial Park, zone is intended to protect the environment through strict development standards and to provide for a broad range of industrial activities of a non-nuisance type.
3. The property was annexed to the City in 1959 as part of a large area annexation (Ordinance #1013). The original zoning was MA and the southern portion of the site was reclassified to MI, Light Industrial, in the 1960's. This designation was changed back to MA when the present Zoning Code was adopted in 1973. The property was included in the rezone application known as "Uplands" (File #RZ-78-22). The eastern portion of that rezone request was reclassified to MI while the portion now under consideration was deleted because planning studies under way at the time were intended to provide development criteria which would directly affect those properties adjacent to the Green River.

4. The site and the general area adjacent to it are presently vacant. The residential project known as "The Lakes" has been approved for the 241 acres south of S. 228th. No construction has been started at this time. The area to the east of the site is still undeveloped although designated for industrial uses. There is a small node of industrial development on the north side of S. 228th at approximately Russell Road. Businesses include Pacific Propeller, Sound Manufacturing, and West Valley Masonry Supplies. Further to the east, approximately 100 acres of industrial subdivision has been platted on the south side of S. 228th. The site is bisected by a Puget Power right-of-way which extends eastward from the Green River. This property is not included in the rezone request. There is a small area of MA zoned land between the western boundary of the site and Russell Road. Four single family homes are located within that area. The Green River and the lands within 200 feet of the ordinary high water mark are within the Shoreline Master Program provisions and restrictions.

5. The site is generally flat and level. Soils are a thin layer of alluvium deposits common to the valley floor. Most of the site is covered with low grasses and similar vegetation with some trees and bushes adjacent to Russell Road. There is a seasonal high water table and water tends to pond during periods of extended rain.

6. No plans have been submitted as part of the rezone request. A master plan is being prepared by the owners for the property and the Upland's site together along with tentative subdivision plans. The property has access to both Russell Road and S. 228th Street. Russell Road is classified as a scenic drive and S. 228th as a collector. S. 228th has a sixty foot right-of-way and a paving width of twenty feet. There are no existing deeds of record for Russell Road.

Development of the property with MI uses is estimated to produce a daily trip generation of 9,000 - 10,000 vehicular trips per day with approximately 1,800 - 2,000 trips during peak hours. A Comprehensive Transportation Plan is being prepared by the City and is scheduled to be completed by midsummer. There is an existing 12 inch water main in S. 228th Street which will be required to be extended. The Public Works Department states that the on-going program to develop new supply sources looks positive and that there is no apparent problem with water supply. Sanitary sewer lines will be extended to serve development when it occurs.

7. A fiscal impact analysis has been prepared by the applicant and reviewed by the City as required by city policy.

8. The staff recommendation is for approval of the request with conditions and the staff report setting forth the facts is incorporated into this report by reference as if set forth in full herein.
CONCLUSIONS

1. The Valley Floor Plan contains relevant maps and policies. The area is designated as Industrial Park on the Proposed Land Use Map and such designation is consistent with the proposed zoning of ML. The overall goal of the Economic Element is to promote controlled economic growth with orderly physical development, resource conservation and preservation. Further, industrial development of MA designated land should be phased to coincide with service growth, and should occur contiguous to areas already having services, utilities and adequate roads available. Adequate water and sewer service is presently in the area and will be extended to the site as required by development. Improvements will be required to provide an adequate transportation system and storm drainage system. These improvements may be funded by LID's and conditions should be imposed to ensure the participation of this property.

2. There have been substantial changes in the area and in regard to the subject property since the initial zoning. The major portion of the area to the east has been reclassified to ML, and several large industrial parks have been approved. A large (241 acre) multiple family residential development is planned for the area to the south of the property.

3. Policy 8 of the Economic Statement requires that rezoning of MA zoned land to a more intensive use shall be predicated on documentation of need through a fiscal impact statement. The applicant has submitted a review of the impacts of the proposed reclassification based on assumptions of uses at full development. The City staff has accepted the analysis as being sufficient to meet the requirements of this policy.

4. The proposed rezone will allow the industrial development of the property in the future, and will, therefore, have significant impacts upon traffic on S. 228th. Because the City's Comprehensive Transportation Plan is not yet completed, conditions for improvements to S. 228th should be imposed at a later stage of development. Conditions should be imposed at this time to ensure the protection of Russell Road as a scenic drive and to verify its legal use as a public road.

5. The residences located in the remaining MA zoned area between the subject property and the Green River should receive some mitigation from the impact of industrial development. The minimum setbacks of the ML zone are inadequate to provide such protection. Although the Shoreline Master Program requires a 200 foot setback from the ordinary high water mark of the river, conditions should be imposed in order to protect the existing residences.

6. The proposed reclassification should be approved as it is consistent with and implements the goals and policies of the Comprehensive Plan, there has been substantial change in the area of the requested rezone, and there is benefit to the community as a whole. Conditions are recommended in order to mitigate the impacts created by development which will result from the reclassification.

