

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

In the Matter of PD 2-90 / LD 29-90,)
Review of a Decision of the Planning)
Commission, approving the entire ap-)
plication for a planned-development)
and 30-lot single family residential)
subdivision for property at 2700 SW)
Bucharest Court

FINAL ORDER
PD 2-90 / LD 29-90

90-205

On November 20, 1990, the Board of County Commissioners conducted a public hearing, On the Record, in the above entitled matter. Based upon the Stipulated Agreement, dated November 20, 1990, between the Appellant, Fans of Fanno Creek and the applicant's designate, Argent Development Company, the Planning Commission Decision of October 8, 1990, attached as Exhibit A, is hereby affirmed, subject to the addition of the following condition:

"15. The Planned-Development and Land Division permit are each subject to all of the terms and conditions set forth in the Agreement, dated November 20, 1990 between Fans of Fanno Creek and Argent Development Company, Attached as Exhibit B to this Order and incorporated here."



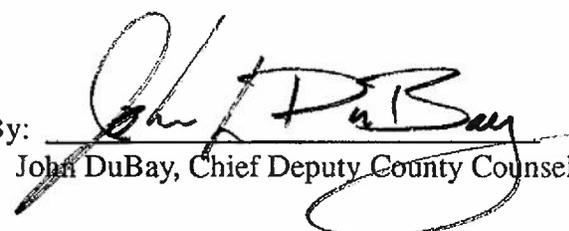
BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON

Review as to Form

Laurence Kressel, County Counsel
for Multnomah County, Oregon



Gladys McCoy, Multnomah County Chair
Dated December 11, 1990

By: 

John DuBay, Chief Deputy County Counsel

Exhibit A



DEPARTMENT OF ENVIRONMENTAL SERVICES
Division of Planning and Development
2115 SE Morrison Street
Portland, Oregon 97214 (503) 248-3043

Decision

This Decision consists of Conditions, Findings of Fact and Conclusions.

October 8, 1990

PD 2-90, #141
LD 29-90, #141

Preliminary Planned Development
Thirty Lot Single-Family Residential Subdivision

Applicant requests Planned Development and Land Division approval to create a 30-lot single-family residential subdivision with open space, owned by a Homeowner's Association. Access for eight proposed lots will be from a new public cul-de-sac to SW Bucharest Court. Access for 22 proposed lots will be to SW Canyon Drive via a private street on site.

Location: 2700 SW Bucharest Court

Legal: Lots 20, 21, 23 and 24, Argent Subdivision
1990 Assessor's Map

Site Size: 24.37 Acres

Size Requested: Same

Property Owner: Gerhard Schicht
30 NW 95th Avenue, 97225

Applicant: same

Comprehensive Plan: Low Density Residential

Present Zoning: R-20, Single Family Residential, Planned Development District
Permits single family homes on lots of 20,000 square feet or more

Sponsor's Proposal: R-20, PD, Single Family Residential
Planned-Development District

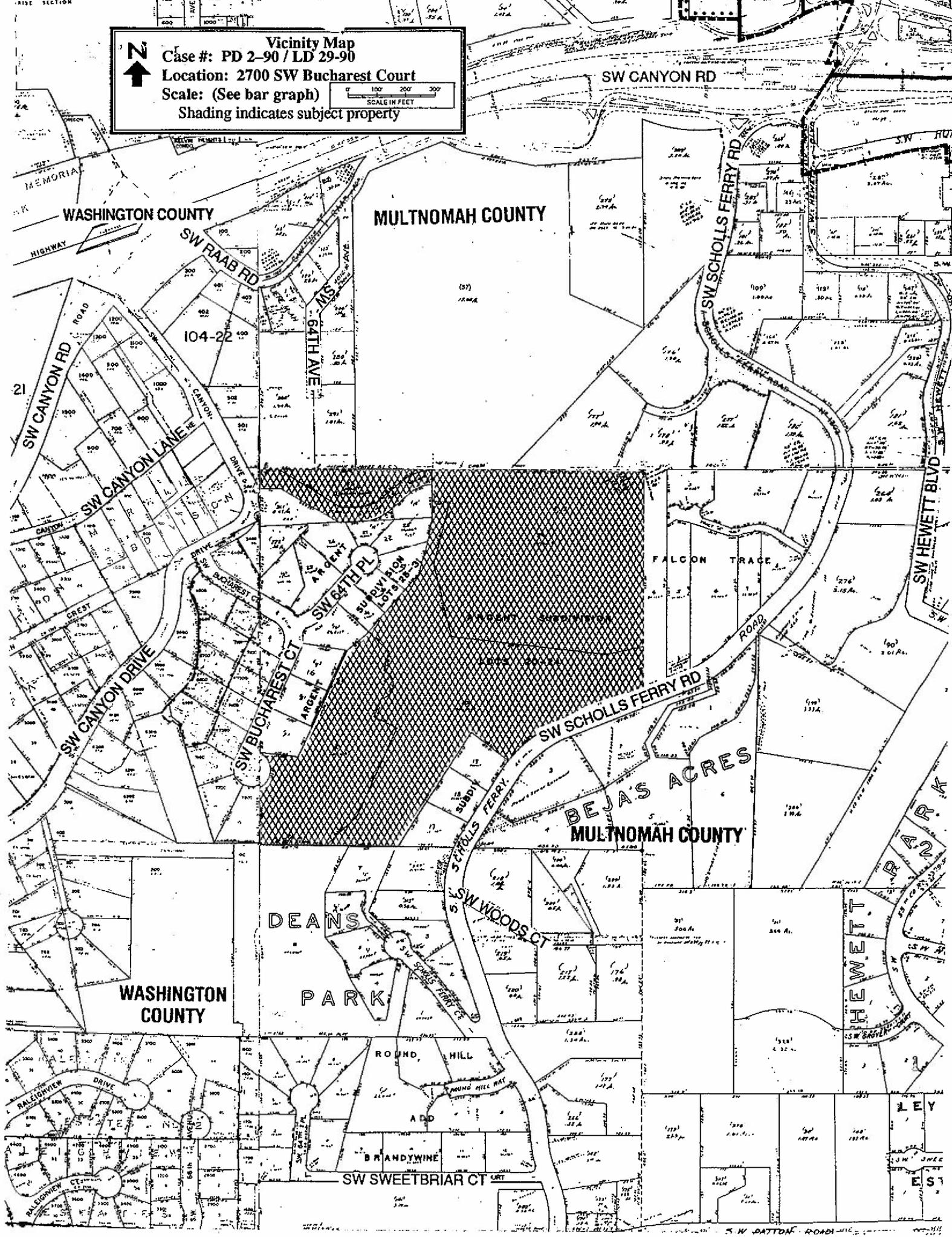
Planned-Development permits the development of properties to a pre-determined plan to provide flexibility and diversification in design and economies in land development

PLANNING COMMISSION DECISION

- #1 Approve, subject to conditions, the requested PD designation of the site described above based on the following findings and conclusions.
- #2 Approve, subject to conditions, the land division of the site described above based on the following findings and conclusions.

