

City of Sherwood, Oregon
Planning Commission Meeting

March 1, 1994

1. **Call to Order/Roll Call.** Chairman Birchill called the meeting to order at 7:00 p.m. Commission members present were: Chairman Eugene Birchill, Chris Corrado, Marge Stewart, Glen Warmbier, Marty Ruehl, and Rick Hohnbaum. Susan Claus was absent. Planning Director Carole Connell and Kathy Cary were also present.

2. **Approval of minutes of previous meetings:**

There being no corrections or additions, Chairman Birchill directed that the minutes of the February 15, 1994, meetings be approved as presented.

3. **Public Hearings:**

Chairman Birchill read the hearing disclosure statement and requested that Commission members disclose any conflict of interest or ex parte contact they may have had on any of the items on the agenda. No disclosures were made.

Chairman Birchill directed attention to the agenda and pointed out that items not completed by 11:00 p.m., will be tabled until the next regularly scheduled meeting of the Planning Commission. He requested that persons providing testimony on any item be short and to the point because of the length of the agenda.

Chairman Birchill noted that the applicant for Agenda Item A, Continued PUD 93-4, William Park, was not in attendance and advised that the Commission would begin with consideration of MLP 94-1 Bighaus.

From the audience, Mr. Claus inquired as to why Chairman Birchill is considering Agenda Item B, MLP 94-1 Bighaus? Chairman Birchill advised that Mr. Lou Fasano, applicant for Item A, had not arrived. Chairman Birchill called for a staff report on MLP 94-1.

Prior to review of the staff report, Ms. Connell introduced Mr. Ron Hudson, the new City Engineer. Ms. Connell remarked that Mr. Hudson began working for the City February 28, and requested that Mr. Hudson stand. Ms. Connell commented that Mr. Hudson had completed this second day of employment, and tongue-in-cheek remarked that "he knows nothing, so please

don't ask him any questions." From the audience, Mr. Claus commented "he should fit right in!"

B. MLP 94-1 Bighaus: a two-lot Minor Land Partition on Sunset Boulevard and Pine Street.

Ms. Connell reported that the Commission is considering a minor land partition request on land adjoining what would be an extension of Pine Street, and consists of approximately .92 acres. She noted that the applicant intends to divide the parcel into two lots for the purpose of building a new family home. Ms. Connell stated that the division complies with all applicable setback and size requirements; however, the issues of access and the flag lot to Pine Street continue to be issues which need to be resolved. Ms. Connell pointed out that the flag lot is part of Tax Lot 3003, a part of the Meadow View Subdivision. She noted that the Meadow View final plat indicates the easement extends to Sunset and if the subdivision is built, the pole of the flag will no longer be needed. Ms. Connell advised that the applicant is requesting that the easement be continued for the existing and proposed new home, until the subdivision is approved and the easement is resolved.

Ms. Connell provided an in-depth review of the findings of facts and the Staff report dated February 22, a complete copy of which is contained in the Commission's minute book.

In conclusion, Ms. Connell recommended that MLP 94-1 be approved subject to the conditions outlined in the Staff report dated February 22, 1994.

Chairman Birchill opened the public hearing for comments from proponents.

Ernie Bighaus, 1395 South Pine, Sherwood, addressed the Commission. Mr. Bighaus stated that the easement across the property is 25 feet wide and there is only one other home serviced by the easement. He stated that he basically would like to build a new home for his wife; however, he has no interest in further dividing the property beyond the two lots since the layout of the existing home would be butchered.

There being no further proponent testimony, Chairman Birchill opened the hearing for comments from opponents. There being no opponent testimony, Chairman Birchill closed the public hearing and opened the meeting for comments and questions among the Commissioners.

Mr. Ruehl stated that it was his understanding that the 25-foot easement was going to be donated to the church who would then be responsible for maintenance. Ms. Connell responded that the donation has not yet been made.

After a brief discussion of the length of the flag lot and access for Tax Lots 3002 and 3003, Mr. Ruehl moved, based on the findings of facts in the staff report, that MLP 94-1, Bighaus, be approved subject to the following conditions:

1. Ensure Parcel 2 has an access easement across Tax Lot 3003 to Sunset Boulevard. Provide and record a joint driveway maintenance agreement between all users of the driveway.
2. Provide an all-weather driveway surface at least twenty (20) feet wide from Sunset Boulevard to the south property line of Tax Lot 3002.
3. A new residence on Parcel 2 must connect to city sewer and water, unless sewer remains more than 150 feet away and County Health approval is obtained. When sewer is extended to the site, the existing house shall also connect. Include stormwater run-off and erosion control provisions with a building permit submittal.
4. Consider locating a new residence on Parcel 2 closer to the front property line to allow for future re-division of the parcel.
5. Record the Partition in compliance with Washington County requirements.

The motion was seconded by Ms. Stewart and carried unanimously.

PUD 93-4 William Park: a 40-lot single family development o Murdock Road.

Chairman Birchill noted that the applicants had arrived, and announced that Agenda Item A, PUD 93-4, William Park will be considered at this time. Chairman Birchill called for a staff report.

Ms. Connell remarked that the public hearing on PUD 93-4 William Park is still open. She noted that letters had been received from the Division of State Lands and from Washington County, which erroneously refers to Kathy Park, and requested that those documents be entered into the record.

Ms. Connell reported that there were four issues remaining which did not get resolved at the last Commission meeting:

1. The question of the wetlands, which was raised by Ms. Claus who pointed out conflicting information from Mr. Shapiro verses DSL and the City's wetland inventory. Ms. Connell pointed out that a letter dated March 1 from the Division of State Lands indicated a discrepancy and assumed that the City's inventory was incorrect or tested at a different location than did Mr. Shapiro. Ms. Connell noted that DSL is recommending that Mr. Bill Parks, of DSL and do a full on-site analysis. Ms. Connell pointed out that if there are wetlands, the potential crossing by Sunset Boulevard creates a conflict with the City and mitigation would be necessary.
2. Murdock Road - Ms. Connell referred to her memo regarding the purpose of the TIF program. Ms. Connell commented that the cost for removal and disposal of the rock outcropping will amount to more than \$544,000. She remarked that the cost is prohibitive and it may be necessary for the City to consider moving Murdock Road to the east. Ms. Connell indicated that the Commission has received a revised drawing from David Evans and Associates, providing an illustration of the road if moved to the east, and noted that doing so will require obtaining right-of-way. Ms. Connell pointed out that prior to an improvement of Murdock to Sunset a decision must be made as to where the alignment should be.

