

CITY OF KIRKLAND, WASHINGTON

ORDINANCE NO. 2595

AN ORDINANCE of the City of Kirkland, Washington, approving and adopting Findings and Conclusions as to certain objections to assessments in Local Improvement District No. 115; approving and confirming certain assessments and portions of the assessment roll of Local Improvement District No. 115 for the improvement of certain properties within the Kirkland Industrial Park Area of the City to provide for additions, betterments, and other improvements to the streets, including street lighting facilities; water systems, storm drainage and facilities, sanitary sewer systems, and other landscaping and buffering improvements; levying and assessing the amounts therefor against certain lots, tracts, parcels of land, and other property as shown on the assessment roll as confirmed by the City Council; providing for the payment of such assessments into the Local Improvement Fund, District No. 115, of the City of Kirkland, Washington, as created by Ordinance No. 2345; and ratifying and confirming Ordinance No. 2543.

WHEREAS, the assessment roll levying the special assessments against the property located in Local Improvement District No. 115, generally described as the Kirkland Industrial Park Area, has been filed with the Director of Administration and Finance of the City and ex officio City Clerk of the City, by the Director of Public Works as provided by law; and

WHEREAS, a hearing to consider such assessment roll together with written protests and objections by property owners to such roll was held on June 16, 1980, and thereafter continued until July 21, 1980, at which time such hearing was reconvened and thereafter recessed from session to session held on July 22, July 24, July 28, and July 29, 1980, and the City Council, after having duly and

fully considered such assessment roll together with the written protests and objections filed in connection therewith together with the evidence presented in support of such roll and protests and objections, passed Ordinance No. 2543 on August 18, 1980, modifying, approving, and confirming the assessments and assessment roll of Local Improvement District No. 115; and

WHEREAS, certain property owners appealed the assessments levied and assessed against their respective lots, tracts, or parcels as shown on the final assessment roll for Local Improvement District No. 115 to the Superior Court of the State of Washington for King County, to wit:

<u>Property Owner</u>	<u>Parcel No.</u>
J. H. Colman	56
Pacific West Investors	53, 55
Dunn Lumber Company	31B
Northwest Construction	31, 31A, 47, 76, 76A
Pacific Developers (Green, Thomson, and Strandburg, d/b/a Park 405 and Butler Building)	30, 41
John E. Behey	42
Timberland Industries, Inc. (Western Cabinet)	50
Wallace H. Litchfield	5, 6
N.A.N. Partners	1, 2, 3, 25, 26, 27, 29
Parry B. Wells	24, 71
Robert Welcome and L. A. Welcome	32, 32A, 33
Roger V. Wahlman and Ewing Stringfellow	38
James E. Nelson and Edwin S. Nelson	39

and in addition, certain other property owners commenced suit in the Superior Court of the State of Washington for King County for declaratory and injunctive relief, to wit:

<u>Property Owner</u>	<u>Parcel No.</u>
Robert Welcome and L. A. Welcome	32, 32A, 33
Roger V. Wahlman and Ewing Stringfellow	38
James E. Nelson and Edwin S. Nelson	39

and such appeals and lawsuits were consolidated in the Superior Court of the State of Washington for King County under Cause No. 80-2-12395-5, after which time an additional property owner, Par Mac Investors, owner of Parcels 8 and 10, was permitted by that certain order of the Court of January 26, 1981, to intervene in such consolidated action; and

WHEREAS, on January 26, 1981, the Court entered Findings of Fact, Conclusions of Law, and Order, wherein it was held that the City had not given James E. Nelson, Edwin S. Nelson, Roger V. Wahlman, Ewing Stringfellow, L. A. Welcome, and Robert Welcome proper notice of the hearing to confirm the final assessment roll for Local Improvement District No. 115, and wherein it was ordered that the appeals of such property owners be remanded to the City Council for additional assessment proceedings, which proceedings were to be held in compliance with the notice and hearing provisions of RCW 35.44; and

WHEREAS, on February 10, 1981, the Court entered Findings of Fact, Conclusions of Law, and Order, wherein it was held that the City had not given Par Mac Investors proper notice of the hearing

to confirm the final assessment roll for Local Improvement District No. 115, and wherein it was ordered that the action of Par Mac Investors be remanded to the City Council for additional assessment proceedings, which proceedings were to be held in compliance with the notice and hearing provisions of RCW 35.44; and

WHEREAS, on March 11, 1981, the Court entered Findings of Fact, Conclusions of Law, and Order on Plaintiffs' Motion for Partial Summary Judgment and Dismissal, wherein it was held that property owners Dunn Lumber Company, Northwest Construction Company, Pacific Developers (Green, Thomson, and Strandburg, d/b/a Park 405 and Butler Building), John E. Behey, Timberland Industries, Inc. (Western Cabinet), and Wallace H. Litchfield were entitled to have notice and an opportunity to be heard by the City Council on the adoption of certain proposed Findings and Conclusions on their protests and objections before the final assessments could be confirmed and made final as to their property, and wherein it was ordered that the appeals of such property owners be remanded to the City Council for the entry of Findings of Fact and Conclusions of Law after such property owners had been given notice and an opportunity to be heard with respect to such proposed Findings of Fact and Conclusions of Law; and

