Ordinance No. 3871

(Amending or Repealing Ordinances)

CFN=1312 – Property Acquisition
Passed – 1/15/2008
West James St & 4th Ave N/W Cloudy St Improvements Projects

Recorder’s # 20080304001288

The date ["Beginning July 1, 1998"] has led to confusion. This date will be deleted from cover sheets of ordinance/resolution revision pages. This cover sheet will be deleted on electronic pages only, no other deletions or changes have been made to the document – 6/21/2012.
ORDINANCE NO. 3871

AN ORDINANCE of the City Council of the City of Kent, Washington, providing for the acquisition of real property and/or property rights located along 4th Avenue North from West James Street to 350 feet north of West Cloudy Street, along West Cloudy Street from 5th Avenue North to 3rd Avenue North, and along West James Street from the Interurban Trail to 4th Avenue North. This action is being taken in order to construct the improvements to widen and improve the roadways. This Ordinance provides for the condemnation, appropriation, taking and damaging of real property and/or rights as are necessary for that purpose and provides for the payment thereof out of the 4th Avenue North Improvement Project fund (Fund No. R90081) and West James Street Improvement Project fund (Fund No. R90083). This Ordinance directs the city attorney to prosecute the appropriate legal proceedings, together with the authority to enter into settlements, stipulations or other agreements, and acknowledges that all of the real property affected is located within the corporate limits of the City of Kent in King County, Washington.

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

ORDINANCE

SECTION 1. After hearing the report of City staff, and after reviewing the planned improvements for the 4th Avenue North/West Cloudy Street and the West James Street Improvement Projects (the "Projects"), the City Council finds and

West James Street and
4th Avenue N./W. Cloudy Street
Improvement Projects
Condemnation Ordinance
declares that the public convenience, use, health, safety and necessity demand that the City of Kent condemn, appropriate, take and damage portions of certain real properties located within the corporate limits of the City of Kent in King County, Washington, in order to acquire the necessary real property and/or property rights for the construction of the Projects, including all necessary appurtenances. The properties and owners of record affected by this ordinance are described in Exhibit A, attached and incorporated by this reference (collectively the "Property"). The purposes for which this condemnation is authorized shall include, without limitation, all acts necessary to complete the construction, extension, improvement, widening, alteration, maintenance, reconstruction and restoration of the Projects, and any other municipal purpose lawfully permitted within rights of way.

SECTION 2. The City authorizes the acquisition by condemnation of all or a portion of the Property and/or rights in the Property for the construction, extension, improvement, widening, alteration, maintenance and reconstruction of the Projects, together with all necessary appurtenances and related work to make a complete roadway improvement according to applicable design, construction and traffic standards and to accommodate other municipal purposes lawfully permitted within rights of way.

SECTION 3. The City shall condemn the Property and/or rights in the Property only upon completion of all steps and procedures required by applicable federal, state, and/or local laws and regulations. The City's possession and use of the Property and/or rights shall commence only after a firm offer has been made and that amount has first been paid to the owner(s) and encumbrancers or paid into the registry of the court for the owner(s) and encumbrancers - in the manner prescribed by law. Title shall not pass to the City until the time just compensation has been either agreed upon or has been finally adjudged by a court of competent jurisdiction and that amount along with any interest accrued has been either distributed to the owner(s) and encumbrancers or paid in full into the registry of the court.
SECTION 4. The City shall pay for the entire cost of the acquisition by condemnation provided for in this ordinance through the City's "4th Avenue North/West Cloudy Street Improvement Project" fund (Fund No. R90081) and/or the "West James Street Improvement Project" fund (Fund No. R90083), or from any of the City's general funds, if necessary, as may be permitted by law.

SECTION 5. The City authorizes and directs the city attorney to commence those proceedings provided by law that are necessary to condemn the property and/or interests therein. The City Council authorizes the city attorney to enter into settlements, stipulations, or agreements in order to mitigate damages and/or to minimize costs. The bases for such settlements, stipulations, or agreements may include, but are not limited to, the amount of just compensation to be paid; the size and dimensions of the property condemned; the acquisition of temporary construction easements and other limited property interests; and costs and attorneys fees.

SECTION 6. Any acts consistent with the authority and prior to the effective date of this ordinance are ratified and confirmed.

SECTION 7. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

SECTION 8. This ordinance, being the exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect and be in force five (5) days after its publication as provided by law.

Suzette Cooke, Mayor

West James Street and 4th Avenue N./W. Cloudy Street Improvement Projects Condemnation Ordinance
I hereby certify that this is a true copy of Ordinance No. 3871 passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.
EXHIBIT A
PARCEL A:

That portion of the following described Tract "X" lying south of a line 150 feet north of and parallel to the south line of Section 13, Township 22 North, Range 4 East, W.M., in King County, Washington:

Tract "X":

A strip of land, 100 feet in width, being 50 feet in width on each side of the centerline of definite location of the Seattle-Tacoma Interurban Railway, across the southeast quarter of the southwest quarter of Section 13, Township 22 North, Range 4 East, W.M., in King County, Washington, the centerline of said strip being described as follows:

Beginning at a point on the south boundary line of said Section 13, Township 22 North, Range 4 East, 829 feet west from the quarter section corner between Sections 13 and 24; thence north 0°11' west 1,330.1 feet to the intersection with the north boundary line of the southeast quarter of the southwest quarter of said Section 13 and the terminus of line description, said point of intersection being 475 feet easterly from the northwest corner of the southeast quarter of the southwest quarter of said Section 13; EXCEPT the south 33 feet thereof conveyed to the City of Kent for roadway purposes.