For the record, Ms. Connell noted that at the conclusion of the February 15th Commission meeting, Mr. Jim Claus threatened to sue her personally for the information provided in her memo regarding Chesapeake Park's Murdock Road improvement requirements is comparable to that of Scholls-Sherwood Road. Ms. Connell commented that in the case of Scholls-Sherwood Road, the County is not interested in bits and pieces of improvements on the road and the County is saving TIF fees and will make full road improvements when sufficient funds have been collected. Ms. Connell noted that the same recommendation has been provided for consideration of SUB 94-1, Lucas, which is also on the Commission's agenda tonight. Ms. Connell commented that the Chesapeake Park improvements were made up to a point where the intersection will be re-aligned in the future.

3. Roy Street Park - Ms. Connell advised that in her memo, she has tried to provide a better analysis of a neighborhood park. She noted that there are not the ideal eight acres available, but the parcel provides for an extension of the park.
4. Water quality - Ms. Connell stated that the Commission has discussed the possibility that the site is in two stormwater basins: Murdock and Sunset. She noted that the applicant has requested that he not be required to provide a facility, but that he be permitted to take water from one basin and put it into another. Ms. Connell pointed out that by changing the layout of the parcels, it may be possible to drain the storm water runoff another way; however, the stormwater plan discourages transferring water from one basin to another.

In conclusion Ms. Connell recommended that PUD 93-4 be approved based on the findings and fact in the Staff report dated February 8, 1994, and as amended in the supplemental report dated February 22, 1994, both of which are contained in the Planning Commission's minute book.

Chairman Birchill advised that the public hearing is open, and called for proponent testimony.

Lou Fasano, L.A. Development, 8925 SW Beaverton-Hillsdale Highway, Beaverton, addressed the Commission. Mr. Fasano requested that condition No. 2 j regarding a landscaping plan adjoining Murdock and Sunset be addressed. Ms. Connell replied that the requirement for landscaping was the same as that required for Kathy Park, and is required on any parcel with arterial frontage.

With regard to the wetland issues, Mr. Fasano stated that he had received a copy of the DSL letter within the last ten minutes, and pointed out that this is a chance that there may be a wetland on the site. Mr. Fasano agreed to participate in a site review with DSL prior to making any decision. Mr. Fasano stated that he is encountering a time problem and requested that the Commission dispose of the project subject to determination of and location of possible wetlands. Mr. Fasano remarked that the issue will be resolved prior to final plat approval. He requested that the project not be continued again.

Mr. Fasano advised that he is in agreement with Ms. Connell's assessment of the issues regarding Murdock, and pointed out that TIF credits are designed to resolve these issues. Mr.

Fasano noted that the park must be included, and has been included at the direction of Staff. Mr. Fasano agreed that stormwater at the south end of the project must be properly discharged, and noted that he must comply with whatever conditions the Commission places on the approval. Ms. Fasano stated that he agrees with the conditions in the staff report and offered to answer any questions the Commission may have.

Chairman Birchill opened the hearing for comments from opponents.

Robert James Claus, 22211 SW Pacific Highway, Sherwood, addressed the Commission. Mr. Claus stated: "that there are two parts to the comments he wished to make tonight. I want it clearly understood part of this is to exhaust administrative remedies for steps that are now in process of being drawn against this Board and staff members individually. Your file has been absolutely totally libeled and slander Chesapeake Park. It is miss-accurate, the statements that were made in there, I believe, are done for personal reason. I shall go down them one at a time. And I will tell you something, Ms. Connell, please keep your body language down. I want it noted for the record that there was a smirk in an attempt to disrupt my presentation. I want no more of that. Now, I am going to go onto Chesapeake Park. The Chesapeake Park in your file tonight has been given a reason to support..."

Chairman Birchill interrupted Mr. Claus and inquired if his testimony is pertinent to William Park. Mr. Claus responded, "Absolutely. It was used in William Park to justify the staff recommendations. And they are false. When I went in to develop Chesapeake Park, you need to understand the history. It has an existing house and it was three acres. The house on the corner was sold off in a partition, and as with all partitions there was a non-remonstrance agreement made for that parcel. We then went back on the remaining two acres and attempted to develop it into an eight-lot subdivision. We found we could only put seven lots in it. I came back and repeatedly pointed out that Murdock Road had not been aligned as originally drawn by the specification of David Evans and Associates, that the road is miss-aligned. The reason that it had been miss-aligned was because the rock outcropping was impossible to move and hence they simply improperly allocated a...out placed the road. Even with that, and with the fact that I took an earthmover in there and we attempted to move that outcropping, I could not get any give on the fact that the road was located improperly and that it was going to be costly to build that subdivision. I went through this Commission for a matter of record with an

entire subdivision and paid the cost then proceeded to get engineer's estimates and we could not do it. There was no give, no consideration and no changing on Murdock Road. I went and put it in even if it was miss-aligned. Based on that, I was forced to go back and buy the property back that I had sold. Now please understand the property on Oregon is not analogous in any way to this subdivision you are hearing tonight. You own the corner of Murdock and Oregon. The bulk of Oregon Road's difficulty of construction is the City of Sherwood's cost. It never was mine, and any suggestion that I did not tell the City, you want to put the road in and you want to realign it, let's do it and do it now. But it would not be done. David Evans refused to realign that road. So we sent..continued with the non-remonstrance agreement we had and proceeded to go back to Murdock Road. Now please understand the sequence of events. I was forced to tear out rock, I was forced then to fill. We paid well over \$5,000 a lot for those two activities. There was no consideration, there was no concern. David Evans and staff said, 'tough! You bought the property, you have some problems, you take care of the problems.' Now, here's the icing on the cake Ms. Connell fails to tell you: we had to build Murdock Road down to your property and we put it where, when it is rebuilt and properly aligned, it will be torn up. Now I want you clearly to understand there is no analogy you can use on Chesapeake Park whatsoever with the applicant's, and I suggest that as I am proceeding to take steps, I shall prove that those are pure libel on the property and other properties that I own. Now that's the first part of the presentation. It is spelled out in your package, and I tell you I have turned it over to an attorney for matters to be handled. I will not allow this to go on over and over and over where what I have done in this town has been miss-characterized. The thousands and thousands of dollars that were spent on that point to straighten it out so that this town had a decent entry is never overlooked it is implied that I have in someway avoided costs. Are you aware that the improvement of the point of Murdock and Oregon was done at our expense on your property? Property we don't even own, I went in and had to improve. The thanks you get for that, is you are compared to a property that's trying to avoid costs. What you do or you don't do, don't use my property as a reason not to develop this City properly. We have on-site stormwater facilities there. I paid double of those stormwater facilities we got in TIF credit. We put in Murdock Road, we put in the site, we tore, we filled. We took a piece of property that was difficult and we performed to standard and above. And if the City had been willing to put their mouth where the continued obstructions were with us, Oregon would be in. But you don't want to put Oregon in. Let me tell you why you don't.

Because Link is contaminated property and you don't want to get over on that contaminated property. So before you make any comparison, please understand there are little or no comparisons on that property.