WHEREAS, the City determined that certain other property owners who were entitled to notice of the initial sessions of the hearing to confirm the final assessment roll may not have been given such notice, to wit:

<u>Property Owner</u>	<u>Parcel No.</u>
Hillcrest Corporation	7
D. R. Connelly and C. Cronhagen	37

and

WHEREAS, due notice of the time and place of hearing for additional assessment proceedings respecting the confirmation of the final assessment roll for Local Improvement District No. 115 and of making objections and protests to such roll was duly published at and for the time and in the manner provided by law, fixing the time and place of hearing thereon for March 23, 1981, at the hour of 7:30 p.m. in the City Council Chambers of the City Hall, 210 Main Street, Kirkland, Washington, and due notice thereof was timely mailed to certain property owners who were entitled to notice of such additional assessment proceedings, to wit:

<u>Property Owner</u>	<u>Parcel No.</u>
Hillcrest Corporation	7
Par Mac Investors	8, 10
Robert Welcome and L. A. Welcome	32, 32A, 33
D. R. Connelly and C. Cronhagen	37
Roger V. Wahlman and Ewing Stringfellow	38
James E. Nelson and Edwin S. Nelson	39

and such hearing having been duly held and recessed from session to session on March 24, 1981, and March 25, 1981; and

WHEREAS, prior to or at the time and place fixed and designated in such notice for such additional assessment proceedings,

all such property owners, except D. R. Connelly and C. Cronhagen, timely filed written protests or objections as received by the Director of Administration and Finance of the City and ex officio City Clerk of the City; and

WHEREAS, during such sessions of the additional assessment proceedings respecting the hearing to confirm the final assessment roll, the City administration and each objecting property owner presented materials, evidence, testimony, and briefs, and the City Council duly considered such assessment roll together with the written protests and objections filed in connection therewith, and also duly considered all material, evidence, testimony, and briefs presented; and

WHEREAS, the City Council caused proposed Findings of Fact and Conclusions of Law to be prepared on the protests or objections of certain property owners, to wit:

<u>Property Owner</u>	<u>Parcel No.</u>
Hillcrest Corporation	7
Par Mac Investors	8, 10
Robert Welcome and L. A. Welcome	32, 32A, 33
Roger V. Wahlman and Ewing Stringfellow	38
James E. Nelson and Edwin S. Nelson	39

and such Findings and Conclusions were mailed to such property owners, together with notice of opportunity to be heard with regard to the proposed Findings and Conclusions; and

WHEREAS, notice of opportunity to be heard with regard to the proposed Findings and Conclusions was mailed to certain

property owners who were entitled to such notice by virtue of that certain order entered on March 11, 1981, in King County Superior Court Consolidated Cause No. 80-2-12395-5, to wit:

<u>Property Owner</u>	<u>Parcel No.</u>
Dunn Lumber Company	31B
Northwest Construction	31, 31A, 47, 76, 76A
Pacific Developers (Green, Thomson and Strandburg, d/b/a Park 405 and Butler Building)	30, 41
John E. Behey	42
Timberland Industries, Inc. (Western Cabinet)	50
Wallace H. Litchfield	5, 6

and

WHEREAS, notice of opportunity to be heard with regard to the proposed Findings and Conclusions was also mailed to certain property owners who had previously perfected appeals of their assessments under King County Superior Court Consolidated Cause No. 80-2-12395-5, to wit:

<u>Property Owner</u>	<u>Parcel No.</u>
John H. Colman	56
N.A.N. Partners	1, 2, 3, 25, 26, 27, 29
Pacific West Investors	53, 55
Parry B. Wells	24, 71

and

WHEREAS, the City Council on April 27, 1981, in a regularly scheduled open study meeting considered the proposed Findings of Fact and Conclusions of Law as to each protesting property owner,

together with such written and oral exceptions which had been made by said property owners; and

WHEREAS, the City Council having duly considered the final assessment roll together with such written protests and objections filed in connection therewith as noted above, and having duly considered all material, evidence, testimony, briefs, and exceptions presented by such property owners, and having determined to adopt the proposed Findings of Fact and Conclusions of Law as to each such protest or objection as the final Findings of Fact and Conclusions of Law as to each such protest or objection, and the City Council sitting and acting as a Board of Equalization for the purpose of considering the roll, benefits received by each such lot, tract, and parcel of land, including the increase and enhancement of the fair market value of each such parcel of land by reason of such improvement, and having determined to overrule each such protest or objection; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF KIRKLAND, WASHINGTON, DOES ORDAIN as follows:

Section 1. The Findings of Fact and Conclusions of Law prepared and considered during such additional assessment proceedings as to each protest or objection of certain property owners, to wit:

<u>Property Owner</u>	<u>Parcel No.</u>
J. H. Colman	56
Pacific West Investors	53, 55
Dunn Lumber Company	31B

<u>Property Owner</u>	<u>Parcel No.</u>
Northwest Construction	31, 31A, 47, 76, 76A
Pacific Developers (Green, Thomson, and Strandburg, d/b/a Park 405 and Butler Building)	30, 41
John E. Beheydt	42
Timberland Industries, Inc. (Western Cabinet)	50
Wallace H. Litchfield	5, 6
N.A.N. Partners	1, 2, 3, 25, 26, 27, 29
Parry B. Wells	24, 71
Robert Welcome and L. A. Welcome	32, 32A, 33
Roger V. Wahlman and Ewing Stringfellow	38
James E. Nelson and Edwin S. Nelson	39
Hillcrest Corporation	7
Par Mac Investors	8, 10

be and the same are hereby in all things approved and confirmed.

Section 2. The assessments and assessment roll of Local Improvement District No. 115 which was created and established for the purpose of paying the cost of constructing and installing certain improvements within the Kirkland Industrial Park Area, as more particularly described in Ordinance No. 2345 and all in accordance with such ordinance, insofar as such assessments and assessment roll apply to those certain lots, tracts, parcels of land, and other properties and property owners identified in Section 1 above, be and the same are hereby in all things approved and confirmed, so that the total amount of such assessments and such portions of the assessment roll, together with such assessments and portions of the

assessment roll previously approved and confirmed in Ordinance No. 2543 is in the sum of \$2,330,774.

Section 3. Each of the lots, tracts, parcels of land, and other property shown upon such assessment roll as identified in Section 1 above is hereby determined and declared to be specially benefited by such improvement in at least the amount charged against the same, and the assessments appearing against the same are in proportion to the several assessments appearing upon such roll. There is hereby levied and assessed against each such lot, tract, parcel of land, or other property appearing upon such roll the amount finally charged against the same thereon.

Section 4. The assessment roll as approved and confirmed, insofar as it affects the lots, tracts, parcels of land, and other properties and property owners identified in Section 1 above, shall be filed with the Director of Administration and Finance for collection, and the Director of Administration and Finance is hereby authorized and directed to publish notice as required by law stating that such roll is in his hands for collection and that payment of any assessment thereon or any portion of such assessment can be made at any time within thirty days from the date of first publication of such notice without penalty, interest, or cost, and that thereafter the sum remaining unpaid may be paid in ten equal annual installments with interest thereon hereby fixed at the rate of 12% per annum; provided, however, that if the net effective interest rate fixed on the local improvement bonds hereafter issued for

Local Improvement District No. 115 is other than 11-1/2% per annum, the interest rate on the unpaid assessments shall be revised to a rate of 1/2 of 1% in excess of the net effective interest rate on such bonds. The first installment of assessment on such assessment roll shall become due and payable during the thirty-day period succeeding the date one year after the date of first publication by the Director of Administration and Finance of notice that the assessment roll is in his hands for collection, and annually thereafter, each succeeding installment shall become due and payable in like manner. If the whole or any portion of the assessment remains unpaid after the first thirty-day period, interest upon the whole unpaid sum shall be charged at the rate hereinabove set forth and each year thereafter one of such installments, together with interest due on the whole of the unpaid balance, shall be collected. Any installment not paid prior to expiration of the thirty-day period during which the installment is due and payable shall thereupon become delinquent. All delinquent installments shall be subject to a charge of interest at the rate hereinabove set forth and for an additional charge of 5% penalty levied upon both principal and interest due upon such installment or installments. The collection of such delinquent installments shall be enforced in the manner provided by law.

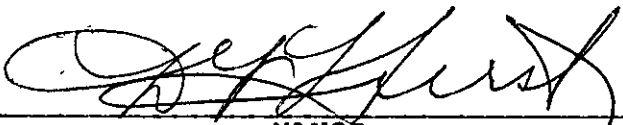
Section 5. All of such assessments or installments thereof and interest and penalty, if any, thereon when collected by the Director of Administration and Finance shall be paid into the Local

Improvement Fund, District No. 115, of the City of Kirkland as created by Ordinance No. 2345 and shall be used solely for the purpose of paying the principal and interest on the warrants and bonds drawn upon or issued against such fund.

Section 6. Ordinance No. 2543, except insofar as it is inconsistent with the provisions of this ordinance, is hereby ratified, approved, and confirmed.


Section 7. This ordinance shall be effective upon its passage, approval, and five days after its publication as required by law.

PASSED by the City Council and APPROVED by the Mayor of the City of Kirkland, Washington, at a regular open public meeting thereof, this 4th day of May, 1981.



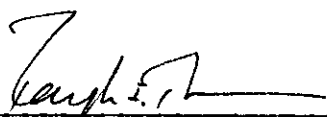
MAYOR

ATTEST:



Director of Administration and
Finance, ex officio City Clerk

FORM APPROVED:



City Attorney