PD 2-90/LD 29-90

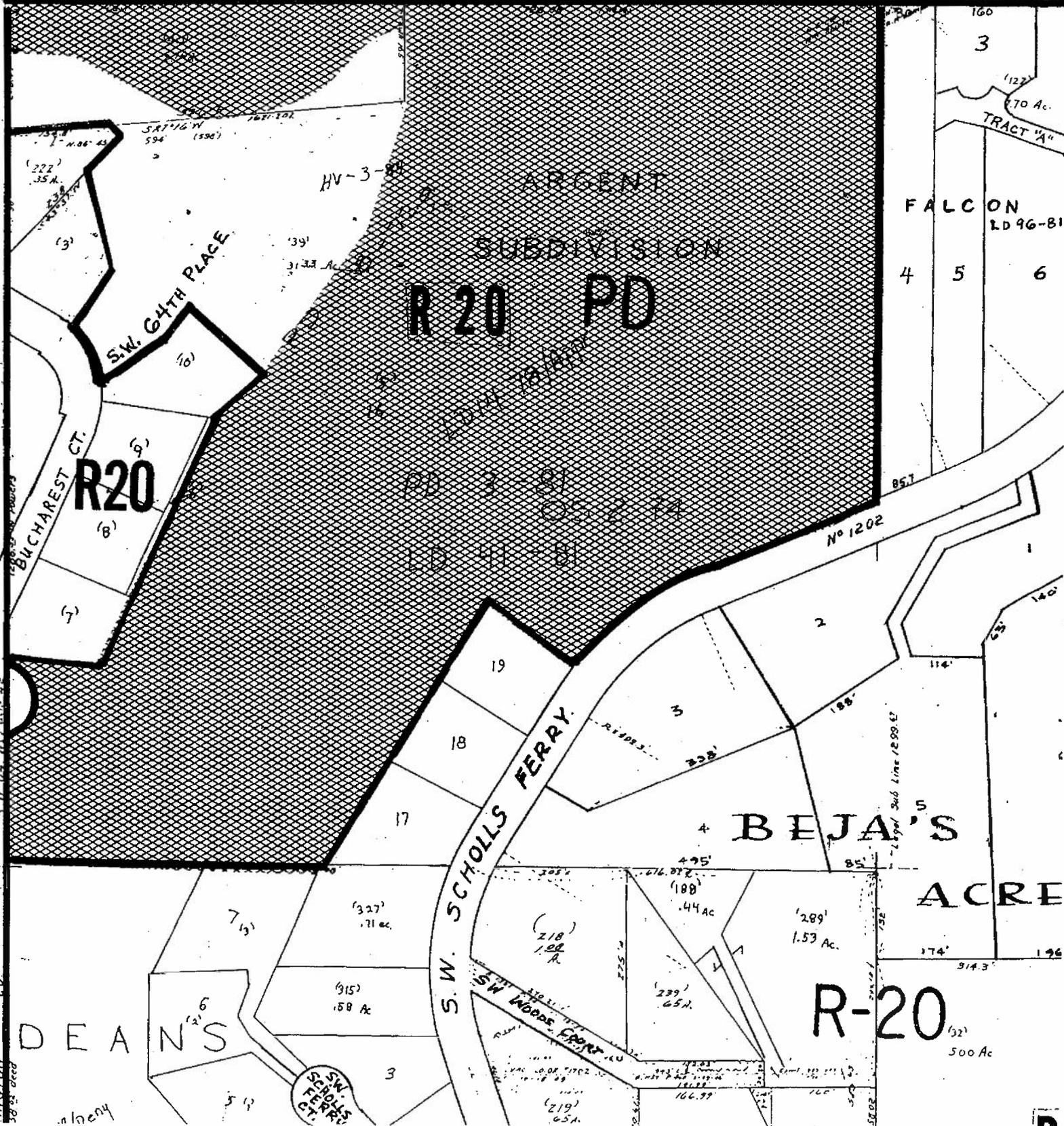
Vicinity Map
 Case #: PD 2-90 / LD 29-90
 Location: 2700 SW Bucharest Court
 Scale: (See bar graph)
 Shading indicates subject property



R20

R-20
CS

Zoning Map
 Case #: PD 2-90 / LD 29-90
 Location: 2700 SW Bucharest Court
 Scale: 1 inch to 200 feet
 Shading indicates subject property



Conditions of Approval (PD 2-90 and LD 29-90)

1. Within two years and five years of the effective date of Board of County Commissioners decision, approving this request, deliver the Final Plat and other required attachments for Phase 1 and Phase 2, respectively, to the Planning and Development Division of the Department of Environmental Services in accordance with ORS Chapter 92 as amended. **Please obtain applicant's and surveyor's *Instructions for Finishing a Type I Land Division*.**
2. Within two years and five years of the effective date of Board of County Commissioners decision, approving this request, deliver the Final Development Plan and Program for Phase 1 and Phase 2, respectively, to the Planning and Development Division of the Department of Environmental Services in accordance with MCC 11.15.6203(C).
3. Prior to endorsement of the Final Plat, meet the following Engineering Services Division requirements
 - A. Dedicate 50 feet of right-of-way with a 50-foot radius cul-de-sac for the new street shown on the Tentative Plan Map as SW Sigrid Court.
 - B. Make the following improvements within the public right-of-way of SW Sigrid Court:
 - (1) Construct a Multnomah County standard street 32 feet in width with concrete curbs, sidewalks, drainage facilities and street lighting facilities.
 - (2) Contact Dick Howard at 248-3599 for additional information.
4. Place a disclosure on the face of the Final Plat for Phase 2 and modify the Declaration of Covenants and Restrictions to advise owners of lots abutting the private street shown on the Tentative Plan Map as SW Sheridan Street that those owners waive any right to expect Multnomah County at any time in the future to:
 - A. Assume jurisdiction over the street,
 - B. Maintain the street in any manner including but not limited to cleaning or removal of snow or ice, or
 - C. Repair the street in any manner.

This condition shall not apply if the private street is redesigned and built to Multnomah County Standards with respect to right-of-way and pavement width, grade and specifications for pavement, curbs, sidewalks and other improvements as approved by the County Engineer in accordance with the Street Standards Ordinance (MCC 11.60).
5. In conjunction with issuance of building permits for any lot construct on-site water retention and/or control facilities adequate to insure that surface runoff volume after development is no greater than that before development per MCC 11.45.600. Plans for the retention and/or control facilities shall be subject to approval by the County

Engineer with respect to potential surface runoff on the adjoining public right-of-way.

6. Prior to endorsement of the Final Plat, provide written confirmation from the Washington County Department of Land Use and Transportation of compliance with that department's requirements regarding the design of improvements at the intersection of SW Canyon Drive and the new private street shown on the Tentative Plan Map as SW Sheridan Street.
7. Prior to issuance of building permits for either phase, complete the County Design Review procedures for the area included within that phase and complete all open space improvements associated with that phase. Contact Mark Hess at 248-3043 for additional information.
8. Prior to conducting any grading or clearing on the site, obtain a Hillside Development Permit under MCC 11.15.6710. Contact Mark Hess for additional information.
9. Prior to doing any site work or issuance of building permits within 100 feet of any stream on the subject property, obtain a Significant Environmental Concern Permit under MCC 11.15.69404(C). Contact Mark Hess for additional information.
10. Prior to endorsement of the Final Plat, provide written confirmation from Tualatin Valley Fire and Rescue of compliance with that district's requirements concerning items including but not limited to road design, fire hydrants, and bridge/culvert specifications.
11. Prior to issuance of building permits for any lot, provide written confirmation from Tualatin Valley Fire and Rescue of compliance with that district's requirements concerning the wording of homeowners' covenants, conditions and restrictions with respect to fire access.
12. In conjunction with issuance of building permits, provide written confirmation from Tualatin Valley Fire and Rescue of compliance with that district's requirements concerning the installation of automatic sprinkler protection systems.
13. Change the name of the proposed public cul-de-sac street in Phase 1 from SW Sigrid Court to SW Meade Court in accordance with the provisions of Ordinance No. 274, or comply with the provisions of Ordinance No. 274 regarding the re-naming of streets.
14. Prior to issuance of the first building permit, record the Amended Declaration of Covenants and Restrictions for the Argent Planned Development and provide proof of said recording to the Planning and Development Division.

Findings of Fact: (PD 2-90)

NOTE: The applicant has provided a narrative statement in response to the PD Preliminary Development Plan and Program requirements and the Planned Development and Land Division approval criteria. In this section, quoted portions of the applicant's material, including responses to the approval criteria are in helvetica type. Staff

Decision
October 8, 1990

PD 2-90/LD 29-90
Continued

discussion of applicant responses appear in paragraphs titled **Staff Comment**. Quoted ordinance language appears in ***bold italic type***. The exhibit numbers appearing in the applicant's narrative refer to documents that are part of the application. Those documents are on file in the Planning Division office.

