Ordinance No. 3717

(Amending or Repealing Ordinances)

CFN=1292 – LID 358
Passed – 10/19/04
LID 358 – Formation Ordinance
ORDINANCE NO. 3717

AN ORDINANCE of the City Council of the City of Kent, Washington, ordering the construction of curbs, gutters, sidewalks, driveways, storm drains, retaining walls, street illumination, landscaping, slope protection, underground power and necessary appurtenances relating to the overall project of the addition of high occupancy vehicle lanes on Pacific Highway South from Kent-Des Moines Road to South 252nd Street, all in accordance with Resolution No. 1683 of the City Council; establishing Local Improvement District No. 358 and ordering the carrying out of the proposed improvement; providing that payment for the improvement be made in part by special assessments upon the property in the District, payable by the mode of “payment by bonds”; and providing for the issuance and sale of local improvement district warrants redeemable in cash or other short-term financing and local improvement district bonds.

RECITALS

A. Pursuant to Resolution No. 1683 adopted August 17, 2004, the City Council declared its intention to order the construction of curbs, gutters, sidewalks, driveways, storm drains, retaining walls, street illumination, landscaping, slope protection, underground power and necessary appurtenances relating to the overall project of the addition of high occupancy vehicle lanes on Pacific Highway South from Kent-Des Moines Road to South 252nd Street, and fixed October 5, 2004, at 7:00 p.m., local time, in the council chambers of City Hall as the time and place for hearing all matters relating to the proposed improvement and all comments thereon and objections thereto and for determining the method of payment for the improvement.

B. The City’s Public Works Director caused an estimate to be made of the cost and expense of the proposed improvement and certified that estimate to the City
Council, together with all papers and information in his possession touching the proposed improvement, a description of the boundaries of the proposed local improvement district and a statement of what portion of the cost and expense of the improvement should be borne by the property within the proposed district.

C. That estimate is accompanied by a diagram of the proposed improvement showing thereon the lots, tracts, parcels of land, and other property which will be specially benefited by the proposed improvement and the estimated cost and expense thereof to be borne by each lot, tract, and parcel of land or other property.

D. Due notice of the above hearing was given in the manner provided by law, and the hearing was held by the City Council on the date and at the time above mentioned, and all persons appearing at such hearing and wishing to be heard were heard.

E. The City Council has determined it to be in the best interests of the City that the improvement as hereinafter described be carried out and that a local improvement district be created in connection therewith.

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

SECTION 1. The City Council of the City of Kent, Washington, orders the improvement of the properties within the area described in Exhibit A, attached and incorporated by this reference, by the construction of curbs, gutters, sidewalks, driveways, storm drains, retaining walls, street illumination, landscaping, slope protection, underground power and necessary appurtenances relating to the overall project of the addition of high occupancy vehicle lanes on Pacific Highway South from Kent-Des Moines Road to South 252nd Street.

All of the foregoing shall be in accordance with the plans and specifications therefor prepared by the City's Public Works Director, and may be modified by the City Council as long as such modification does not affect the purpose of the improvement.
SECTION 2. There is created and established a local improvement district to be called Local Improvement District No. 358 of the City of Kent, Washington (the "District"), the boundaries or territorial extent of the District being more particularly described in Exhibit B, attached and incorporated by this reference.

SECTION 3. The total estimated cost and expense of the improvement is declared to be $10,431,116. Approximately $2,081,905 of which cost and expense shall be paid by the City, approximately $7,776,613 of that cost and expense shall be paid by federal and state grants and the balance thereof (an estimated $572,598) of the cost and expense shall be borne by and assessed against the property specially benefited by such improvement included in the District, which embraces as nearly as practicable all property specially benefited by such improvement and the balance of such cost and expense shall be paid by the City.

SECTION 4. In accordance with the provisions of RCW 35.44.047, the City may use any method or combination of methods to compute assessments that may be deemed to more fairly reflect the special benefits to the properties being assessed than the statutory method of assessing the properties.