Now as to the reasons tonight. Let me tell you about Mr. Fasano's point that there are no base facilities that he agrees with Carole on Murdock Road. Of course there aren't.

Judy Corcoran stayed out of this City for years. She was only annexed in when development started. The reason development started up there is properties like ours suffered and paid the LIDs. I have asked again, I repeat in writing to this body, tell me whether the Murdock Road and Rock Creek LID have paybacks because if they do, before you annexed either the property Mr. Fasano is attempting to develop or the property up the slopes, we should have known if there were paybacks because those people below that paid to put in Murdock Road and establish the basin that, of course, doesn't exist because it wasn't part of the City or entitled to a payback. And I am suggesting that in spite of the applicant's need to push on here, you had better look seriously if we are entitled to a payback because if we find it out afterwards, it will be uncomfortable and the way this is going, we will find out.

Secondarily, about Roy Street Park. What is Roy Street Park all of a sudden doing? We don't know how many SDC credits are allowed. I heard it was \$30,000 per acre of land." Mr. Fasano interjected, "that's not quite true." Mr. Claus replied: "whatever is correct is correct, Lou, but you can wait your turn and you can get up and answer."

Chairman Birchill advised Mr. Fasano that he would have an opportunity for rebuttal.

Mr. Claus next stated: "now, I want to know exactly what goes into SDC credits, and then I want to know for a matter of public record if an appraisal has been done. If there has not been an appraisal, there will be appropriate action on that because I have been told, and I am writing this for the record for Mr. Rapp, you cannot give over \$25,000 for SDC credits for any piece of property in this town. And that's when I was concluding negotiations with the Fish and Wildlife Service.

Now, I will also finish about your wetlands determination. Of course, anyone is going to live with the wetlands determination. That's a matter of law. But what you had better think about here is a more serious matter. I am in the process of negotiating with Fish and Wildlife to conclude

sale of my property because frankly, I'm getting sick of the position of being put in where you have to threaten litigation to get people to do what is right. But I will tell you this, and this is something I would check with Bill Parks of the Division of State Lands and the U.S. Corps of Army Engineers, what happens if you take water out of one drainage area and put it into another? It's my understanding you can't do it. Now, we have done one study after another and tonight go down and look at Oregon. We are under water. Any rain now is predicting and moving exactly the way David Evans people said it would. You have created a desert up above, and you have flash-floods down below. It rains and the water moves down below. I would be very careful what I do with the properties now because whether I own Rock Creek floodplain, or somebody else does, it's not your bathtub to use as you see fit. Now the other thing is about the David Evans wetlands inventory, I understand that has been accepted by the Division of State Lands. I would like a specific answer from this body if it has been. Because if it has been, and you tonight are willing to turn you back on that, we should all know that too.

Finally, the rock on Murdock Road. I'm sorry, but go back to the answer you gave me: 'rip it out and fill.' This is surely just a matter of equal treatment. I won't make a dime on that subdivision because of the cost this City inflicted upon me, but I gladly took those costs. I went there, I took the costs and I did the work. Now just as a matter of fairness tonight make sure you treat everybody else the same way. I've got Murdock Road that is going to be torn out when it is realigned. That didn't stop Tad Milburn from telling me, 'you will take it down to the City's property.' That's not stopped any costs for me. So, let's be a little fair tonight.

And finally, this park. You don't have any real documented proof that it is needed there. If it is such a big complaint, give the man back his land and let him put in the lots. The only justification I know of for a PUD on that site is that there is some kind of park put in at his expense. And, if there's a systems development credit; that's not his expense, it's at our expense because we rebate that money from the builders who pay. Thank you. (For the records, Mr. Claus provided two letters: one addressed to Gene Birchill, Planning Commissioner, and one to Jim Rapp regarding non-conforming use Ordinance 2.206, both of which are attached as part of these minutes.)

Sanford Rome, 1780 SE Willamette, Sherwood, addressed the Commission. Mr. Rome thanked Chairman Birchill for reopening

the public hearing. Mr. Rome advised that he had three photographs of the flooding conditions on Murdock Road, which he would like to present to the Commission members and requested that they be passed around. He stated that he has the negatives should the Commission members like to have copy. Mr. Rome also advised that he had some photographs on a board, which he would like to pass around, but did not want to leave the photo because they are originals that he had made from slides, and offered to provide prints or photocopies. In response to Chairman Birchill questions, as to whether Mr. Rome would like the photographs entered into the record, Mr. Rome stated he is putting them in for a point of reference, they really do not affect the actual land site, they affect the issue and are Murdock Road. He remarked that he would like the Commission members to look at the photographs as a point of basis in order to understand what they are seeing. Chairman Birchill advised Mr. Rome that if he did not leave the photographs for record, then they are not admissible as record evidence. Mr. Rome replied: "this is the only copy I have until I get my stuff back from the slide place. I will make them available at any time they are needed, but I am going to hold onto them so that they don't, like the tape that I asked for, get destroyed. If you don't want them entered as evidence, that's fine, but I want this body to at least see them. You are going to see that they are really of Kathy Park they are really not of William Park, but we have the same applicant here and that is why I thought they were important. A couple of pictures are totally irrelevant, but they need to be viewed." (NOTE: For the record, Mr. Rome requested that he be provided with one of three tapes from a Commission meeting. He was advised of standard operating procedures: come into City Hall, identify the tape, pay the \$17.00 charge, and a copy will be made. Mr. Rome never came in and identified, requested or paid for a copy of any tape. To staff's knowledge, no tape has ever been destroyed. State law requires that meeting minutes be retained permanently, and taped recordings of meetings be retained for a period of one year. Tapes are available for review at anytime during regular business hours, and are erased after a one-year period.)

Mr. Rome stated: "last hearing, I made some comments to this body and I felt that this body did a really good job of taking consideration with the points that I raised. And, I don't care if I sound frightened of this thing of gee, I raised the flag and we finally look at the picture and I appreciate what you folks have done. I also probably made a couple of innuendoes, or slams, or slurs, or whatever you want to use against Mr. Fasano. Mr. Fasano and I, for whatever reason, have a personality problem; and I don't