1. **Applicant's Proposal:**

- A. **General Description:** The applicant, Gerhard Schicht, requests approval of a Preliminary Development Plan and Program for a Planned Development (PD) and a Tentative Plan for a 24.37-acre subdivision in the R-20 zone. The Preliminary Development Plan and Program/Tentative Plan Map appears at the beginning of this report. The applicant proposes 30 lots for detached single family houses plus about 10 acres of open space. The applicant proposes to develop the project in two phases. Phase 1 includes 8 lots facing a new public street shown on the Tentative Plan Map as SW Sigrid Court. That street would extend from SW Bucharest Court in the southwest part of the site. Phase 2 includes 22 lots facing a new private street shown on the Tentative Plan Map as SW Sheridan Street at the northeast part of the site. Southwest Sheridan Street would connect to SW Canyon Drive in Washington County.
- B. **Background:** In 1981, the County gave preliminary approval for a PD and 38-lot land division including two open space tracts on a 27.86 acre site (PD 3-81/LD 41-81). In September of 1983, the County approved a final plat for 7 lots at the northwest corner of the site as Phase I of the 1981 PD and for division of the remainder of the site into two open space tracts and two future development tracts. In October of 1984, County staff conditionally approved a final development plan and design review plan for Phase I. Five of the lots now have houses on them, and SW 64th Court has been developed as a public cul de sac street and accepted by the County. Since the applicant submitted no final plat or development plan for the rest of the project within four years, the 1981 approval expired. Through the current (1990) application, the applicant seeks to re-establish preliminary Planned Development and Land Division approval for the undeveloped portion of the site.
- C. **Features of Proposal:** The applicant's submittal includes a detailed description of the various aspects of the proposed development. Following is a portion of that description. Exhibit numbers refer to exhibits provided by the applicant in addition to his narrative statement. Those exhibits are incorporated by reference into this report.

The 1990 proposal substantially conforms to the 1981 project. Changes from the 1981 application include reducing the number of lots from 31 to 30, reducing effects of roads and common area improvements on wetlands and streams, conforming the covenants and restrictions to the revised plan, and listing common area improvements and phasing.

In addition to the exhibits noted above, new information includes: an updated geotechnical report (Exhibit #7), a preliminary wetland

assessment (Exhibit #8), detailed surveys of the Canyon Drive intersection area (Exhibit #9) and the area where a waterfall is created by a cascading creek on the site (Exhibit #10), correspondence with Washington County regarding Canyon Drive (Exhibit #11), correspondence with the nearby neighborhood association (Exhibit #12), a solar energy access analysis (Exhibit #13), a map illustrating areas of the site sloped more than 25% (Exhibit #14), revised covenants and restrictions for the site (Exhibit #15), a traffic study (Exhibit #16), preliminary road details (Exhibit #17), correspondence with the fire district (Exhibit #19), a map illustrating planned road changes by ODOT in the area (Exhibit #20), illustrations of playground equipment examples (Exhibit #22), a letter from a landscape architect regarding common area improvements (Exhibit #23), and an aerial photo of the vicinity overlaid with the proposed road pattern for the site (Exhibit #24). Some of these exhibits are included only with the original application on file with the County; others are included in all copies of the application. See the appendix for a list of exhibits.

- D. **Comprehensive Plan and Zoning:** The County Comprehensive Plan designates the site as Residential and the zoning is R-20/PD, Single-Family Residential District/Planned Development.

2. **Site and Vicinity Information**

- A. The is adjacent to and east of SW Canyon Drive and SW Bucharest Court, adjacent to and west of Scholls Ferry Road, and south of land that abuts Highway 26 adjoining the Washington/Multnomah County line. The northwest tip of the site, where it intersects SW Canyon Court, is inside Washington County. The rest of the site is in Multnomah County
- B. **Slope:** Parts of the site are steep, with slopes exceeding 25 percent. Development or construction on the site will require County approval of a Hillside Development Permit under MCC 11.15.6710.

3. **Ordinance Considerations:**

- A. In approving the Preliminary Development Plan and Program for a Planned Development (PD) the Planning Commission must find that the following approval criteria are satisfied:
- (1) *The requirements of MCC .8230(D) (3), which requires that the proposed action fully accords with the applicable elements of the Comprehensive Plan [MCC 11.15.6206(A)(1)];*
 - (2) *The applicable provisions of MCC 11.45 the Land Division Chapter [MCC 11.15.6206(A)(2)];*

- (3) *That any exceptions from the standards or requirements of the underlying district are warranted by the design and amenities incorporated in the Development Plan and Program, as related to the purposes stated in MCC .6200 [MCC 11.15.6206(A)(3)]*
- (4) *That the system of ownership and the means of developing, preserving and maintaining open space is suitable to the purposes of the proposal [MCC 11.15.6206(A)(4)].*
- (5) *The provisions of MCC .6214, This section pertains to the relationship of the Planned Development to the environment and reads as follows:*
- (a) *The Development Plan and Program shall indicate how the proposal will be compatible with the natural environment.*
- (b) *The elements of the Development Plan and Program shall promote the conservation of energy, and may include such factors as the location and extent of site improvements, the orientation of buildings and usable open spaces with regard to solar exposure and climatic conditions, the types of buildings and the selection of building materials in regard to the efficient use of energy and the degree of site modification required in the proposal.*
- (c) *The Development Plan and Program shall be designed to provide freedom from hazards and to offer appropriate opportunities for residential privacy and for transition from public to private spaces.*
- (d) *The location and number of points of access to the site, the interior circulation patterns, the separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings, structures and uses shall be designed to maximize safety and convenience and be compatible with neighboring road systems, buildings, structures and use[MCC 11.15.6206(A)(5)].*
- (6) *That the proposed development can be substantially completed within four years of the approval or according to the development stages proposed under MCC .6220. That section provides that:*

- (a) *The applicant may elect to develop the site in successive stages in a manner indicated in the Development Plan and Program. Each such stage shall satisfy the requirements of this Chapter.*
- (b) *In acting to approve the Preliminary Development Plan and Program, the Planning Commission may require that development be completed in specific stages if public facilities are not otherwise adequate to service the entire development[MCC 11.15.6206(A)(6)].*
- (7) *The Development Standards of MCC .6212 [minimum site size), .6216 [open space] and .6218 [density computation][MCC 11.15.6206(A)(7)].*
- (8) *The purposes stated in MCC .6200; [MCC 11.15.6206(A)(8)] and*
- (9) *That modifications or conditions of approval are necessary to satisfy the purposes stated in MCC .6200[MCC 11.15.6206(A)(9)].*

4. **Response to Approval Criteria:**

A. **Planned Development Approval Criteria (MCC 11.15.6206)**

- (1) *. . . the proposed action fully accords with the applicable elements of the Comprehensive Plan [MCC 11.15.6206(A)(1)]* Following are the policies of the Comprehensive Plan that apply to the proposal.

- (a) **Policy 13, Air and Water Quality and Noise Levels**

Applicant's Response

The proposed development will not substantially increase air pollution. Existing ambient pollution levels are affected by metropolitan-wide activities. There will be 30 residences in the development generating approximately 250-300 vehicle trips per day. Given the total number of residential units and the total amount of traffic in the Portland Metropolitan area, the amount of air pollution generated on the site is insignificant.

Water quality will not be affected by the development, because it will be served by a public water system, will discharge sewage to a public sewer system, and

will discharge storm water to the existing stream system on the site. To prevent erosion, a vegetative buffer will be maintained adjacent to streams on the site, and silt fences, straw bales, and temporary siltation ponds will be used as needed during construction.

Noise levels will increase somewhat as a result of the proposed development; however, the noise generated by the development will be noise typical of a residential development. Perceived noise levels within the development will be low, because of the amount of trees that will be retained on site and because of topography.

With respect to storm drainage, the applicant states as follows: The applicant has prepared a preliminary drainage plan that provides for storm water to be directed by gravity flow to inlets in catch basins on the streets on the site and piped to the streams on the site with appropriate rip-rapping at discharge points. See Exhibit #17.

a In Phase I, several sections of storm line serving the bottom of Bucharest Court will be removed. At the end of the remaining storm lines, the applicant will install new manholes and extend new lines to a combined 12-inch diameter storm sewer with inlets in Sigrid Court. It will discharge to the stream at the east edge of the lots in Phase I. Another set of inlets will be provided at the end of the street to discharge water upstream from the 12-inch line.

b In Phase II, inlets will be provided in catch basins in Sheridan Street, with the storm water directed to streams on the site at three well-separated points to minimize the impact of the flow from any one area.

Staff Comment:

Obtaining a Hillside Development Permit before starting work on the site is a condition of approval. For this reason and those stated by the applicant the proposal complies with Policy 13.

(b) **Policy 14, Development Limitations**

Applicant's Response:

This policy is concerned with mitigating or limiting the impacts of developing areas that have any of the following characteristics: slopes exceeding 20%; severe soil erosion potential; land within the 100 year floodplain; a high seasonal water table within 0-24 inches of the surface for 3 or more weeks of the year; a fragipan less than 30 inches from the surface; and land subject to slumping, earthslides or movement.