PARCEL B:

That portion of the following described Tract "Y" lying south of a line 150 feet north of and parallel to the south line of Section 13, Township, 22 North, Range 4 East, W.M., in King County, Washington:

Tract "Y":

Beginning at a point on the south boundary line of said Section 13, Township, 22 North, Range 4 East, 973.5 feet west from the southeast corner of the southwest quarter of said Section 13; thence north, along the west line of a tract of land conveyed by Samuel D. McMillin to Thomas K. McMillin by deed recorded in Volume 36 of Deeds, page 528 under Recording Number 8584, 1,320 feet to the northwest corner of said conveyed tract of land; thence east, along the north line of the tract of land so conveyed,
LEGAL DESCRIPTION, continued:

80 feet, more or less, to the west line of the strip of land condemned and appropriated pursuant to decree dated September 17, 1901 entered in King County Superior Court Cause Number 33023, a copy of which decree was recorded under Recording Number 217920; thence southerly, along the west line of said strip of land so appropriated, 1,320 feet, more or less, to the south line of said Section 13; thence west along said south line 69 feet, more or less, to the point of beginning; EXCEPT that portion lying west of a line commencing at a point on the south boundary line of Section 13, Township, 22 North, Range 4 East, 973.5 feet west from the southeast corner of the southwest quarter of said Section 13; thence northerly, along the west line of a tract of land of a tract of land conveyed by Samuel D. McMillin to Thomas K. McMillin by deed recorded in Volume 36 of Deeds, page 528 under Recording Number 8584, 1,320 feet, more or less, to the north line of said southeast quarter of the southwest quarter; thence east along said north line 30 feet to the TRUE POINT OF BEGINNING of line description; thence southerly, parallel with the west line of said McMillin Tract, to the south line of said southeast quarter of the southwest quarter of Section 13, and the terminus of line description; AND EXCEPT the south 33 feet thereof conveyed to the City of Kent for roadway purposes.
That portion of the following described Tract "X" lying north of a line 150 feet south of and parallel to the north line of Section 24, Township 22 North, Range 4 East, W.M., in King County, Washington:

Tract "X":

A strip of land, 100 feet in width, being 50 feet in width on each side of the centerline of the Seattle-Tacoma Interurban Railway, as laid out and surveyed on, over, across and through the northeast quarter of the northwest quarter of Section 24, Township 22 North, Range 4 East, W.M., in King County, Washington, the centerline of said strip being described as follows:

Beginning at a point on the north boundary line of said Section 24, Township 22 North, Range 4 East, 829 feet west from the quarter section corner on the north line of said Section 24; thence south 0°11' west 1,300 feet to the south line of the northeast quarter of the northwest quarter of said Section 24 and the terminus of line description; EXCEPT the north 33 feet thereof conveyed to the City of Kent for roadway purposes.
The south 150 feet of the following described property:

A strip of land, 100 feet in width, extending over and across, from the south side to the north side of the southeast quarter of the southwest quarter of Section 13, Township 22 North, Range 4 East, W.M., in King County, Washington, said strip lying east of, parallel with and contiguous to the right-of-way of the Puget Sound Electric Railway Company.
The north 150 feet of the following described property:

A strip of land, 350 feet in width, extending over and across, from the south side to the north side of the northeast quarter of the northwest quarter of Section 24, Township 22 North, Range 4 East, W.M., in King County, Washington, said strip lying east of, parallel with and contiguous to the right-of-way of the Puget Sound Electric Railway Company;

EXCEPTING from said 350-foot strip of land, that portion lying easterly of the following described line:
Commencing at the northeast corner of said Section 24;
thence north 89°48'20" west along the north line of said Section 24, a distance of 477.53 feet, more or less, to the easterly boundary of the 350-foot right-of-way conveyed to the Chicago, Milwaukee and St. Paul Railway Company by deed recorded under Recording Number 455930;
thence south 00°24'40" east along said easterly right-of-way boundary a distance of 979.75 feet;
thence north 53°30'20" west a distance of 50.72 feet;
thence north 43°21'40" west a distance of 50 feet;
thence north 39°13'00" west a distance of 50 feet;
thence north 32°36'29" west a distance of 45.83 feet;
thence north 08°50'02" west a distance of 345.44 feet to the TRUE POINT OF BEGINNING of line description;
thence north 00°28'10" west a distance of 495.15 feet to the north line of said Section 24 and the terminus of line description.
OWNER REV BRUTCHE FAMILY TRUST TAX PARCEL NO: 755740-0050

Lot 1, Block 2, Sandwick's Addition to the City of Kent, according to the plat thereof recorded in Volume 59 of Plats, page 81, in King County, Washington;
EXCEPT that portion thereof conveyed to the City of Kent by Deed recorded under Recording Number 6444335, described as follows:

Beginning on the south line of said Lot 1, which is 15 feet from the southwest corner of said Lot;
Thence westerly along said south line to said southwest corner;
Thence northerly along the west line of said Lot 1, 20 feet;
Thence southeasterly to the point of beginning.
OWNER: EDGARDO R. OBRAS  TAX PARCEL NO: 755740-0055
Lot 2, Block 2, Sandwick's Addition, according to the plat thereof
recorded in Volume 59 of Plats, page 81, in King County, Washington.
OWNER KENNETH & MICHELLE WENDLING TAX PARCEL NO. 755740-0060

Lot 3, Block 2, Sandwick's Addition to the City of Kent, according to the plat thereof recorded in Volume 59 of Plats, page 81, in King County, Washington.
OWNER: JACOB W. GAMER

Lot 4, Block 2, Sandwick's Addition to the City of Kent, according to the plat thereof recorded in Volume 59, of Plats, page 81, in King County, Washington.
OWNER  GERALD WARREN  

TAX PARCEL NO  132204-9144 

That portion of the south 102 feet of the northwest quarter of the southwest quarter of the southeast quarter of Section 13, Township 22 North, Range 4 East, W.M., in King County, Washington, lying west of 4th Avenue as conveyed to the City of Kent by Deed recorded under King County Recording Numbers 4914696 and 6454933; EXCEPT the west 33 feet thereof conveyed to the City of Kent, by Deed recorded under King County Recording Number 5649487.
OWNER  SUSAN E. STODDARD  TAX PARCEL NO  755740-0085

Lot 8, Block 2, Sandwick's Addition to the City of Kent, according to the plat thereof recorded in Volume 59 of Plats, page 81, in King County, Washington;
EXCEPT that portion conveyed to City of Kent by deed recorded under King County Recording Number 6454936.
OWNER   DOUGLAS RAE    TAX PARCEL NO  755740-0080

North 56 feet of Lot 7, Block 2, Sandwick's Addition to the City of Kent, according to the plat thereof recorded in Volume 59 of Plats, page 81, in King County, Washington; EXCEPT that portion conveyed to City of Kent by deed recorded under King County Recording Number 6454936.
TAX PARCEL NO. 755740-0015

OWNER: PREFERRED PROPERTIES & INVESTMENT CO

Lot 3, Block 1, Sanwick's Addition to the City of Kent, according to the plat thereof recorded in Volume 59 of Plats, page 81, in King County, Washington;

EXCEPT the westerly 5 feet thereof condemned in King County Superior Court Cause Number 708685 for North Fourth Avenue, in King County, Washington.
OWNER: DEL-KENT, LLC

Lot 4, Block 1, Sandwicks Addition, according to the plat thereof recorded in Volume 59 of Plats, page 81, in King County, Washington; EXCEPT the westerly 5 feet thereof.
No. 658410

OWNER  TUAN DO & JESSICA DONGUYEN  TAX PARCEL NO  755740-0035

Lot 7, Block 1, Sandwick's Addition to the City of Kent, according
to the plat thereof recorded in Volume 59 of Plats, page 81, in King
County, Washington;
EXCEPT the westerly 5 feet thereof conveyed to the City of Kent by
deed recorded February 14, 1969, under Recording Number 6470986.
OWNER: NANCY C COBLE

TAX PARCEL NO: 132204-9152

The east 148 feet of the following described property:

The north 76.5 of the south 178.5 of the northwest quarter of the southwest quarter of the southeast quarter of Section 13, Township 22 North, Range 4 East W.M., in King County, Washington;
EXCEPT the east 156 thereof;
AND EXCEPT that portion of 4th Avenue North as condemned by King County Superior Court Cause No. 708685.
Return Address:

Attn: City Clerk
City of Kent
220 Fourth Ave. S.
Kent, WA 98032

WASHINGTON STATE COUNTY AUDITOR/RECORDER'S COVER SHEET

Document Title: City of Kent Ordinance No. 3871: Relating to Eminent Domain
Reference Number(s): N/A
Grantor(s): City of Kent, a Washington municipal corporation
Grantee(s): The Public
Abbreviated Legal Description:

Ptns. of Sec. 13; Twn. 22N, Rng 4E, W.M. King County, State of Washington; Ptns of Sec. 24; Twn. 22N, Rng 4E, W.M. King County, State of Washington; Ptns of Sandwick's Addition to the City of Kent, Vol. 59 of Plats, page 81, King County, State of Washington

Additional legal description on Exhibit "A" of document

Assessor's Property Tax Parcel/Account Number(s): 132204-9022, 242204-9097, 132204-9024, 242204-9029, 755740-0050, 755740-0055, 755740-0060, 755740-0065, 132204-9144, 755740-0085, 755740-0080, 755740-0015, 755740-0020, 755740-0035, 132204-9152

Project Name: West James Street and 4th Avenue North / West Cloudy Street Improvement Project

Said document(s) were filed for record by Pacific Northwest Title as accommodation only. It has not been examined as to proper execution or as to its affect upon title.