really have anything against the man, it is strictly business. But, this man, when he did Kathy Park was given by all of us in this town, a gift. He did eight-foot, so his engineer said, improvement on Murdock Road because of the LID that all of us are now bearing and those of us who participated and bear the direct costs. He has left us with a legacy of Willamette Street, we all know that it has been funded, or is in the process of being funded, and the City is going to improve it. Maybe I win on that one. It was not my intent, it was officially before the Mayor and this body and he was in the chambers at that point, and said look - hold the music! Look what's going on here folks, we've got a problem. And because of Council, because of David Evans and Associates, and because of whatever transpired--maybe it was my attitude, maybe it was the way I got outraged, I don't know. We all know we are paying money, and we are paying more money, lots of money to fix Willamette Street. That board there shows Kathy Park. Those pictures show Murdock Creek Basin and now that we are fully flooded, now that we are fully under water, under siege, almost under siege, you can see that we have eaten away any vegetation that was on the bank way there, there is no, the vegetation is gone and we actually have flooding. This City, without approval and saying nothing, put in a temporary-if you want to call it-a cofferdam or whatever to slow down the outpour from Kathy Park. And when we came before the Planning Commission three years ago before Kathy Park stopped, Mr. Fasano said, before he got mad as we have witnessed here in this room, 'watch out for waters coming your way' that's a quote. The tape says that same stuff on it. Well, that picture shows the water is there for us. We have a wetlands above us that was done in the Murdock Basin study; now the state says yeah, maybe there was, maybe we've got a problem. I don't know what you have to believe. If I rant and rave, you won't believe me either. But I've gotta tell you if there are questions, the item that we were set to do tonight really rings hollow with me. Now I know that I have said, only because I am a substantial taxpayer, not because of what I say or how I say it, but let's hurry up and make a decision. I don't think you need to hurry up and make a bad decision. I don't care how long something takes to develop, I don't care if you miss the building season, people have done that for years. If you don't get a chance to make a profit today, you will make it tomorrow. And I not against people making profits. God knows I make it too. Moving on, when it comes back to you and me as public, then it comes back, goes to City Council, we get a shot at a public hearing there, but when it comes back here, the final of the preliminary, we the public do not get input. Some people are approachable and we can discuss things, you have, if I can find the right word here, ex parte

conversations, but they really are not conference, they are conversations. But for this body to pass something or to pass it without approval or without disapproval, just to pass it out of here, is not what this body was proposed for. At the last meeting, it was asked, it was brought up by past-Mayor Rick, or a Council member, 'can we send this on to the City and let them handle it?' We are the City. Everyone of here is the City. I would hope that as a Council Planning Commission, you will personally, if you are for it you are for it, if you want it passed, you want it passed. I can't condemn your position, I may not like it, I may disagree with it, I may want to challenge it, but that's not the point. To not take appropriate action, or take a 11:30 action just to move it on and pass it just to be done with it, is not appropriate. So that tonight is the gist of what I really had to bring forward in the public light. I would appreciate Williams Park, and you ain't going to like this, going forward. But going forward 100 percent to what we now require...Murdock Road improved. And if you can't improve it because you can't move the rock, you gotta go around it, you've got to go around it. It needs to be done. It is currently an unsuitable 55 mile an hour road till we get to the pavement, and then we drop it down to 40 miles an hour. And I'm going, holly cow and we are just gonna take and leave it partial there, put up new house and do half-street and continue that; that really leaves me a lot of question about the ability and the awareness of what it takes to do it. We've said that we've stopped giving away subdivisions things, we do what is required. We have on Murdock Road, and I've asked that every subdivision, even the apartment complex, one street light now on Murdock Road, and that's the corner of Chesapeake Park and Murdock, the only street light on Murdock Road. We have lights 15 feet back, but we have one street light on Murdock Road. I've been here before this body and before the City Council and the City for years and said much like Gleneagle, much like the original Roy Street, much like every subdivision and said, please put in street lights, put them in more than adequate. If you are doing 40 miles an hour or 55 miles an hour down the road, this is no longer a country road, this is a City street, and so I think that really is very valuable and to not develop at least Mr. Fasano's side with streets, with curbs, with sidewalks, with fences, he has been given gifts already - eight feet on Murdock, the property reasonable, Kathy Park. He doesn't necessarily have to build William Park but if he does and it costs him some money, he does break even, or it cost him money, he owes me, he owes you, he owes every citizen, something we've already given him. And if he says he doesn't owe, that's fine. I'm not gonna fight that, that's a legal battle if somebody want's to pursue that legal battle and I'm

not gonna do that. What I'm just saying, to give up and tonight and say well we are going to subject to a wetlands. We have a wetlands, it was a site your report clearly says that there is wetland material on that site, and we have that report. And if that report is in jeopardy or we are not sure about it, then I say that this Council needs to address a different memo on a different subject to the City Council saying we are having a problem with this wetlands, will the City Council look at it, will the City Council make David Evans and Associates, which you folks have to depend on accountable, stand-up verifiable and if that report is wrong, we don't pay again, make it right. And I think that's asking you folks to take that position. That report is wrong or is in jeopardy or is so broad that it is only a red flag and we have such a magnanimous stormwater program on Murdock that we all worked on, then we either have to go with it or go against it. Now when you come to me and I tell you that this is green and it's really white, and I can show you that it is green, but it really is white, then we are getting mirrors here, we are getting smoked glass, we are getting stories from those that are concerned, not those of us that live here. Long after the sweetness of the sale is over, like the sale to you and me of this program, we will pay because of the bitterness of bad decision, not appropriate planning or whatever. We have tools, we have capabilities and we have time, and I don't care whether it is tonight, tomorrow, or next year or next month, if we do it right, we benefit. The developers help us citizens. They help everybody that is new to this town, they help our future generations when they inherit our properties in this town, and they can go on and have a town that they are proud of. We have come a long ways in the last five years people, but we need to keep to really keep abreast that we cannot sell Sherwood."

Chairman Birchill thanked Mr. Rome and commented that he had made his point quite clearly. Mr. Rome responded, "by the way, a point I want to raise before I sit down: about the payback. I've asked that question and it has been totally denied on the LID. I would point out now for the record, that I officially paid every assessment that was made to me on that LID. If you folks don't know where to look because we have hard papers, I was the one that precipitated that before lawyers. The firm of Stoel, Reeves, Boley, downtown, has our negotiated paper and they have notes that may have never gotten into final resolved writing, because the City finally negotiated. But they have the notes of that, and I am sure those notes, much like the notes here, are in some file box somewhere and somebody besides us should pay to find out. There was at the time of that negotiation, of all my lawyers and representatives there was talk and supposedly

paybacks could happen when people hooked up. That is why I was so adamant about the Sam Goddard project. We got nothing. So I would really like you folks to proceed."