(a) The proposed development is subject to this policy, because it contains slopes exceeding 20%. The site is not in a floodplain, based on FEMA flood map 410179-0165-A. The site does not have high bedrock conditions or evidence of earth movement, based on the SCS Soil Map for the site and the geophysical reports by Mssrs. Rossetti and Harris. A portion of the site may contain a high seasonal water table, given the wetland on the site. However, no development will occur within 100 feet of the wetland. Therefore, no areas containing a seasonal high water table will be developed.

(b) The proposal will comply with this policy, because:

(i) Construction on the site will be subject to MCC 11.15.6700 (the Hillside Development and Erosion Control subdistrict), which governs development on slopes over 25% and in the Tualatin River basin.

(ii) The majority of the steep slopes will be kept in common open spaces. Only the vegetation needed to accommodate roads, infrastructure, and common area amenities will be removed in the areas of steep slopes.

(iii) Steep slopes that are contained in private lots will be subject to development limitations by deed covenants. See Exhibit #15. These limitations will prohibit development activities, including removal of vegetation and filling and grading and compliance with the recommendations of

Mssrs. Rossetti and Harris, on slopes exceeding 20%. They also will require compliance with the Hillside Development and Erosion Control District.

Staff Comment:

For the reasons stated by the applicant, the proposal satisfies Policy 14.

(c) **Policy 15, Areas of Significant Environmental Concern**

There are three tributaries of Fanno Creek on the site. Under MCC 11.15.6404(C), any building, structure or physical improvement within 100 feet of the normal high water level of a Class 1 stream requires a Significant Environmental Concern (SEC) permit. Fanno Creek is a Class 1 stream as defined by the State Forest Practices Rule. Obtaining of appropriate SEC permits is a condition of approval. Subject to that condition, the proposal satisfies Policy 15.

(d) **Policy 19, Community Design**

Applicant's Response

This policy requires the county to establish a design review process. Such a process has been established. This development will be subject to the process before approval of the final PD plan.

Staff Comment: Compliance with county Design Review requirements is a condition of approval. For this reason and those stated by the applicant, the proposal satisfies Policy 19.

(e) **Policy 20, Arrangement of Land Uses**

Applicant's Response

This policy seeks to assure a complementary blend of uses, to reinforce community identity, to create a sense of pride and belonging, and to maintain or create neighborhood long term stability.

(a) Although some of the lots within the proposed development will be as small as 10,500 square feet, the overall site density will be approximately one residence for every 34,078 square feet or about 1.28

dwellings per acre. This is comparable to the density in the area and maintains the stability of the area as a low density residential neighborhood.

(b) The development will create a sense of community identity because it will create an outstanding living environment. This site is beautiful, containing steep slopes, streams and a waterfall, and a wide variety of flora. More than a third of the site will be retained as open space that will be accessible by sidewalks and trails. Benches and tables will be provided along the trails. A tennis court and playground will be developed in the center of the project. These features together will create a sense of community identity much as a public park creates such an identity. Because all of the open space and the improvements within the open space will be deeded to a homeowner's association to which residents of the development will belong, a sense of community will be reinforced.

Staff Comment:

For the reasons stated by the applicant, the proposal satisfies Policy 20.

(f) **Policy 21, Housing Choice**

Applicant's Response

This policy is concerned with providing a variety of housing at affordable prices to the citizens of Multnomah County.

(a) The proposed development will result in 30 new housing units in close proximity to the urban area. The average price of a house in the development is likely to equal or exceed the median price of homes in the area.

(b) There is a demand for housing in the vicinity of the property. In the past twelve months, in the area bounded by the Willamette River on the east, Beaverton-Hillsdale Highway on the south, 185th Avenue on the west, and the Skyline neighborhood on the north, 1,218 residential units have sold. In that same period, 291 homes under 2 years of age have sold. The proximity of the site to the urban area

and the amenities and open space to be incorporated into the site will make it an attractive housing opportunity.

Staff Comment:

For the reasons stated by the applicant, the proposal satisfies Policy 21.

(g) Policy 22, Energy Conservation

Applicant's Response

This policy promotes energy conservation. The proposed development is consistent with this policy, because it promotes constant energy conservation by its location and design.

(a) The property is within 1/2 mile of the Sylvan commercial and employment center. The property is within 1/2 mile of Highway 26, which is identified in the Comprehensive Plan as a Major Transit Corridor. There is a Tri-Met bus stop at the intersection of Canyon Road and S.W. Canyon Drive, within walking distance of the proposed development. As a result of the location of the property, the amount of energy needed for transportation to and from destination points is substantially reduced.

(b) The design of the development also contributes to energy savings. The lots in the development are laid out to comply with MCC 11.15.6805 governing solar access. See Exhibit #13. The amount of area kept in natural open space also contributes to energy conservation by minimizing the amount of energy that has to be expended to develop the site. Also, the amount of vegetation retained will help moderate the temperature on the site during the summer months.

Staff Comment:

For the reasons stated by the applicant, the proposal satisfies Policy 22.

(h) Policy 24, Housing Location

Applicant's Response

This policy contains general locational criteria. The proposed development is defined as a major development, because it is likely to result in a population increase of 75 people (using an average household size figure of 2.5). Each of the criteria applicable to major developments is identified below and is followed with a discussion demonstrating how the proposal complies with it.

(a) Access

(i) There is direct access from the project to a public street --- S.W. Canyon Drive and Bucharest Court.

(ii) Site access will not cause dangerous intersections or traffic congestion, considering the roadway capacity, existing and projected traffic counts, speed limits, and number of turning movements, based on Exhibit #16.

(iii) Public transit is available within 1/4 mile of the site along Scholls Ferry Road. The nearest bus stop is at the intersection of Canyon Drive and Canyon Road.

(b) Site Characteristics

(i) The site is of a size and shape that can reasonably accommodate the proposed use in a manner that emphasizes user convenience and energy conservation, because the property is large enough to accommodate all of the proposed lots and provide a substantial amount of open space. As previously discussed, the lots will be oriented to comply with MCC 11.15.6805 regarding solar access and is conveniently located near major destination points such as shopping and work.

(ii) The outstanding natural features of the site are incorporated into the design of the site. The site contains several outstanding natural features. It is heavily wooded and has a rich variety of flora. It has steep slopes. Several streams or stream tributaries traverse the property, and there is a waterfall on the property. All of these features will be

preserved in the open space tract or will be protected from adverse effects using covenants and restrictions and a 50-foot setback from the creek. See, e.g., p. 6 of Exhibit #15. The open space and streets on the site will contain walkways providing viewpoints of these features.

(iii) The site contains slopes of 20% or more. It can be demonstrated that all limitations to development and the provision of services can be mitigated. The majority of the site containing slopes in excess of 20% either will be preserved in open space or subject to covenants and restrictions. Development will be subject to MCC 11.15.6700, regarding hillside development and erosion control.

(iv) The site is buffered from major noise sources. Only Scholls Ferry Road is a significant noise generator in the vicinity of the site. The site is buffered from this noise by approximately a 200 foot elevation difference, a significant amount of open space, and vegetation adjoining Scholls Ferry Road.

(c) Impact of the proposed change on adjacent lands.

(i) The scale of the proposed use is compatible with surrounding uses, based on the response to Policy 20.

(ii) The proposed development will reinforce orderly and timely development and delivery of urban services, because it increases density in the urban area where there is convenient access to the regional transportation system and to public facilities and services. As is discussed with regard to Policy 21, there is a demand for housing in the vicinity of the property.

(iii) Lights and noise associated with the development will not interfere with activities on the surrounding property, because setbacks, topography and vegetation will isolate the homes on the site from other homes, and because the amount of light and noise generated by the proposed development will be comparable to the amount of noise and traffic generated by any similarly-sized residential development.

(iv) The site layout responds to existing community identity, based on the response to Policy 20.

Staff Comment:

For the reasons stated by the applicant, the proposal satisfies Policy 24.

(i) **Policy 35, Public Transportation**

Applicant's Response

The proposal is consistent with this policy because the property is located within 1/4 mile of Tri-Met routes.