SECTION 5. No property, any portion of which is outside the District, may connect to those improvements constructed or made a part of such District unless either that property shall have been subject to the special assessments on the assessment roll for that District or the owners of that property shall have paid prior to such connection a charge in lieu of assessment, which shall be at least the equivalent of those assessments that would have been applied to that property had it been included within that District.

SECTION 6. Local improvement district warrants may be issued in payment of the cost and expense of the improvement herein ordered to be assessed, such warrants to be paid out of the Local Improvement Fund, District No. 358, hereinafter created and referred to as the Local Improvement Fund, and, until the bonds referred to in this section are issued and delivered to the purchaser thereof, to bear interest from the date thereof at a rate to be established hereafter by the City's Finance Director, as issuing officer, and to be redeemed in cash and/or by local improvement district bonds.
herein authorized to be issued, such interest-bearing warrants to be hereafter referred to as “revenue warrants.” In the alternative, the City hereafter may provide by ordinance for the issuance of other short-term obligations pursuant to chapter 39.50 RCW.

If the City shall authorize expenditures to be made for such improvement (other than for any cost or expense expected to be borne by the City) prior to the date that any short-term obligations or local improvement district bonds are issued to finance the improvement, from proceeds of interfund loans or other funds that are not, and are not reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside to pay the cost of the improvement herein ordered to be assessed against the property specially benefited thereby, the City declares its official intent that those expenditures, to the extent not reimbursed with prepaid special benefit assessments, are to be reimbursed from proceeds of short-term obligations or local improvement district bonds that are expected to be issued for the improvement in a principal amount not exceeding $572,598.

The City is authorized to issue local improvement district bonds for the District that shall bear interest at a rate and be payable on or before a date to be hereafter fixed by ordinance. The bonds shall be issued in exchange for and/or in redemption of any and all revenue warrants issued hereunder or other short-term obligations hereafter authorized and not redeemed in cash within twenty (20) days after the expiration of the thirty-day period for the cash payment without interest of assessments on the assessment roll for the District. The bonds shall be paid and redeemed by the collection of special assessments to be levied and assessed against the property within the District, payable in annual installments, with interest at a rate to be hereafter fixed by ordinance under the mode of “payment by bonds,” as defined by law and the ordinances of the City. The exact form, amount, date, interest rate, and denominations of such bonds hereafter shall be fixed by ordinance of the City Council. Such bonds shall be sold in such manner as the City Council hereafter shall determine.

SECTION 7. For the purpose of paying all or a part of the costs of carrying out the improvements within the District pending the receipt of the proceeds of the issuance and sale of the bonds or short-term obligations referred to in Section 5, interfund loans from the General Fund and/or Street Fund to the Local Improvement

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Fund in the maximum aggregate amount of $572,598 are authorized and approved, those loans to be repaid on or before the issuance of such bonds or libations from the proceeds thereof. Each of the interfund loans shall bear interest at a variable rate, adjusted the 15th and last day of each month, equal to the interest rate of the State of Washington Local Government Investment Pool on the 15th and last day of each month. The initial interest rate on the date of each interfund loan shall be determined as of the last preceding interest payment adjustment date.

**SECTION 8.** In all cases where the work necessary to be done in connection with the making of such improvement is carried out pursuant to contract upon competitive bids (and the City shall have and reserves the right to reject any and all bids), the call for bids shall include a statement that payment for such work will be made in cash warrants drawn upon the Local Improvement Fund.

**SECTION 9.** The Local Improvement Fund for the District is created and established in the office of the Finance Director of the City. The proceeds from the sale of revenue warrants or other short-term obligations drawn against the fund which may be issued and sold by the City and the collections of special assessments, interest and penalties thereon shall be deposited in the Local Improvement Fund. Cash warrants to the contractor or contractors in payment for the work to be done by them in connection with the improvement and cash warrants in payment for all other items of expense in connection with the improvement shall be issued against the Local Improvement Fund.