Lou Fasano, L.A. Development, again addressed the Commission. Mr. Fasano stated that there is no conspiracy going on here, in spite of what Jim Claus and Sandy Rome would think, or like others to think. The SDC credits on the park, yes; the land amounts to 1.21 acres. What we discussed was TIF credit per lot, which works out to about \$33,000. Sure, everybody knows that. As far as I'm concerned, everybody can and is entitled to know that. That is the figure we discussed with staff in the beginning in responding to their request for a park. The key to this park thing is that the benefit is that you are getting it where you want it, or at least need it, each of you may not want it there, but that is where the Park Plan wants it. This makes it possible. There is no secret that we will get SDC credits for it. The amount is roughly on an acreage basis and is approximately what we are paying for the land per acre. Sandy Rome would have you solicit public input on engineering matters. Look at the list of recommended conditions, which I should have brought up here and I forgot, and it says storm sewer has to be done and it has to be done to engineered standards. Sanitary has to be the same way. Water has to be the same way. There is a long list of things you aren't qualified to pass on. What happens is, those who are experts will take care of that and it is no different with determining whether there is a wetland here; you don't know, but the experts will make the decision as to whether there is a wetland and where it is. The same thing is true with the storm water. What do you know about how to treat storm water. Well, the City, USA, they know how to do it. The engineers will work on it and it will come back to the satisfaction of the City of Sherwood. You don't need Sandy Rome telling you how to engineer storm water. He doesn't care how long this thing takes, take all the time you need! Well, as Carole mentioned at the last meeting, our application was turned in in October, 1993. State law says you, the City, are supposed to move this thing along in a proper fashion because things need to get done timely, because it is the right thing to do. We lost time - one meeting was postponed for a whole month because of in-house problems, and there have been other reasons why it has gone slow. We have done everything that was asked of us. We have not slowed this down or hindered it. I am just asking you to take care of it in a timely, proper fashion and there is only one issue--Murdock Road. If you want Murdock Road in front of you the way it was last week, forget it. Nobody is going to do it; we are not going to do it; Judy Corcoran is not going to do it; Jerry Reeves is not going to buy that land

and develop it. Nobody is going to do it because they can't afford to do it. You want them to spend \$500,000 to do a half street, forget it. It is not going to get done. You will not have Murdock done, you will not have the half-street on Roy completed, you will not get a park, you will not have Sunset right-of-way; forget it. If you want Murdock done by the developer, let's just pack our bags and go home. On the other hand, if you were willing to do what is reasonable...this is expensive, look at the options of going around the hill here, which your engineer designed. Then this thing gets done and everybody benefits. The City benefits by getting Roy Street done, by getting some park, by getting some right-of-way for Sunset and by getting the proper alignment of Murdock to get done with SDC credits down the line when it is appropriate. If you don't do that, forget all the rest of the stuff we are talking about and we all go home. It's never going to get done. Any questions?

There being no questions, Chairman Birchill closed the public hearing and opened the hearing for comments and questions among the Commissioners. He noted that the hearing may be re-opened at any time at the request of a Commission member.

After an extensive discussion of cost for realignment and/or improvement to Murdock, Roy Street Park, storm water run-off and facilities, wetlands, SDC charges, Mr. Hohnbaum moved that based on the findings of facts, the Commission recommend to the City Council, that PUD 93-4 William Park be approved subject to the following conditions:

1. Provide right-of-way dedications as follows:
 - a. 30 feet from Roy Street centerline
 - b. 40 feet from Murdock Road centerline, including dedication needed to re-align Murdock from Roy Street to Sunset Blvd., as determined by the City.
 - c. 80 feet for Sunset Blvd., including a 25' radius in the southeast corner of Lot 18.

2. Provide engineered construction drawings (prior to plat recording), maintenance provisions, construction costs and bonding for the following:
 - a. Half-street improvements to Roy Street to City standards.
 - b. Half-street (or centerline) improvements, or comparable worth, to Murdock Road from Roy Street to the planned Sunset Boulevard alignment change to City standards.
 - c. Interior street improvements to City standards,

including curbs, gutters, sidewalks, street trees, street names and lighting.

- d. Sanitary sewer provisions, including extensions to Sunset Boulevard and Murdock in locations approved by the City. Sewer should be extended to the Bowen easement.
- e. Water service provisions, including extensions to Murdock and Sunset as approved by the City.

- f. An approved stormwater plan in accordance with USA and City standards. This shall include construction of foundation drains for Lots 1 through 15, and adequate storm water treatment for the lots at the south end of the project in the Sunset basin. Transfer of stormwater from the Sunset basin to the Murdock basin is not recommended.
 - g. Re-location of the fire hydrant to the southwest corner of Lot 26.
 - h. An erosion control plan.
 - i. A pedestrian pathway improvement between Lots 1 and 35.
 - j. A landscape corridor plan adjoining Murdock Road and Sunset Blvd.
 - k. A non-remonstrance agreement with the City for future road improvements to Murdock Road and Sunset Blvd.
3. Provide a tree survey of all Madrone trees and large evergreen trees. Modify the plat to preserve significant trees where feasible.
 4. Provide City Parks Board acceptance of the Roy Street Park dedication. Legally describe and dedicate the open space tract to the City for public park purposes.
 5. Comply with Murdock Road safety requirements and drainage improvements as determined by the County Traffic Analyst and in compliance with R&O 86-95. At a minimum:
 - a. Provide intersection improvements for the Murdock Road/Smock Street intersection.
 - b. Provide adequate sight distance at the Murdock Road/Smock Street intersection.
 - c. Close all existing driveways to Murdock Road.
 6. Certify DSL and Corp of Engineers verification of the wetlands delineation. If wetlands are located in the planned Sunset right-of-way, provide a wetlands mitigation plan.

The motion was seconded by Mr. Warmbier and carried. Chairman Birchill abstained.

Due to the lateness of the hours, Chairman Birchill again reminded all attendees that items not completed by 11:00 p.m. will be continued until the next regularly scheduled meeting of the

Commission. At 9:50 p.m., Chairman Birchill called for a 10-minute recess. The meeting reconvened at 10:00 and the following actions were taken:

C. PA 93-5 Handley: a three-lot Minor Land Partition on Pacific Highway.

Chairman Birchill called for a staff report.

Ms. Connell reported that the Commission is reviewing a three-part application, which has been separated: a plan/zone map amendment, a minor land partition and a planned unit development. Ms. Connell pointed out that the parcel was recently annexed to the City through the Boundary Commission, and the action of the Commission is pro-forma. She noted that the application is to designate portions of approximately 45 acres Low Density Residential and a portion as General Commercial. Based on the findings of fact in the Staff report dated February 22, 1994, a copy of which has been placed in the Commission's minute book, Ms. Connell recommended that the application be forwarded to the City Council with a recommendation for approval.

Chairman Birchill opened the hearing comments from proponents or opponents. There being no testimony, Chairman Birchill closed the public hearing.

After a brief discussion, Mr. Warmbier moved, seconded by Ms. Stewart that PA 93-5, Handley be approved as Low Density Residential and General Commercial, based on the finding of fact in the staff report dated February 22, 1994. Motion carried unanimously.

D. MLP 93-6 Handley: a three-lot Minor Land Partition on Pacific Highway.

Chairman Birchill called for a staff report.