Staff Comment:

Tri-Met line #57 provides daytime, evening and weekend service on SW Canyon Road with the nearest stop at the Canyon Drive/Canyon Road intersection. For the reasons stated by the applicant, the proposal satisfies Policy 35.

(j) **Policy 36, Transportation System Development Requirements**

Applicant's Response

This policy requires transportation improvements consistent with the Road Standards. The proposal is consistent with this policy, because:

(a) S.W. Sigrid Court will be dedicated to the public and improved to public local street standards with a 32-foot wide paved section between curbs and sidewalks in a 50-foot right of way.

(b) S.W. Sheridan will be improved and maintained as a private street. Its intersection with Canyon Drive will be improved as directed by Washington County. Section 2.300 of the Street Standards provides development must have access to a public road via road at least 20 feet wide. SW Sheridan Street will have a 20-foot wide paved section and sidewalk on one side.

Staff Comment:

The design specifications stated above by the applicant for Sigrid Court are consistent with the County Street Standards Ordinance. Conditions of approval require construction of Sigrid Court to the above-stated standards. As another condition of approval, Tualatin Valley Fire and Rescue will require the installation of automatic sprinkler protection for all building construction on Sigrid Court due to the length of the dead-end the cul-de-sac street .

The design of the proposed private street (SW Sheridan Street) does not meet County standards for right-of-way and pavement width and curb and sidewalk construction. A condition of approval requires the recording of deed restrictions that communicate to owners of lots abutting Sheridan Street that the County will not accept the street in the future or take responsibility for its cleaning or maintenance or snow removal because the street is not designed and built to County standards.

Subject to the above-stated conditions of approval and for the reasons stated by the applicant, the proposal satisfies Policy 36.

(j) **Policy 37, Utilities**

Applicant's Response

This policy requires adequate utilities to serve the site. The proposed use complies with this policy, because it will be served by public sewer and water facilities, based on responses from service providers, will provide for storm water drainage on-site, and will have power and communications utilities.

Staff Comment:

The West Slope Water District has verified that water service is available to the property from a 6-inch line in SW Bucharest Court. The Unified Sewerage Agency of Washington County has verified that public sewer is available to the site. Provision for on-site storm drainage is a condition of approval. For these reasons and those stated by the applicant, the proposal complies with Policy 37.

(k) **Policy 38, Facilities**

Applicant's Response

This policy requires that public facilities be available to serve the use. In this case, school, fire, and police services are available, based on the jurisdictional boundaries of the school district, fire district, and sheriff.

Staff Comment:

The property is located in the Portland School District. According to district staff, current remodeling and expansion of West Sylvan Elementary School will be adequate to accommodate student enrollment from houses located on the subject property. Tualatin Valley Fire and Rescue provides fire protection to the site. As stated above, the fire district will require automatic sprinkler protection for all buildings on SW Sigrid Court due to the length of the dead-end street and on SW Sheridan Street due to the steep grades and narrow improvement width proposed for that private street. The Multnomah County Sheriff's Office provides police protection. For the reasons stated and subject to the conditions of approval, the proposal satisfies Policy 38.

(k) **Policy 39, Open Space**

Applicant's Response

The proposed use complies with this policy by creating a substantial open space tract containing steep slopes, streams, and a wetland.

Staff Comment: For the reasons stated by the applicant, the proposal satisfies Policy 39.

(2) *... applicable provisions of MCC 11.45 the Land Division Chapter [MCC 11.15.6206(A)(2)]; Please refer to Findings under LD 29-90*

(3) *... exceptions from the standards or requirements of the underlying district . . . as related to the purposes stated in MCC .6200 [MCC 11.15.6206(A)(3)]*

Applicant's Response

If the PD requires any exceptions from the standards of the underlying zone (R-20), the applicant must show such exceptions are warranted by the design and amenities

included in the PD as related to the purposes of MCC 11.15.6200.

(1) In this case, all of the proposed lots comply with minimum depth and width standards of the R-20 zone, but 17 of the proposed 30 lots contain less than 20,000 square feet, the minimum lot size allowed in that zone. Lots are as small as 10,500 square feet. The average lot size is about 17,000 square feet.

(2) The lot size exceptions are warranted, because it allows clustering of homes and therefore minimizes the impact of the development on the steep slopes and sensitive environmental features of the site, and because about 10 acres of the site will be protected as common open space. It results in efficient use of land with convenient access to the urban area, conserving energy and minimizing future transportation needs.

(3) Front yard setbacks are warranted on lot 8 in phase I, because the 50-foot setback along Fanno Creek across the rear of the lot substantially reduces its developable area. Front yard setbacks are warranted on lots 1, 8 through 15, and 22 of phase II, because of the steep slopes on those lots. These variances are further warranted by the establishment of a 10-acre open space on the site and by the improvements the applicant will make to the open space.

Staff Comment

The design of the proposed PD, including the lot sizes, is consistent with the concept approved in 1981. For the reasons stated by the applicant, the proposal satisfies MCC 11.15.6206(A)(3)

- (4) . . . *system of ownership and the means of developing, preserving and maintaining open space is suitable to the purposes of the proposal* [MCC 11.15.6206(A)(4)].

Applicant's Response

The system of ownership and means of developing, preserving, and maintaining the open space must be suitable given the purpose of the proposal.

(1) In this case, the applicant will make the open space improvements shown on the PD plan before conveying the open space to a homeowners association that was formed in 1983. The Homeowners Association is empowered to

assess its members for the cost of maintenance of the common area and to regulate use of the common area. See Exhibit #15.

(2) The applicant also will impose a deed restriction over lots that are within 50 feet of the Fanno Creek to prevent development of those areas. Private ownership of the lots does not impair the ability to protect and maintain the streams, based on the deed restrictions. See Exhibit #15.

Staff Comment

Obtaining a Significant Environmental Concern (SEC) permit for any building, structure or physical improvement within 100 feet of any Fanno Creek tributaries on the site is a condition of approval. For these reasons and those stated by the applicant, the proposal satisfies MCC 11.15.6206(A)(4)

(5) . . . *relationship of Planned Development to environment* [MCC 11.15.6206(A)(5)]. . . .

Applicant's Response

The PD must comply with MCC 11.15.6214. That section requires the applicant to show how the PD is compatible with the natural environment, promotes conservation of energy, provides freedom from hazards, provides for residential privacy, and is compatible with neighboring land uses and roads.

(1) The proposal is compatible with the natural environment, because it preserves the most sensitive and steeply sloped portions of the site in open space, restricts development on steep slopes or adjoining streams, and will be subject to the Hillside Development and Erosion Control subdistrict.

(2) The proposal conserves energy, because it complies with the solar access standards of MCC 11.15.6800, minimizes the creation of roads, and provides housing in close proximity to the urban area and public transit routes.

(3) The proposal is designed to minimize the potential for hazards by putting lots primarily where slopes are less than 25%. Development is subject to the Hillside Development and Erosion Control subdistrict, which ensures lots affected by slopes will be developed safely. The proposal provides transitions from public to semi-public and private areas. For instance, the developed portion of

the open space is interior to the site, allowing for its observation and convenient use by residents. Sheridan Street provides a long transition from public Canyon Drive to the private homesites around the Sheridan Street loop. Slopes and vegetation also provide for privacy on and adjoining the site.

(4) The proposal is compatible with surrounding land uses, because the proposal is for single family detached dwellings --- the same as surrounding land uses. Having two access points to the site minimizes the impact of development on any one point on the road system and distributes traffic. Pedestrian walkways will be provided to link the existing and new neighborhood and to provide pedestrian access to the open spaces. The proposed road system is safe, and the amount of traffic generated by the project can be accommodated on adjoining public streets, based on Exhibit #16.

Staff Comment

The design of the proposed PD, including the lot sizes, is consistent the concept approved in 1981. The applicant also addresses energy conservation, development limitations and arrangement of land uses above in his responses to Plan Policies 22, 14 and 20, respectively. Washington County's Department of Land Use and Transportation has approved the proposed design for the intersection of SW Sheridan Street with SW Canyon Drive subject to the applicant's satisfactory compliance with that county's sight distance requirement. Obtaining a Hillside Development Permit prior to issuance of building permits or commencement of site work is a condition of approval. For these reasons, the proposal satisfies MCC 11.15.6206(A)(5)

(6) *. . . can be substantially completed within four years of the approval or according to the development stages proposed under MCC .6220.*

Applicant's Response

The proposal must be substantially completed within four years or a phasing plan providing for a longer time must be approved. In this case, the applicant is proposing two phases that will be substantially completed within five years of approval. The first phase will be developed in the first two years; the second phase in the last three years

Staff Comment

Submittal of the final plats for Phases 1 and 2 within two and five years, respectively, is a condition of approval

- (7) Compliance with the *Development Standards of MCC .6212* [minimum site size), *.6216* [open space] and *.6218* [density computation][MCC 11.15.6206(A)(7)].

