ORDINANCE NO. 3226

AN ORDINANCE of the City of Kent, Washington, relating to land use and zoning, rezoning approximately four acres of property from MA, Industrial Agricultural, to MRG, Garden Density Multifamily Residential.

WHEREAS, an application to rezone approximately 4 acres from the current zoning of MA, Industrial Agricultural to MRG, Garden Density Multifamily Residential was filed on August 24, 1994, and known as the Ladum Rezone; and

WHEREAS, the Responsible Official issued a Mitigated Determination of Non-Significance (MDNS) for this proposal with two conditions related to traffic and stormwater mitigation on April 21, 1994; and

WHEREAS, a public hearing on the Ladum Rezone was held before the Hearing Examiner on November 16, 1994;

WHEREAS, the Hearing Examiner issued Findings that the Ladum Rezone is consistent with the City-Wide Comprehensive Plan and the Valley Floor Comprehensive Plan, that the potential development associated with the Ladum Rezone would be compatible with the existing development in the vicinity of the Ladum Rezone, that the Ladum Rezone would not unduly burden the transportation system, that the circumstances have changed substantially since the establishment of the MA zone to warrant the Ladum Rezone, and that the proposed rezone would not adversely affect the general welfare of the citizens of Kent in the area surrounding the Ladum Rezone; and
WHEREAS, the Kent Hearing Examiner recommended approval of the Ladum Rezone on November 30, 1994; and

WHEREAS, these Findings are consistent with the standards for a rezone set forth in Section 15.09.050(C) of the Kent City Code; and

WHEREAS, On January 17, 1995, the Kent City Council held a public meeting and after consideration of the Hearing Examiner's recommendation, the City Council moved to remand the Ladum Rezone to consider the fiscal impact of the proposed rezone, pursuant to Kent City Code §15.09.160, and what impacts there may be on schools, pursuant to Kent City Code §15.09.050(C)(5); and

WHEREAS, a public hearing on the remand of the Ladum Rezone was held before the Hearing Examiner on March 1, 1995;

WHEREAS, on March 1, 1995 the Hearing Examiner issued Supplemental Findings (attached hereto as Exhibit B and incorporated herein by this reference) consistent with specific remand request of the City Council at its meeting on January 17, 1995, and in addition to the earlier findings and conclusions entered by the Hearing Examiner on November 16, 1994; and

WHEREAS, these Findings are consistent with the standards for a rezone set forth in Section 15.09.050(C) of the Kent City Code;

WHEREAS, the Kent Hearing Examiner recommended approval of the Ladum Rezone on March 15, 1995; and
WHEREAS, on May 16, 1995, the Kent City Council held a public meeting to consider the Hearing Examiner's recommendation on the rezone application to rezone approximately four acres from the current zoning of MA, Industrial Agricultural to MRG, Garden Density Multifamily Residential; and

WHEREAS, the City Council moved to accept the Findings of the Hearing Examiner and to adopt the Hearing Examiner's recommendation for approval of Rezone #RZ-94-2, the Ladum Rezone; NOW THEREFORE,

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

Section 1. The subject property located at approximately 6300 S. 236th Street and depicted in Exhibit A, attached hereto and incorporated herein by this reference, consisting of approximately four acres is rezoned from the current zoning of MA, Industrial Agricultural to MRG, Garden Density Multifamily Residential.

Section 2. Severability. If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this ordinance.
Section 3. Effective Date. This ordinance shall take effect and be in force thirty days from and after its passage, approval and publication as provided by law.

JIM WHITE, MAYOR

ATTEST:

BRENDA JACOBER, CITY CLERK

APPROVED AS TO FORM:

ROGER A. LUBOVICH, CITY ATTORNEY

PASSED the 16 day of May, 1995.
APPROVED the 17 day of May, 1995.
PUBLISHED the 19 day of May, 1995.

I hereby certify that this is a true and correct copy of Ordinance No. 3226, passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

BRENDA JACOBER (SEAL)
BRENDA JACOBER, CITY CLERK
APPLICATION NAME: Ladum

NUMBER: #RZ-94-2

REQUEST: Rezone

DATE: October 19, 1994

November 16, 1994

LEGEND

- Application site
- Zoning boundary
- Kent City Limits

Zoning / Topography
FINDINGS, CONCLUSIONS AND RECOMMENDATION

FILE NO: LADUM #RZ-94-2

APPLICANT: Larry and Jacqueline Ladum

REQUEST: A request to rezone approximately 4 acres of property from MA, Industrial Agricultural, to MRG, Garden Density Multifamily Residential.