**SECTION 10.** Within fifteen (15) days of the passage of this ordinance there shall be filed with the Finance Director of the City the title of the improvement and District number, a copy of the diagram or print showing the boundaries of the District and the preliminary assessment roll or abstract of such roll showing thereon the lots, tracts and parcels of land that will be specially benefited thereby and the estimated cost and expense of such improvement to be borne by each lot, tract or parcel of land. The Finance Director of the City immediately shall post the proposed assessment roll upon her index of local improvement assessments against the properties affected by the local improvement.
SECTION 11. This ordinance shall take effect and be in force five (5) days from and after its passage, approval, and publication as required by law.

By
JIM WHITE, MAYOR

ATTEST:

BRENDA JACOBER
BRENDA JACOBER, CITY CLERK

APPROVED AS TO FORM:

FOSTER PEPPER & SHEFELMAN PLLC
Special Counsel and Bond Counsel

Passed the 19 day of October, 2004.
Approved the 19 day of October, 2004.
Published the 23 day of October, 2004.
PACIFIC HIGHWAY SOUTH HOV LANES
KENT-DES MOINES ROAD TO S. 252ND STREET

BOUNDARY LEGAL DESCRIPTION

LOT C, CITY OF KENT LOT LINE ADJUSTMENT NUMBER LL-96-6, RECORDED UNDER RECORDING NUMBER 9602060774; BEING A PORTION OF LOTS 9, 10 AND 11, BLOCK 5, FEDERAL HIGHWAY ADDITION, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 30 OF PLATS, PAGE 1, IN KING COUNTY, WASHINGTON;

AND ALSO, THE WEST 100 FEET OF LOTS 11 AND 12, BLOCK 5, FEDERAL HIGHWAY ADDITION, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 30 OF PLATS, PAGE 1, IN KING COUNTY, WASHINGTON; EXCEPT THE NORTHERLY 12 FEET OF SAID LOT 11;

AND ALSO, LOTS 16 AND 17, BLOCK 6, FEDERAL HIGHWAY ADDITION, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 30 OF PLATS, PAGE 1, IN KING COUNTY, WASHINGTON; EXCEPT THE SOUTH 10 FEET OF LOT 17;

AND ALSO, LOT 25, BLOCK 6, FEDERAL HIGHWAY ADDITION, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 30 OF PLATS, PAGE 1, IN KING COUNTY, WASHINGTON;

AND ALSO, LOTS 26, 27 AND THE NORTH 20 FEET OF LOT 28, BLOCK 6, FEDERAL HIGHWAY ADDITION, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 30 OF PLATS, PAGE 1, IN KING COUNTY, WASHINGTON;

AND ALSO, LOT 28, LESS THE NORTH 20 FEET AS MEASURED ALONG THE WEST LINE THEREOF, BLOCK 6, FEDERAL HIGHWAY ADDITION, ACCORDING TO THE
PLAT THEREOF RECORDED IN VOLUME 30 OF PLATS, PAGE 1, IN KING COUNTY, WASHINGTON;

AND ALSO, LOTS 23 AND 24, BLOCK 5, FEDERAL HIGHWAY ADDITION, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 30 OF PLATS, PAGE 1, IN KING COUNTY, WASHINGTON; EXCEPT THAT PORTION THEREOF DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 23; THENCE SOUTH 8°58'14" WEST ALONG THE WESTERLY LINE OF SAID LOT 23, 91.50 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING SOUTH 8°58'14" WEST ALONG THE WESTERLY LINE OF SAID LOTS 23 AND 24, 110.48 FEET TO THE SOUTHWEST CORNER OF SAID LOT 24; THENCE NORTH 89°34'26" EAST ALONG THE SOUTHERLY LINE OF SAID LOT 24, 81.37 FEET; THENCE NORTH 5°51'44" EAST 97.33 FEET; THENCE NORTH 81°01'46" WEST 75.00 FEET TO THE TRUE POINT OF BEGINNING; AND EXCEPT THAT PORTION CONVEYED TO THE CITY OF KENT BY DEEDS RECORDED UNDER RECORDING NUMBERS 8805020075, 8805020076, 8805020077 AND 8805020078, BEING RE-RECORDINGS OF DEEDS RECORDED UNDER RECORDING NUMBERS 8803280108, 8803280109, 8803280110 AND 8803280111;