Ms. Connell reported that the Commission is considering a request to partition the recently annexed parcel, which was just approved by the Commission. She noted that the applicant is requesting that the land be partitioned into two parcels: one of which will be submitted as a planned unit development consisting of approximately 33 acres; the remaining 12 acres to be zoned General Commercial.

Ms. Connell provided an in-depth review of the criteria, findings of fact, and recommended conditions outlined in the Staff report dated February 22, 1994, a copy of which has been placed in the Commission's minute book.

At the conclusion of her report review, Ms. Connell recommended that MLP 93-6 be approved subject to the conditions outlined in the staff report dated February 22, 1994.

Chairman Birchill opened the hearing for comments from proponents.

Ms. Mara Broadhurst, 28440 Ladd Hill Road, Sherwood, addressed the Commission. Ms. Broadhurst stated that she is representing the applicants, Mr. and Mrs. Handley on the minor land partition. Ms. Broadhurst thanked City Manager Rapp and Ms. Connell for their extra efforts on the Handley's applications. She noted that both had made themselves available at public forums, so that all impacted property owners had full input and opportunity to voice concerns and receive updated information that became available. Ms. Broadhurst also expressed appreciation to the developers of the Woodhaven and Wyndam Ridge for coordinating their efforts, allowing the Handleys to proceed in a timely manner. Ms. Broadhurst stated that the applicants believe they comply with the minor partition requirements.

Jim Claus, 22211 SW Pacific Highway, Sherwood, addressed the Commission. Mr. Claus stated: "I really think that the request for the approval of ODOT is unnecessary here. And I would advise you that I would take Mr. Fasano's advice and I would move this along quickly tonight. You are going to have Woodhaven back in this Planning Commission shortly this development. If you don't get that floodplain below, if you don't get it tonight so that you can start planning your storm water facility, I would have every reason to believe, given the fact that Woodhaven has made mistakes on their topographic lines, which means they are going to make mistakes on where that water comes out, you're going to have to refuse that application. And secondarily, it is absolutely redundant on a parcel like this to ask for ODOT's approval. You've got the PUD coming up next and that is where the issue should come up, and this should be moved along quickly so that we can look at the PUD and the benefits the City is finally getting from the sensible and reasonable PUD instead of someone coming in here and asking how many ways they can shortcut to leave the cost on the table for us later. So, I would recommend that you move it. I think you out to move it on quickly and get to the PUD."

Mark Dane, Alpha Engineering, 9600 SW Oak Street, Suite 230, Portland, addressed the Commission. Mr. Dane advised that he is representing the applicant's planned unit development. Mr.

Dane stated that he had a couple of questions he wished to clarify the question of the open space easement. Mr. Dane inquired whether the applicant would lose the benefit of the PUD should the applicant lose access to the two vouchers if the dedication of open spaces is made under the minor land partition. Ms. Connell responded that the staff is recommending not using vouchers for the requirement of dedication of open spaces; staff is recommending delineation of the area as an open spaces easement, which must be recorded with the partition plat prior to any development on Wyndam Ridge. Mr. Dane next requested that both the access and open space easement be temporary pending approval of the planned unit development, at which time there will be a dedication of the track which is intended to be dedicated to the Parks district. Ms. Connell concurred that the condition could be revised

There being no further proponent or opponent testimony, Chairman Birchill closed the public hearing and opened the meeting for questions and discussion among the Commissioners. He pointed out that the hearing may be re-opened at any time at the request of one of the Commission members.

Chairman Birchill request that Ms. Connell explain the partition layout. Ms. Connell directed the Commissioners' attention to a proposed drawing of the development and pointed out the wetlands, open spaces, easement, partitioned area for the general construction as well as the area of the parcel being used to create a planned unit development. Ms. Connell stated that in order to preserve the open spaces and wetlands, staff is recommending that the Commission not require dedication of the floodplain at this time, and allow the applicant to obtain the PUD density, after which the applicant may be required to dedicate open spaces as well as easements. Ms. Connell pointed out that an open space easement will guarantee that the wetlands will be dedicated regardless of whether the development occurs at this time or some date in the future. She recommended that the condition be for a temporary easement.

In response to Chairman Birchill's questions regarding the Kittleson traffic report, Ms. Connell responded that the applicant will be required to align Meinecke with Option A outlined in the Kittleson report, however, there are no plans to deal with the 90 degree curve at the Salisbury's nursery. Ms. Connell noted that Option A of the Kittleson report has been agreed upon by the other property owners and the City, which have sent support letters to ODOT.

After a brief discussion, Mr. Hohnbaum moved, seconded by Mr. Ruehl, that based on the findings of fact outlined in the staff report dated February 22, 1994, MLP 93-6 be approved subject to the following conditions:

1. The applicant shall delineate the 100-year floodplain, wetlands, wetland buffer and mitigation area on the partition plat as an open space easement pending approval and construction of Wyndam Ridge PUD.
2. The owner shall provide an access easement to Parcel 1 for access to the highway across Parcel 2, pending approval and construction of Wyndam PUD, to be approved by the City and recorded with the Partition Plat at the County.
3. The owner shall enter into a non-remonstrance agreement with the City guaranteeing participation in a Local Improvement District (LID) for future public facility improvements to City standards. The agreement shall be recorded with the Partition Plat.
4. The access location onto Pacific Highway shall be approved by ODOT.

Motion carried unanimously.

PUD 93-2 Wyndam Ridge: a preliminary development plan and preliminary plat for a 123-lot single-family development on Pacific Highway.

Chairman Birchill called for a staff report.

Prior to discussion of the staff report, Ms. Connell entered into the record a letter from Kittleson and Associates regarding the traffic impact on Highway 99W and Meinecke at the intersection of Wyndam Ridge and the type of improvement required of Wyndam Ridge. Ms. Connell noted that ODOT has just recently received the Kittleson report; however, Washington County's letter did not address the access of Wyndam Ridge. Ms. Connell also entered into the record a letter from Jerry Reeves, a copy of which is attached as part of these minutes, regarding Wyndam Ridge, which indicates Mr. Reeves opposes the development due to the school issues as he perceives them, and a copy of the memorandum from Bill Hill regarding adequacy of school facilities, a copy of which has been included in the Commission's minute book.

Ms. Connell reported that the Commission is reviewing a planned unit development for 123 single-family homes on Pacific Highway. Ms. Connell reviewed the purpose and criteria for a PUD, and provided an in-depth review of the findings and conditions of approval outlined in the Staff report dated February 22, 1994, a copy of which has been included in the Commission's minute book. Rather than repeat the findings of fact, Ms. Connell advised that Mr. Mark Dane, Alpha Engineering, will review the applicants plans and provided an in-depth report of how the applicant's proposal meets the PUD criteria.

In conclusion, Ms. Connell recommended that 93-2 be approved subject to the conditions outlined in the staff report dated February 22, including an additional condition to be added requiring that a trail paralleling Cedar Creek be constructed.