LOCATION: The property is located at approximately 6300 S. 236th Street.

APPLICATION FILED: August 24, 1994

DETERMINATION OF NONSIGNIFICANCE ISSUED: April 21, 1994

REMANDED HEARING DATE: March 1, 1995

REMANDED RECOMMENDATION ISSUED: March 15, 1995

REMANDED RECOMMENDATION: APPROVAL

STAFF REPRESENTATIVE: Fred N. Satterstrom, Planning Department

PUBLIC TESTIMONY: Robert "Doc" Hansen, for applicant

Other: Brooks Fenton

WRITTEN TESTIMONY: None

Additional Exhibits:
Exhibit S2: Housing Demand for MF Units
Exhibit S3: Resume of Mr. Hansen
Exhibit S4: Supplemental Staff Report of Planning Department Dated 2/21/95
Exhibit S5: Fiscal Impact Analysis Dated 2/14/95
Procedural Background

The Hearing Examiner initially heard this application for a rezone on November 16, 1994. After considering the evidence submitted, he recommended approval of the rezone on November 30. The City Council considered the recommendation at its January 17, 1995 council meeting.

The Council decided additional information was needed before the Council could act on the rezone request. The Council remanded the rezone application to the Hearing Examiner for an additional public hearing to address the fiscal impact of the proposed rezone, the need for the proposed rezone and the impact of the proposed rezone on the Kent Public Schools.

The Hearing Examiner held an additional public hearing on March 1 to consider information related to the Council’s request. Expert witnesses for the applicant and the city planning department appeared at the public hearing and both presented information to the Examiner. The following recommendation is supplemental to the original recommendation of the Hearing Examiner and incorporates the November 30 recommendation by reference.

Additional Testimony:
Mr. Fred Satterstrom, City Planning Department;
Mr. Robert Steven Hansen, Applicant’s Expert Witness on Fiscal Impacts;
Mr. Brooks Fenton, Applicant’s Expert Witness on Real Estate Demand.

Additional Exhibits:
Exhibit S2: Housing Demand for MF Units
Exhibit S3: Resume of Mr. Hansen
Exhibit S4: Supplemental Staff Report of Planning Department Dated 2/21/95
Exhibit S5: Fiscal Impact Analysis Dated 2/14/95

SUPPLEMENTAL FINDINGS

1. In addition to the designation of the site as MF, Multifamily Housing, in the present comprehensive plan, the proposed rezone from MA to MR-G is incorporated into the proposed city-wide comprehensive plan as one necessary site for the City to obtain the 7,500 housing units required by the Growth Management Act. Testimony of Fred Satterstrom.

2. The City Council is expected to act on the proposed comprehensive plan in April. If the Council acts to adopt the comprehensive plan with the proposed designation for the rezone site, the proposed rezone would be consistent with
Hearing Findings and Recommendation
Ladum
#RZ-94-2

the new comprehensive plan. If the Council decides the site is not suitable for multifamily housing, another site in the City would need to be selected in order to obtain the required number of residential dwelling units. *Testimony of Fred Satterstrom.*

3. There are only three parcels of property with a MA zoning designation remaining in the City. Two of these are in the process of being developed as City parks. The remaining parcel is the site under consideration for a rezone. *Testimony of Mr. Hansen.*

4. The greatest number of dwelling units possible on the site under an MR-G designation would be 64; although no specific project is associated with this rezone request. An additional 64 units would increase the total number of multifamily units in Kent by less than 0.56 percent. Since multifamily developments currently exist to the north, south and west of the site (with an elementary school to the east), the infrastructure necessary to support multifamily development is already in place near the site. The maximum number of projected vehicle trips per day would be less than 2,500 which could be accommodated by the existing road system. An 8" water line and 10" sewer line are presently available to the site. There are several parks in close proximity to the site including Russell Road Park, Cottonwood Drive, the Neeley-O’Brien Elementary School playfield and Riverbend Golf Course. There would be no financial impact on fire prevention services and less than a 0.5 percent increase in police calls. Thus, the project "will have insignificant negative fiscal impacts upon Kent and the City's facilities." *Exhibit S5, page 1, 5, 7.*

5. Current revenue to the City of Kent is just over $500 per year. The revenue to the City from increased property value if developed with multifamily housing would exceed $11,000 per year. The City would also receive $35,200 for installation of meters to measure water use; $800 each month for sewer hook-up; and an undetermined amount of monies toward the construction of a detention pond capable of handling 275 acre feet of storm water storage. *Exhibit S5, page 4, 7, 8.*

6. The Neeley-O’Brien Elementary School is adjacent to the site proposed for a rezone. That school has a capacity of 487 students, but a 1994 enrollment of 565 students. Students from Neeley-O’Brien would attend Kent Junior High. Kent Junior High has a capacity of 847 students and a 1994 enrollment of 746 students. An additional elementary school has been approved and will be constructed by 1996. The addition of this school will lower the enrollment at Neeley-O’Brien. The maximum number of students that might live in
multifamily housing that may be developed at the site proposed for a rezone is 13 elementary students and six junior high students. Exhibit S5, page 8, 9. The Kent School District was informed of the proposed rezone and did not have a comment on it. Testimony of Fred Satterstrom.