AND ALSO, THAT PORTION OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON, LYING EAST OF THE EAST MARGIN OF PACIFIC HIGHWAY SOUTH (STATE ROAD NO. 1); EXCEPT THE NORTH 30 FEET FOR SOUTH 240TH STREET AND THE WEST HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON; EXCEPT THE NORTH 30 FEET FOR SOUTH 240TH STREET; EXCEPT THAT PORTION THEREOF DEEDED TO THE STATE OF WASHINGTON BY DEED RECORDED UNDER RECORDING NUMBER 9602081412;

22 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON, LYING EASTERLY OF STATE HIGHWAY NO. 1;

AND ALSO, THE NORTH 297 FEET (AS MEASURED ALONG THE WEST LINE) OF THAT PORTION OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON, LYING WESTERLY OF STATE ROAD NO. 1, AS ESTABLISHED BY DEED RECORDED UNDER KING COUNTY RECORDING NUMBER 1990167; EXCEPT THE NORTH 30 FEET THEREOF CONVEYED TO KING COUNTY FOR ROAD BY DEED RECORDED UNDER KING COUNTY RECORDING NUMBER 921231; AND EXCEPT THAT PORTION THEREOF CONVEYED TO CITY OF KENT BY DEED RECORDED UNDER KING COUNTY RECORDING NUMBER 8801200186; AND EXCEPT THAT PORTION THEREOF CONVEYED TO THE STATE OF WASHINGTON BY DEED RECORDED UNDER KING COUNTY RECORDING NUMBER 9604171287;

AND ALSO, LOTS 5, 6, 7, 36, 37 AND 38, BLOCK 20, INTERURBAN HEIGHTS, THIRD
SECTION, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 17 OF
PLATS, PAGE 87, IN KING COUNTY, WASHINGTON;

AND ALSO, LOT 1, CITY OF KENT, SHORT PLAT NUMBER SP-92-15 (ALSO KNOWN
AS PETERSON SHORT PLAT), RECORDED UNDER RECORDING NUMBER 9303300767,
SAID SHORT PLAT BEING A SUBDIVISION OF A PORTION OF THE NORTHWEST
QUARTER OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 22 NORTH,
RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON;

AND ALSO, LOT 2, CITY OF KENT, SHORT PLAT NUMBER SP-92-15 (ALSO KNOWN
AS PETERSON SHORT PLAT), RECORDED UNDER RECORDING NUMBER 9303300767,
SAID SHORT PLAT BEING A SUBDIVISION OF A PORTION OF THE NORTHWEST
QUARTER OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 22 NORTH,
RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON;

AND ALSO, THAT PORTION OF THE NORTHWEST QUARTER OF THE SOUTHEAST
QUARTER OF SECTION 21, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN KING
COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS: BEGINNING AT THE POINT OF
INTERSECTION OF THE SOUTH LINE OF THE NORTH 175 FEET OF THE SOUTH 800
FEET OF SAID SUBDIVISION WITH THE EASTERLY MARGIN OF STATE ROAD NO. 1,
WHICH POINT IS THE TRUE POINT OF BEGINNING OF THE TRACT HEREBIN
DESCRIBED; THENCE EAST ALONG SAID SOUTH LINE, 175 FEET; THENCE NORTH,
at right angles thereto, 87.5 FEET; THENCE WEST TO THE EASTERLY
MARGIN OF SAID STATE ROAD NO. 1; THENCE SOUTHERLY, ALONG SAID
EASTERLY MARGIN, TO THE TRUE POINT OF BEGINNING;

AND ALSO, THAT PORTION OF THE NORTH 125 FEET OF THE SOUTH 625 FEET OF
THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 21,
TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON,
LYING EAST OF THE EASTERLY LINE OF PRIMARY STATE HIGHWAY NO. 1, AS THE
SAME IS DESCRIBED IN AN EASEMENT FROM WYERHALBUSER TIMBER COMPANY TO THE STATE OF WASHINGTON DATED MARCH 3, 1925, RECORDED UNDER RECORDING NUMBER 1994319;