- (a) **Site Size (.6212)**

Applicant's Response

MCC 11.15.6212 provides the size of the site must be suitable for the proposed development and of sufficient size to be planned and developed in a manner consistent with the purposes of the PD section. In this case, the site contains 24.37 acres. That is large enough to be suitable for 30 single family detached dwellings, 10 acres of open space, and roads and infrastructure to serve them in a manner that complies with the purposes of the PD section, based on part III.A.1.h of this application.

Staff Comment

Subject to the conditions of approval and for the reasons stated by the applicant, the proposal satisfies MCC 11.15.6212

- (b) **Open Space (.6216)**

Applicant's Response

MCC 11.15.6216 provides for open space in a PD. The proposal complies with this section, because almost half the site is preserved as open space, the open space is located to protect sensitive natural areas and steep slopes, and it will be improved consistent with the needs of its intended user group. The open space improvements are phased consistent with the phasing of the lots. The applicant will protect the open space over time by conveying it to the homeowners association who is empowered and funded to maintain it and regulate its use.

Staff Comment

Subject to the conditions of approval and for the reasons stated by the applicant, the proposal satisfies MCC 11.15.6216

(c) **Densit Computation (.6218)**

MCC 11.15.6218 concerns density. The number of units in a PD can comply with the maximum density allowed in the underlying zone, or it can receive a density bonus of up to 25% if the development includes certain features. Although the proposed PD contains sufficient open space amenities to warrant approval of a density bonus, the applicant does not request such a bonus. Instead, the number of lots proposed is less than the number permitted by the underlying zone. That is, the site contains 24.37 acres. That area divided by 20,000 square feet per lot equals 53 lots permitted by the underlying zoning. The applicant proposes only 30 lots, or 56% of the number of lots permitted.

Staff Comment

Staff concurs with the applicant that the proposal satisfies MCC 11.15.6218 regarding density computation. Furthermore, the 30 proposed dwellings is actually 9 units less than the number one would expect in a conventional subdivision, assuming deduction of 25 percent of the gross site for roads and dividing the remainder by 20,000.

- (8) *The purposes stated in MCC .6200; [MCC 11.15.6206(A)(8)]* The purpose reads as follows:

The purposes of the Planned Development subdistrict are to provide a means of creating planned environments through the application of flexible and diversified land development standards; to encourage the application of new techniques and new technology to community development which will result in superior living or development arrangements; to use land efficiently and thereby reduce the costs of housing, maintenance, street systems and utility networks; to promote energy conservation and crime prevention; to relate developments to the natural environment and to inhabitants, employers, employees, customers, and other users in harmonious ways.

Applicant's Response

(1) The proposed PD uses the flexibility allowed by this section to avoid a traditional, cookie-cutter approach to the development. Such an approach would require severe cuts and fills and additional access onto Scholls Ferry Road, exacerbating impacts on natural features and creating adverse impacts on the arterial. Also, a traditional approach would not result in preservation of open space.

(2) The PD results in efficient use of land, because the land that can best accommodate development will be developed, and the majority of the steep or sensitive lands will not be. This achieves the most practicable housing given the land in question. The site is situated so that it provides efficient access to the urban area via Highway 26 and intersecting arterials and highways. This, the nearby Tri-Met service, and compliance with the solar access standards also promote energy conservation. Street systems are minimized and a private street is used in part, minimizing future public maintenance costs. Existing utilities are used, avoiding increased costs for new facilities or their maintenance. Housing units are clustered, further minimizing improvement and long term maintenance costs, and promoting crime prevention by allowing visibility of other homes, roads and common areas.

(3) The PD relates harmoniously with the environment by preserving about 10 acres of wetlands, stream corridors, and steep slopes in a common open space, by providing limited pedestrian access to that area, and by imposing deed restrictions to protect streams and steep slopes.

Staff Comment

Staff concurs with the applicant's statement of compliance with the purpose statement in the PD provisions of the zoning code. Subject to the conditions of approval, the proposal satisfies MCC 11.15.6206(A)(5).

- (9) *That modifications or conditions of approval are necessary to satisfy the purposes stated in MCC .6200[MCC 11.15.6206(A)(9)].*

Applicant's Response

MCC 11.15.2854 requires a 30-foot front yard for structures in the R-20 (Single Family) zone in which the site is

situated. MCC 11.15.8525 provides the approval authority may reduce required front yard setbacks for hillside residential properties when the required setback will necessitate extraordinary cutting or filling of the land resulting in potentially unsafe banks and the reduction of the required setback would not permit the development of the property in a manner that would be more hazardous or detrimental to the public safety than development within the required setback.

a The applicant requests approval of hillside residential variances to allow a front yard setback of no less than 10 feet on proposed lot 8 in phase I and a front yard setback of no less than 20 feet on proposed lots 1, 8 through 15, and 22 of phase II.

b All of these lots are affected by slopes greater than 25%. See Exhibit # 14. Therefore, the larger the setback, the more cutting would be required on the uphill side of the street and the more filling would be required on the downhill side of the street. Given grade changes of more than 20 feet within the first 30 feet of the affected yards, the required setback will necessitate extraordinary cutting or filling of the land resulting in potentially unsafe banks.

c. Granting the requested variances will ensure the development is less hazardous, by reducing required grading, cuts, and fills, and will increase the buffer between development and the sensitive wetlands and creek at the low elevations on the site. This helps protect the creek and the steep creekside slopes more than if the required setback is applied. Also structures on the lots in question are across from other structures in the project, so that off-site impacts will not result from the granting of the requested variances.

Staff Comment

Staff concurs with the reasons stated by the applicant in support of the need for modification of the R-20 setback standards on the lots in question.

Conclusions: (PD 2-90)

1. Based on the above findings, the proposed PD satisfies the approval criteria for Planned Developments.

Decision
October 8, 1990

PD 2-90/LD 29-90
End

Findings of Fact: (LD 29-90)

1. **Applicant's Proposal:** Please refer to Finding 1 under PD 2-90.
2. **Site and Vicinity Information:** Please refer to Finding 2 under PD 2-90.
3. **Land Division Ordinance Considerations (MCC 11.45):**
 - A. The proposed land division is closely related to the accompanying Planned Development (PD) request. Approval of the land division cannot occur without approval of the PD.
 - B. The proposed land division is classified as a Type I because it is *an urban area subdivision of more than 10 lots* [MCC 11.45.080(B)]. This proposal would create 30 lots.
 - C. MCC 11.45.230 lists the approval criteria for a Type I Land Division. The approval authority must find that:
 - (1) The Tentative Plan is in accordance with:
 - a) *the applicable elements of the Comprehensive Plan;*
 - b) *the applicable Statewide Planning Goals adopted by the Land Conservation and Development Commission, until the Comprehensive Plan is acknowledged to be in compliance with said Goals under ORS Chapter 197; and*
 - c) *the applicable elements of the Regional Plan adopted under ORS Chapter 197* [MCC 11.45.230(A)].
 - (2) *Approval will permit development of the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto, in accordance with this and other applicable ordinances* [MCC 11.45.230(B)];
 - (3) *The Tentative Plan or Future Street Plan complies with the applicable provisions, including the purposes and intent of [the Land Division Ordinance]* [MCC 11.45.230(C)]
 - (4) *The Tentative Plan or Future Street Plan complies with the Zoning Ordinance or a proposed change thereto associated with the Tentative Plan proposal* [MCC 11.45.230(D)].
 - (5) *If a subdivision, the proposed name has been approved by the Division of Assessment and Taxation and does not use a word which is the same as, similar to or pronounced the same as a word in the name of any other*

subdivision in Multnomah County, except for the words "Town", "City", "Place", "Court", "Addition" or similar words, unless the land platted is contiguous to and platted by the same applicant that platted the subdivision bearing that name and the block numbers continue those of the plat of the same name last filed [MCC 11.45.230(E)].