7. The number of multifamily units in Kent is decreasing as a percentage of the total housing available. Approximately 70% of housing was multifamily in 1990; 60% in 1994; and a projected 50% by 1996. While the percentage of multifamily units is decreasing, the demand for multifamily units is increasing due to the increased cost of housing. Thus, 86% of vacant multifamily units are rented within six months of availability. Exhibit S2; Testimony of Mr. Hansen and Mr. Fenton. Several builders have already expressed in interest in the subject property. There is a demand for additional properties that can be developed with multifamily housing. Testimony of Mr. Fenton.

8. No one presented any concerns or testimony against the proposed rezone at the hearing on remand.

9. These findings are in addition to those of the Hearing Examiner’s recommendation issued November 30, 1994 which are incorporated herein by reference.

SUPPLEMENTAL CONCLUSIONS

1. Section 1504.160 of the Kent Zoning Code requires the City to "predicate" a rezone of MA land to more intensive use upon the documentation of the need for additional residential land. The documentation must consist of a fiscal impact analysis that shows:
   (1) the proposed development is sufficient to generate revenues necessary to provide municipal services and
   (2) the other lands already zoned for the proposed use are not sufficient or suitable to accommodate demand for the proposed use.

2. The proposed rezone of the MA land to a multifamily designation, if developed with a multifamily project, would generate revenues necessary to provide all essential municipal services to the site. Findings of Fact No. 4 & 5.

3. The other lands already zoned for multifamily use are not sufficient to accommodate the demand for multifamily housing consistent with the proposed comprehensive plan policies of the City of Kent. Findings of Fact No. 1,2,3 & 7. If, however, the City modifies the proposed comprehensive plan, then the present designation of land may be consistent with a new plan and other lands
may become available for multifamily development. The proposed rezone may
not then meet this requirement. Finding of Fact No. 2. City Council action on
the proposed rezone should await Council action on the proposed elements of
the comprehensive plan that impact this site.

4. The proposed rezone, if approved and developed with the maximum housing
density, would not have a negative impact on schools. Any impacts a housing
development would have could be accommodated by the Kent Public School
district with existing facilities and those under construction. Finding of Fact No
6.

5. These conclusions are in addition to those of the Hearing Examiner’s
recommendation issued November 30, 1994 which are incorporated herein by
reference.

REVISED RECOMMENDATION FOLLOWING REMAND

Based on the above Findings and Conclusions, the Examiner recommends the City
Council APPROVE this request for a rezone. It is the Examiner’s opinion that the
rezone request, as proposed, meets the criteria for approval established by the Council
and that the specific concerns of the Council expressed at its January 17 meeting.

If , however, the Council decides to amend the proposed comprehensive plan with
reference to this site, and adopts a revised comprehensive plan prior to consideration
of this rezone request, the Council should review the proposed rezone in light of that
new comprehensive plan.

Dated this 15th day of March, 1995.

THEODORE PAUL HUNTER
Hearing Examiner

APPEALS FROM HEARING EXAMINER DECISIONS.

Request of Reconsideration
Any aggrieved person may request a reconsideration of a decision by the Hearing
 Examiner if either (a) a specific error of fact, law, or judgment can be identified or (b)
new evidence is available which was not available at the time of the hearing.
Reconsideration requests should be addressed to: Hearing Examiner,
Hearing Findings and Recommendation
Ladum
#RZ-94-2.

220 Fourth Avenue S., Kent, WA 98032. Reconsiderations are answered in writing by the Hearing Examiner.

Notice of Right to Appeal
The decision of the Hearing Examiner is final unless a written appeal to the Council is filed by a party within 14 days of the decision. The appeal must be filed with the City Clerk. Usually, new information cannot be raised on appeal. All relevant information and arguments should be presented at the public hearing before the City Council.

There is no appeal of the Hearing Examiner’s recommendation to the City Council. The City Council shall consider the rezone recommendation at a regularly scheduled public meeting within 30 days.