7. With regard to the proposed reclassification, a Declaration of Non-Significance was issued by the responsible official pursuant to the State Environmental Policy Act of 1971 (SEPA) on March 9, 1982. A Final Environmental Impact Statement which included this property was issued on May 15, 1979.

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Findings and Recommendation
Union Pacific Land Resources Corporation
#RZ-82-1

RECOMMENDATION

For each of the above mentioned reasons, the recommendation of the Hearing Examiner to the Kent City Council is as follows:

The application should be APPROVED, subject to the following conditions:

1. No vehicular access shall be allowed to or from Russell Road for the entire property frontage which abuts Russell Road.

2. The applicant shall provide to the City an asbuilt survey of the centerline of the existing pavement of Russell Road. Further, the applicant shall provide the City with a quit claim deed to all rights of that portion of Russell Road being 30 feet in width northerly and easterly of the centerline of the existing pavement for the entire frontage; and where the applicant's ownership lies on or abuts Russell Road on both sides, the applicant shall quit claim to the City all rights to Russell Road to a width of 60 feet calculated from the centerline of the existing pavement.

3. The applicant shall execute a no-protest LID covenant for each of the following:
   A. The North/South Drainage Channel and Storm Water Detention Project, known as LID #306.
   B. The construction of the East Side Green River Watershed Project known as the Pl - P2 Valley Drainage Project.
   C. The improvement of Russell Road from the eastern boundary of Russell Road Woods to City requirements.

4. A 50 foot setback shall be provided from the easterly boundaries of the MA zoned properties which abut the subject property on the west. Type I landscaping as set out in Section 6.5 of the Kent Zoning Code shall be provided in this setback. This shall be a separate requirement from those set forth in the Shoreline Master Program.

Entered this 5th day of May, 1982, pursuant to the authority granted under Ordinance #2233, City of Kent.

N. M. BURKE, HEARING EXAMINER

Request for Reconsideration

Any party of record who feels the decision of the Examiner is based on error of procedure, fact or judgment, or the discovery of new evidence may file a written request for reconsideration with the Hearing Examiner no later than 14 days of the date of the decision. Reconsideration requests should be addressed to: Hearing Examiner, 220 S. 4th Avenue., Kent, WA 98031.

Notice of Right to Appeal

No public hearing will be held on this matter by City Council unless a written appeal to Council is filed by a party of record within 14 days of the decision. The appeal must be filed with the City Clerk and state the basis of appeal which may be errors of fact, procedural errors, omissions from the record, errors in interpretations of the Comprehensive Plan or new evidence. See Ordinance #2233 and Resolution #896 for specific information.
APPLICATION Name: UNION PACIFIC LAND RESOURCES CORPORATION II
Number: RZ-82-1  Date: 4/21/82
Request: REZONE

VICTINITY MAP
SCALE = 1" : 1,000'

LEGEND:
application site
zoning boundary
city limits

CITY OF KENT
planning department
APPLICATION Name: UNION PACIFIC LAND RESOURCES CORPORATION II
Number: RZ-82-1   Date: 4/21/82
Request: REZONE
ZONING
SCALE = 1" : 1,000'

LEGEND:
- application site
- zoning boundary
- city limits
A request for reconsideration of the Hearing Examiner's recommendation on file #RZ-82-1 was filed with the Examiner on May 14, 1982, and is timely under the provisions of Ordinance #2233.

The Hearing Examiner having examined the files and records and the request for reconsideration makes the following recommendations.

1. Condition 1 shall be modified to read:

   There shall be no vehicular ingress and egress access to Russell Road for the entire property frontage thereon that lies westerly of the easterly end of the Russell Woods as defined by the preliminary plat approval of the Kent 241 plat.

2. Condition 3.C shall be modified to read:

   The improvement of Russell Road lying easterly of the easterly margin of the Russell Woods to City requirements.

3. Condition 4 shall be modified to read:

   A minimum fifty foot building setback shall be provided from the easterly boundary of the MA zoned property which abuts the subject property on its westerly boundary. This setback shall be provided on that portion of the MA-MI zoning boundary located approximately 200 feet north of Puget Sound Power and Light right-of-way and extending approximately 380 feet northwards as noted on attached Exhibit A.

   Type I landscaping as described in Section 6.5 of the Kent Zoning Code shall be provided in this setback area. This shall be a separate requirement from those of the Shoreline Master Program.

Entered this 27th day of May, 1982.
UNION PACIFIC LAND RESOURCES CORPORATION
Kent, Washington

UPLRC ownership outlined

Area rezoned to M-1 under City of Kent Ordinance #2190 shown

Area requested to be rezoned from MA to M-1 shown

EXHIBIT "A"

OFFICE OF DIRECTOR - LAND DEVELOPMENT
Kent, Washington