- (6) *The streets are laid out so as to conform, within the limits of the Street Standards Ordinance, to the plats of subdivisions and maps of major partitions already approved for adjoining property unless the approval authority determines it is in the public interest to modify the street pattern; and [MCC 11.45.230(E)].*
- (7) *Streets held for private use are clearly indicated on the Tentative Plan and all reservations or restrictions relating to such private streets are set forth thereon [MCC 11.45.230(G)].*

4. **Response to Type I Land Division Approval Criteria:**

A. **Applicable Elements of the Comprehensive Plan [MCC 11.45.230(A)]:** Approval of the proposed land division depends on approval of the proposed PD. For reasons stated in the Findings for PD 2-90, the proposed PD satisfies the PD approval criteria, including the applicable elements of the Comprehensive Plan. Therefore, the proposal satisfies MCC 11.45.230(A)

B. **Development of Property [MCC 11.45.230(B)]:**

Applicant's Response

Approval will result in the maximum practicable development on the property. No access is needed for additional lots. Access through the site to serve other properties is inappropriate, because of steep slopes and sensitive environmental features and because existing structures are interposed between the site and Scholls Ferry Road on Sheridan Street to the east, such that Sheridan Street cannot be extended to the site

Staff Comment: For the reasons stated by the applicant, the proposal satisfies MCC 11.45.230(B)

C. **Purposes and Intent of Land Division Ordinance [MCC 11.45.230(C)]:**

Applicant's Response

The proposal must be consistent with the purposes of the Land Division chapter. It is consistent, because it provides urban infill

development and urban infrastructure consistent with comprehensive plan policies.

Staff Comment:

For reasons stated in the Findings for PD 2-90, the proposed PD satisfies the PD approval criteria and therefore satisfies the R-20 provisions of the Zoning Ordinance for reasons stated below. Since the proposed land division satisfies the provisions of the Zoning Ordinance, it therefore complies with the purpose and intent of the Land Division Ordinance.

D. Zoning Ordinance Considerations [MCC11.45.390]: The applicable Zoning Ordinance criteria are as follows:

- (1) The site is zoned R-20, Single-Family Residential District.
- (2) The following minimum area and dimensional standards apply per MCC 11.15.2854:
 - (a) The minimum lot size shall be 20,000 square feet. As explained in finding 4.A(3) for PD 2-90, 17 of the proposed lots contain less than 20,000 square feet. For the reasons stated in that finding and in the finding regarding Plan Policy 20 (Arrangement of Land Uses) and subject to approval of the proposed PD, the lot sizes comply with the Zoning Ordinance.
 - (b) The minimum yard setbacks shall be 30 feet front, 10 feet side, and 30 feet rear. As explained in finding 4.A(9) for PD 2-90, reduced front yard setbacks have been requested for Lot 8 in Phase 1 and Lots 1 and 8-15 in Phase 2. For the reasons stated in that finding and subject to approval of the proposed PD, the reduced setbacks comply with the Zoning Ordinance.
 - (c) **Solar Access**

Applicant's Response

MCC 11.15.6800 contains regulations regarding solar access. It requires at least 80% of the lots in a development to have a front lot line oriented within 30° of a true east-west axis and to be at least 90 feet north-south. Exceptions are granted for lots sloped more than 20% to the north (MCC .6820(A)). Five of the proposed lots are exempt due to north slope. Therefore, 25 lots are subject to the solar access standard. 80% of 25 lots is 20 lots. Therefore, 20 lots should be oriented to provide solar access. In this case, 19 of the proposed lots have front lot lines

oriented within 30° of a true east-west axis and are at least 90 feet north-south; therefore, they comply. The remaining lot is subject to an adjustment, because it is sloped more than 10% to the north (MCC .6822(A)(1)). See Exhibit #13. Therefore, the PD complies with the solar access requirements.

Staff Comment:

For the reasons stated by the applicant, the proposal satisfies MCC 11.15.6800.

- E. **Subdivision Name [MCC 11.45.230(E)]:** The Assessment and Taxation Division will ascertain that the name of the plat--Argent 3-- conforms with applicable statutes and ordinances, including MCC 11.45.230(E).
- F. **Public Streets [MCC 11.45.230(F)]:** The proposed land division satisfies MCC 11.45.230(F) for the reasons stated in the finding for Plan Policy 36 under PD 2-90.
- G. **Private Streets [MCC 11.45.230(G)]:** The proposed land division identifies SW Sheridan Street as private.

5. General Land Division Standards and Requirements

A. Land Suitability (MCC 11.45.460)

Applicant's Response

MCC 11.45.460 prohibits development of land that is unsuitable because of slopes over 20%, severe erosion potential, location in a floodplain, high seasonal water table, high bedrock conditions, or earth slumping or movement. The tentative plan complies with this section, based on [the finding for Plan Policy 14 under PD 2-90]. In summary, development in those areas of the site sloped more than 20% can be mitigated or engineered to prevent adverse effects. The site is not subject to a floodplain, high water conditions outside the common open space, high bedrock conditions, or evidence of earth movement or slumping.

Staff Comment:

For the reasons stated by the applicant, the proposed land division satisfies MCC 11.45.460

B. Lots and Parcels (MCC 11.45.470)

Applicant's Response

MCC 11.45.470 concerns the layout of lots. The size, shape, and orientation of lots and their access is appropriate for single family detached dwellings, because each lot can be developed with a single family dwelling that has direct access to a street within the development. This is like development on most surrounding land. See also [the findings for Plan Policies 20 (Arrangement of Land Uses) and 24(Housing Location) under PD 2-90]. The layout of lots preserves sloped areas, vegetation, and natural drainage to the maximum extent practicable while developing the land for dwellings. Privacy will be protected, because the road system, setbacks, topography and vegetation will isolate homes on the site from other homes. Lots are protected from prevailing winds by its location within a natural bowl. About 63% of the lots are oriented for solar access. Side lot lines run perpendicular or radial to most front lot lines. No double frontage lots are proposed.

Staff Comment:

For the reasons stated by the applicant, the proposed land division satisfies MCC 11.45.470

C. Street Layout (MCC 11.45.490)

Applicant's Response

(1) The street system proposed provides the only practicable means of vehicular access to the site without causing significant adverse environmental effects. Connections to streets other than Bucharest Court and Canyon Drive as proposed are not appropriate, because of development on surrounding land or steep slopes and natural areas between the site and surrounding developable land, based on Exhibit #14, parts II.D, E and G, and findings IV of the 1981 decision in PD 3-81/LD 41-81.

(2) The street system preserves slopes, vegetation, and natural drainage to the maximum possible extent, because most street construction will be on land sloped less than 25% and will be separated from stream corridors by substantial distances. A street must cross the stream to reach the large developable area in the northeast corner of the site. The applicant proposes to minimize the impact on the stream by bridging rather than culverting the stream where the road crosses it.

(3) The development routes traffic from only 8 homes over a local street --- SW Bucharest Court. The remainder of the traffic from the development has access to Canyon Drive, a collector

street, by means of a private street. This minimizes the impact of through traffic on residential areas by minimizing the amount of traffic on local streets.

(4) Proposed streets can be observed from homes adjoining them.

(5) Streets are oriented so that the lots in the subdivision comply with the solar access standards, based on [finding 4.D(2)(c) under LD 29-90]. Lots are protected from wind by topography and vegetation.

(6) Storm water will be accommodated, based on [the finding for Policy 13. (Air and Water Quality and Noise Levels) under PD 2-90].

(7) The streets provide safe and convenient access, based on parts II.E [pages 10-12 of Applicant's narrative] and [the finding for Plan Policy 36 (Transportation System Development Requirements) under PD 2-90].

Staff Comment:

Conditions of approval require compliance with the Multnomah County Street Standards Ordinance regarding construction of SW Sigrid Court, and compliance with Washington County standards for road construction and sight distance at the Canyon Drive-Sheridan Street intersection. Based on the above-referenced findings, subject to the conditions of approval and for the reasons stated by the applicant, the proposed land division satisfies MCC 11.45.490

D. Street Design (MCC 11.45.500)

Applicant's Response

MCC 11.45.500 provides public streets shall comply with the Street Standards and private streets shall comply with site development standards. Site development standards for private streets other than accessways were not adopted. The proposed public street, SW Sigrid Court, will comply with the Street Standards. See also [the finding for Plan Policy 36 (Transportation System Development Requirements) under PD 2-90].