Chairman Birchill opened the hearing for proponent testimony.

Mark Dane, Alpha Engineering, 9600 SW Oak, Suite 230, Portland, addressed the Commission. Mr. Dane stated that he is representing Centex, the applicant of the PUD. Mr. Dane thanked the Commission for approval of the zone changes and the minor land partitions.

Mr. Dane identified the wetlands and floodplains on the proposed site and provided an in-depth review of the layout of the development. Mr. Dane commented that on March 8, 1994, the open spaces will be reviewed by the Parks Board.

Mr. Dane reviewed the proposed conditions of approval and requested that Condition No. 4 be changed to read:

"Obtain an access permit from the Oregon Department of Transportation to provide access to Pacific Highway and construct the interim improvements at the Meinecke Road/Pacific Highway intersection as described on page 21 (and depicted in Figure 7) of the February 18, 1994, letter from Gary Katsion of Kittleson and Associates, Inc., to Mr. Jim Rapp regarding the Highway 99W/Meinecke Road intersection study. Phase 2 may not commence until there is an alternative access to the project, or a permit from ODOT is obtained to construct the additional improvements to the Meinecke Road/Pacific Highway intersection depicted in Figure 1 of the February 24, 1994, memorandum from Gary Katsion of Kittleson and Associates, Inc. to Mark Dane of Alpha Engineering."

Mr. Dane also requested that the closing statement of the staff report: "This approval is valid for one year." be amended so that the approval is valid for five years. He noted that more time is required to complete a PUD. Ms. Connell responded that the statement is the standard length of time in which a developer is expected to begin construction. She noted that the time limit is very clear in the Code and will include that portion of the code verbatim in the decision notice.

Rita Mroczet, A.G. Crook Company, 1800 NW 169th Place, Suite B-100, Beaverton, addressed the Commission. Ms. Mroczet advised that she is representing the applicant on the wetland issue and the wetlands delineation. Ms. Mroczet pointed out that along the creek the wetlands follow the creek and there are wetlands which are separated from any other on the property. She noted that the wetlands were delineated when the Sherwood wetlands inventory was done and have been approved by the Division of State Lands. Ms. Mroczet indicated that the applicant is proposing for the corner of the parcel to mitigate the road crossing of the wetland in order to provide a continuous wetland and recreate a space and open corridor. Ms. Mroczet offered to answer any questions the Commission members may have.

Gary Katsion, Kittleson and Associates, 610 SW Alder, Suite 700, Portland, addressed the Commission. Mr. Katsion stated that he had prepared a follow-up study of the situation of Highway 99W and Meinecke Road study prepared for the City in conjunction with the Woodhaven project. Mr. Katsion offered to answer any questions regarding the recommendations in the study which was done for the City, or questions specific to the application. Mr. Katsion noted that the interim proposal does not affect the access at the Cherry Tree, the right-in, right-out are only off of Highway 99W is a separate issue that has been taken up as part of the City Council action at their last meeting. He pointed out that this proposal does not affect the Cherry Tree access. Mr. Katsion noted that the design for the interim proposal will cover 50 percent of the development of the first phase, or 71 units, under adequate levels of service. He commented that Kittleson was asked to review development of the entire PUD application of 124 units. Mr. Katsion pointed out that, with that re-study, and rewording of condition No. 4, one or two things have to happen to address the level of service and adequacy at the intersection: 1) is that the applicant will have to make a connection either to the west or north to basically create a second continuous access to the existing street section. 2) the applicant will have to create a "stacking" lane in the median at the intersection. Mr. Katsion noted that, while it

won't totally address the level of service at the intersection, it will provide additional stacking distance in the center that will allow left turn movement to proceed at least half-way and will allow extra storage. He noted that in order to get the additional distance in the median area, the lanes for the southbound traffic will have to be shifted northerly and is basically a re-striping of Highway 99W. Mr. Katsion indicated that this type of intersection will allow the full development of Wyndam Ridge prior to any commercial areas in the development or the build-up of Woodhaven, which, at that time, it is estimated that there will be a signal at the intersection. Mr. Katsion pointed out that there are precedents for this type of intersection, and noted that ODOT has a similar design on Highway 26 at the Jefferson School Road intersection. Mr. Katsion stated that the left-turn stacking also eliminates the sight distance blockage problem at intersections. He noted that ODOT has accepted this type of design and is what the applicant will be proposing to ODOT.

In response to Mr. Ruehl's question, Mr. Katsion stated that it is anticipated there will be 1240 trips from Wyndam Ridge at built out. Mr. Ruehl suggested that a merge lane for left-turning automobiles also be considered, since most of the traffic from Sherwood is headed towards Portland. Mr. Katsion replied that a merge lane might give the driver a false sense of security.

Mr. Katsion advised that there was a total of six properties which were analyzed in preparation of the traffic report prepared for the City, and the statistics were taken into account in the analysis of the Wyndam Ridge development.

Mark Dane, Alpha Engineering, again addressed the Commission. Mr. Dane stated that the applicant is prepared to install a fence on the zones that are not in alignment with the LDR; i.e., the general commercial area to the south adjacent to residential areas. Ms. Connell recommended that the trees adjoining the GC zone remain to provide an additional buffer. Mr. Warmbier suggested that the trees outside of the urban growth boundary also be retained.

David Brandis, 1304 NW 86th Circle, Vancouver, Washington, addressed the Commission. Mr. Brandis advised that he owns 6.8 acres to the west of the proposed development, and south of the nursery. He noted that his family purchased the land, which is in the farm forest area, believing that they would be leaving the city and moving to a rural environment to raise his family. Mr. Brandis stated that with the development, he is losing much of the rural environment of

the land and completely loosing the pastoral view to the east of the property. Mr. Brandis commented that the impact on his parcel is significant, and he is requesting that his parcel be provided with a fence to try to recoup some of the lost privacy and lost rural feel to the land. He also requested some specifics for the fence: soften the impact of the fence with some landscaping inside the fence if possible. Mr. Brandis remarked that there is also some concern for his potential livestock; i.e., the security and safety to the livestock.

In response to Chairman Birchill's question, Mr. Brandis suggested the fence be a wall or something that will retain the privacy by being something that cannot be seen through, something high enough that will provide some sense of privacy. Mr. Brandis stated that a six-foot high, sight obscuring, cyclone fence would not be sufficient. Mr. Connell pointed out that fences more than six feet high become a structural issue and will require a building permit.