AND ALSO, LOT 1, CITY OF KENT SHORT PLAT NUMBER SPC-85-1, RECORDED UNDER RECORDING NUMBER 8503060266, BEING A PORTION OF THE SOUTH 200 FEET OF THAT PART OF THE NORTH 400 FEET OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER; THENCE SOUTH 1°06'15" WEST ALONG THE EAST LINE THEREOF, 200.03 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING SOUTH 1°06'15" WEST 200.03 FEET TO THE SOUTH LINE OF SAID NORTH 400 FEET; THENCE NORTH 87°44'05" WEST ALONG SAID SOUTH LINE 773.35 FEET TO THE EASTERLY MARGIN OF PACIFIC HIGHWAY SOUTH (100 FEET WIDE); THENCE NORTH 20°43'05" EAST ALONG SAID EASTERLY MARGIN, 210.84 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF THE NORTH 200 FEET OF SAID SUBDIVISION; THENCE SOUTH 87°44'05" EAST ALONG SAID SOUTH LINE 702.56 FEET TO THE TRUE POINT OF BEGINNING;

AND ALSO, LOT 1, CITY OF KENT SHORT PLAT NUMBER SPC-84-1, RECORDED UNDER RECORDING NUMBER 8404100500; BEING A PORTION OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON; TOGETHER WITH AN EASEMENT FOR INGRESS, EGRESS AND UTILITIES AS DELINEATED ON THE FACE OF CITY OF KENT SHORT PLAT NUMBER SPC-84-1, RECORDED UNDER RECORDING NUMBER 8404100500; AND TOGETHER WITH AN EASEMENT FOR INGRESS AND EGRESS OVER AND ACROSS THAT CERTAIN EASEMENT GRANTED TO THE DES MOINES SEWER DISTRICT UNDER RECORDING NUMBER 7306050476, AND DELINEATED ON CITY OF KENT SHORT PLAT NUMBER SPC-77-18, RECORDED UNDER RECORDING NUMBER 7706300987;
AND ALSO, LOT 1, CITY OF KENT SHORT PLAT NUMBER SP-90-13, RECORDED UNDER RECORDING NUMBERS 9010160102, 9010160103 AND 9010160104, BEING A PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON; (ALL BEING KNOWN AS A PORTION OF LOT A, CITY OF KENT LOT LINE ADJUSTMENT NO. LL-90-8, RECORDED UNDER RECORDING NUMBER 9003010460);
EXHIBIT B

LID 358

PACIFIC HIGHWAY SOUTH HOV LANES
KENT-DES MOINES ROAD TO S. 252nd STREET

PROJECT DESCRIPTION

The overall project will reconstruct and widen the roadway to a curb to curb width of 86 feet providing a northbound and southbound high occupancy vehicle lane adjacent to the street curb. Improvements also include the construction of concrete curb, gutters and a 7-foot-wide sidewalk. Ancillary improvements include upgrading and interconnecting the existing traffic signals, undergrounding of the overhead utilities, control of driveway access points, drainage system improvements and illumination system improvements.

The LID portion of the project will provide frontage improvements including curb, gutter sidewalk, driveways across sidewalks, storm drains, retaining walls, street illumination, landscaping, slope protection, underground power and necessary appurtenances consistent with good street construction.
CERTIFICATION

I, the undersigned, City Clerk of the City of Kent, Washington, hereby certify as follows:

1. The attached copy of Ordinance No. 3119 is a full, true and correct copy of an ordinance duly passed at a regular meeting of the City Council of the City held at the regular meeting place thereof on October 19, 2004, as that ordinance appears on the minute book of the City; and the ordinance will be in full force and effect five (5) days after the publication of its summary in the City's official newspaper; and

2. A quorum of the members of the City Council was present throughout the meeting and a majority of those members present voted in the proper manner for the passage of the ordinance.

IN WITNESS WHEREOF, I have hereunto set my hand this 25 day of October, 2004.

CITY OF KENT, WASHINGTON

BRENDA JACOBER, City Clerk