Staff Comment:

For the reasons stated by the applicant, the proposed land division satisfies MCC 11.45.500

E. Street Reserve Strips, Temporary Turnarounds, and Street Names (MCC 11.45.510, .520 and .530)

Applicant's Response

No street reserve strips or temporary turn-arounds are necessary, and street names comply with the County street naming ordinance. Therefore streets comply with MCC 11.45.520 and .530. The applicant will provide a sidewalk along all streets in the development. Therefore it complies with MCC 11.45.540 and .630.

Staff Comment:

For the reasons stated by the applicant, the proposed land division satisfies MCC 11.45.510, .520, .530 and .540.

F. Easements (MCC 11.45.550)

Applicant's Response

The plat shows existing easements of record and a 20-foot wide drainage easement across the streams on the site. Easements for utilities and the storm system will be shown on the final plat. Therefore the proposal complies with MCC 11.45.550.

Staff Comment:

For the reasons stated by the applicant, the proposed land division satisfies MCC 11.45.550

G. Street Trees and Street Lights (MCC 11.45.560 and .570)

Applicant's Response

Street trees and lights will be provided along the public street as required by the Street Standards; therefore, the proposal complies with MCC 11.45.560 and .570.

Staff Comment:

For the reasons stated by the applicant, the proposed land division satisfies MCC 11.45.560 and .570

H. Water System and Sewage Disposal (MCC 11.45.580 and .590)

Applicant's Response

Public water and sewer systems will serve each lot, based on [the finding for Plan Policy 37 (Utilities)]. Therefore the proposal complies with MCC 11.45.580, .590, .640, and .650.

Staff Comment:

For the reasons stated by the applicant, the proposed land division satisfies MCC 11.45.580 and .590

I. Surface Drainage (MCC 11.45.600 and 660)

Applicant's Response

Surface drainage will be accommodated without increasing the amount of storm water discharged from the site. The preliminary storm water plan shows a system can prevent uncontrolled storm water runoff. A final design for the system must be approved before the final plat can be filed for each phase. Therefore, the proposal complies with MCC 11.45.600 and .660.

Staff Comment:

For the reasons stated by the applicant, the proposed land division satisfies MCC 11.45.600 and ,660

J. Electricity and Other Utilities (MCC 11.45.610 and .670)

Applicant's Response

All utilities will be underground and will comply with applicable County Code requirements through the final platting process; therefore, the proposal complies with MCC 11.45.610 and .670.

Staff Comment:

For the reasons stated by the applicant, the proposed land division satisfies MCC 11.45.610 and .670

K. Required Impartments (MCC 11.45.620 and .680)

Applicant's Response

The applicant will commit to make and will make required infrastructure improvements in a timely manner consistent with the phasing of the project. Therefore the proposal complies with MCC 11.45.620 and .680

Staff Comment:

For the reasons stated by the applicant, the proposed land division satisfies MCC 11.45.620 and .680

Conclusions: (LD 29-90)

1. The proposed land division satisfies the approval criteria for Type I land divisions.
2. The proposed land division satisfies the general standards in the Land Division Ordinance.

IN THE MATTER OF PD 2-90/LD 29-90

Signed October 8, 1990



By Richard Leonard, Chairman

Filed With the Clerk of the Board on October 18, 1990

Appeal to the Board of County Commissioners

Any person who appears and testifies at the Planning Commission hearing, or who submits written testimony in accord with the requirements on the prior Notice, and objects to their recommended decision, may file a Notice of Review with the Planning Director on or before 4:30 p.m. on Monday, October 29, 1990 on the required Notice of Review Form which is available at the Planning and Development Office at 2115 SE Morrison Street.

The Decision on this item will be reported to the Board of County Commissioners for review at 9:30 a.m. on Tuesday, October 30, 1990 in Room 602 of the Multnomah County Courthouse. For further information call the Multnomah County Planning and Development Division at 248-3043.

Exhibit B

AN AGREEMENT
REGARDING THE ARGENT 3 PLANNED DEVELOPMENT

This Agreement is entered into this 20th day of November, 1990, between Argent Development Corporation and its successors in interest ("Argent") and Fans of Fanno Creek ("Fans").

WHEREAS, Argent desires to develop a subdivision and planned development on land identified as Argent 3 and including Lots 20, 21, 23, and 24, Argent Subdivision, Multnomah County (the "property") which was approved by the Multnomah County Planning Commission by decision dated October 8, 1990 (LD 29-90 and PD 2-90); and

WHEREAS, Fans desires to ensure that storm water drainage, sedimentation control and streamside protection measures for the Argent Subdivision are adequate to prevent degradation of water quality in and water supply to Fanno Creek where it crosses the property and has appealed the Planning Commission decision for that reason; and

WHEREAS, Fans agrees that, if the Multnomah County Board of Commissioners imposes additional restrictions on the development and provides Fans an opportunity to review and monitor drainage and sedimentation control plans, water quality control measures and vegetation protection, then degradation of water quality in Fanno Creek will be minimized and the appeal is not necessary; now therefore the parties agree as follows:

1. Fans and Daniel Heagerty agree the appeal of the Multnomah County Planning Commission decision dated October 8, 1990 regarding LD 29-90 and PD 2-90 is hereby withdrawn if the Multnomah County Board of Commissioners amends the conditions of approval recommended by the Planning Commission to include the terms of this agreement. The agreement shall apply to future land use applications regarding the site, except as modified by the Planning Commission following public notice and hearing.
2. Argent hereby agrees to restrict any and all development and removal of vegetation within 50 feet of the centerline of Fanno Creek or its tributaries, except for the following development activities:
 - a. The minimum required for construction of the private road (Sheridan Street);
 - b. The minimum required for construction of sanitary and storm sewers and water lines, permitted storm water drainage, water quality enhancement, and streamside protection features;

c. The proposed playground, which will be set back at least 25 feet from the centerline of the creek; and

d. The minimum required for the pedestrian path from Meade Court across Fanno Creek to the tennis/sport court and playground.

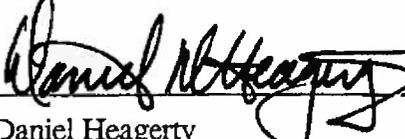
3. Argent hereby agrees to prohibit contractors from entering the area within 50 feet of the centerline of Fanno Creek on the property and shall impose a monetary fine of \$3000 per violation of such prohibition except as provided in paragraph 2 above. Argent will place a colored tape or other obvious visible marker to define the outer edge of the 50-foot buffer to facilitate compliance. Argent will allow contractors to enter into the 50-foot buffer only to build those features identified in paragraph 2 above. Fans may enter the property to monitor compliance with this provision subject to reasonable advance notice to and safety restrictions by Argent or its designee.

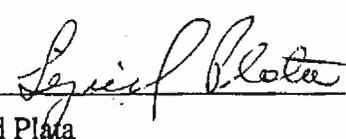
4. Argent hereby agrees to provide to Fans a copy of the draft drainage and sedimentation control plans for the property and to provide an opportunity for Fans to comment regarding the plans before they are submitted to Multnomah County for review and approval. Fans may enter the property to monitor compliance with plans approved by the County subject to reasonable advance notice to and safety restrictions by Argent or its designee.

5. Argent hereby agrees to include in applications for Multnomah County permits an inventory and description of seeps and springs identified in the area where development is proposed in conjunction with the permit under consideration. Multnomah County shall provide a copy of such applications and inventories to Fans. Argent further agrees to require as a condition of the CC & R's for the Argent Homeowners Association that applications for building permits shall include an inventory and description of seeps and springs identified in the area where development is proposed. Applications pursuant to this paragraph shall show that water from inventoried seeps and springs will be directed toward Fanno Creek and will be protected from water quality degradation. Furthermore, water from any springs or seeps encountered during construction, whether or not inventoried, shall be directed toward Fanno Creek and will be protected from water quality degradation. Any springs or seeps destroyed during construction shall be restored or replaced.

FOR FANS OF FANNO CREEK

FOR ARGENT DEVELOPMENT CO

 11/20/90
Daniel Heagerty Date

 11/20/90
Sigrid Plata Date