Jim Claus, 22211 SW Pacific Highway, Sherwood, addressed the Commission. Mr. Claus stated: "first of all, this proposal has probably been the most over-studied subdivision you have had brought before you. And you have tonight, the most professional presentation you have had. Compared to Woodhaven's first hearing, you had somebody that has come here and talked entirely for benefits. They have done their work and they have participated in any number of public hearings, and I would remind you that this entire hearing was put off for the benefit of Woodhaven, in my opinion. I think it was a travesty, I think given the fact that this is 123 lots, that is fair. I don't think fairness has anything to do with this Commission, frankly. I think it depends on how the staff starts out recommending things, and then it depends upon what you pick up on. But let's talk a little bit about what you are getting here tonight. Charles Handley went through a process, he brought-up the general plan, he's coming in with an enormously expensive crossing, he's taking your collector properly, not the way Woodhaven is messing this town up, he's feeding it downtown, he went to one public hearing after another, they paid for study after study for a 123-lots. We are not talking about 1200 units, we are not talking about even the number of units that went in on Cascade estates, and the man is giving you the best stormwater facility you've ever had given to you. In fact, I think you are blackmailing him out of a lot of property. I mean to sit here and talk about something like you can't have these lots, when you have blackmailed this man, and that's exactly what the wetlands program is and the floodplain program in this town. It is legalized blackmail. And to

turn around on this subdivision when you have had Reeves in here with a PUD and walk out of here with double the density he ever should have gotten, and Fasano walk in and get a general plan on a PUD, and we have somebody come in and say, 'I'm gonna give you nine acres, I'm gonna put in stormwater facilities', you ought to stand up for once and applaud and say let's move it on to City Council. The second thing I want to address a little bit about Meinecke Road, because, Gene, you weren't at those meeting. Meinecke Road has to go in there for a number of reasons. First, if you run it straight, it comes into my property; if it comes into my property, you have to take Whitesell on in a condemnation suit and he said as much. And, I don't blame him, I would too. Then you destroy the Cherry Tree, the one commercial establishment you've had in this town, and then you do incredible damage to Salisbury's nursery. Now, I know to most of you that doesn't mean anything, but I certainly know that when staff laughs, it doesn't mean anything about property owners in this town."

Mr. Corrado stated, I'm sorry, but I kind of object personally to any affronts of what my opinion...Mr. Claus interrupted and stated, "well, you ought to be on my receiving end because we are sitting here tonight with a non-conforming use statute and I will do my best to see to it that you will be affronted."

Chairman Birchill requested that arguments cease, and if anyone has something to say, say it; however, Planning Commission and staff bashing is not needed. Mr. Claus responded, "well, you're going to get it whether you need it or you don't." Chairman Birchill advised the meeting will be closed should Mr. Claus continue his threats. Mr. Claus responded, "then just tell me to leave." Chairman Birchill advised Mr. Claus that the Commission would like to hear what he has to say, but the staff and Commission bashing is not needed. Mr. Claus responded, "well, if you don't need it, then the staff and the Commission should not do what they are doing, because what's is being called to attention is not only fair play, it is reasonable. If you brought up things, you attended the meetings on Meinecke when this whole thing with Salisbury came up and that came from Salisbury is a second issue the Planning Commission.." Chairman Birchill advised Mr. Claus that he was not going to sit and argue with him and requested that Mr. Claus make his point and move on.

Mr. Claus responded: "that's just exactly what I am trying to do. When you talk about Meinecke Road, this intersection was agreed to by the City Council, it was agreed to by the property owners, and the thing you bring up on the elbow at Salisbury's has to be solved at a later time. It can't be

solved here in this meeting because it is beyond the scope of this and the intersection of Meinecke was what the City Council Agreed to." Chairman Birchill remarked that the last meeting he sat in, there were still some options open, and he had no knowledge that the City Council had agreed to what they had agreed to, and he felt he could speak for the majority of the people. Mr. Claus inquired if he could make a suggestion to Mr. Birchill. Mr. Claus stated: "why don't you get the minutes and read the resolutions?" Chairman Birchill replied that he tries to read most of them. Again Mr. Claus suggested that Mr. Birchill get the minutes and read them. He stated, "you will find that Option 1 was picked and you will find out that the elbow at Salisbury's property was debated ad nauseam, and.." Chairman Birchill stated that he is relinquishing that, and requested that Mr. Claus get on with his point, otherwise please sit down. Mr. Claus stated, "the point I want to make is this, they have met every single requirement for a PUD, and this has been held up unconscionably for a long period of time. It is now time this moves on to City Council quickly." Chairman Birchill thanked Mr. Claus.

Chairman Birchill opened the hearing for comments from opponents. There being no further testimony, Chairman Birchill called for rebuttal. There being no further testimony, Chairman Birchill closed the public hearing and opened the meeting for comments, discussion and questions among the Commission members. He noted that the public hearing could be re-opened at the request of any Commission member at any time.

Mr. Warmbier requested that the applicant explain the stormwater retention facilities. Jerry Palmer, Alpha Engineering, 9600 SW Oak, Suite 230, addressed the Commission. Mr. Palmer responded that the project has three retention facilities, holding the water, and then releasing the water at a rate not greater than that which exists today. It also has the facility to treat the stormwater so that the phosphates settle out prior to discharge into the creek itself. Mr. Palmer noted that there are three locations as well as a mitigation pond for the wetlands area. He noted that the area is being enlarged and a new mitigation facility is being built that will pretreat the storm water coming from the west onto the property before it enters into the creek. Mr. Palmer indicated that the water is being pre-treated in the wetlands area, detaining in the improved street areas, and releasing at the existing rate. Further, the water from the streets are being pre-treated prior to entering into the creek.

Chairman Birchill requested that the Commission meeting continue past 11:00 p.m. in order to summarize the questions and determine if there is additional information that the applicant should submit at the next hearing. The following questions were raised:

1. Include the cost for signalization in a condition of approval.
2. Include condition that the applicant will assume the cost for construction of stormwater treatment facility.
3. Clarify access to Edy Road crossing of wetlands.
4. Require an easement for a "stub-out" street to eventually extend beyond the current urban growth boundary (between lots 75 and 78).
5. Assure that water pressure to the development is adequate, and require the applicant to work with the City Engineer to loop the water system.
6. Add a water storage system on the site that will be at the same elevation as the water resource of the City.

Chairman Birchill advised that the public hearing for PUD 93-2 has been closed, however, it may be opened at the request of any member of the Commission. He noted that the written record will remain open and urged that comments be submitted in writing.

Due to the lateness of the hour, the following items were continued until the March 8, 1994, meeting and will be the first items listed on the agenda:

- E. PUD 93-2 - Wyndam Ridge - (continue - no decision made).
- F. PA 94-2 - Gray Plan/Zone Map Amendment
- G. SUB 94-1 Lucas
- H. PA 94-1 City of Sherwood Plan Text Amendment

7. **Director's Report:**

Ms. Connell stated that she had nothing further to report.

9. **Adjournment:**

The meeting adjourned at approximately 11:15 p.m.

Respectfully submitted,

Kathy Cary
Secretary