

March 11, 2015

Newland Communities
Attn: Scott Jones
33490-9th Avenue South, Suite 206
Federal Way, WA 98003

**RE: Major Amendment to the Cascadia (a.k.a. Tehaleh) Employment-Based
Planned Community (EBPC) Planned Unit Development (PUD): Phase 1
Revision/Expansion-Review of Tehaleh Development Agreement
Application Numbers: 760298, 760302, 763634, 763635**

Dear Applicant:

Transmitted herewith is the Report and Recommendation of the Pierce County Hearing Examiner to the Pierce County Council regarding your request for the above-entitled matter.

Very truly yours,

STEPHEN K. CAUSSEAU, JR.
Hearing Examiner

SKC/jjp
cc: Parties of Record

OFFICE OF THE HEARING EXAMINER

PIERCE COUNTY

REPORT AND RECOMMENDATION

CASE NO.: Major Amendment to the Cascadia (a.k.a. Tehaleh) Employment-Based Planned Community (EBPC) Planned Unit Development (PUD): Phase 1 Revision/Expansion-Review of Tehaleh Development Agreement
Application Numbers: 760298, 760302, 763634, 763635

PROPERTY OWNERS: NASH Cascadia Verde, LLC
16701 S.E. McGillivray Boulevard, Suite 150
Vancouver, WA 98683-3462

Cascadia Resort Communities LLC
11747 N.E. 1st Street, Suite 320
Bellevue, WA 98005

APPLICANT: Newland Communities
Attn: Scott Jones
33490-9th Avenue South, Suite 206
Federal Way, WA 98003

ATTORNEYS: Gordon, Thomas, Honeywell, et. al.
Attn: William T. Lynn
P.O. Box 1157
Tacoma, WA 98401

Cairncross & Hempelmann
Attn: Nancy Bainbridge Rogers and Randall Olsen
524 Second Avenue, Suite 500
Seattle, WA 98104-2323

PLANNER: Robert Jenkins, Senior Planner

SUMMARY OF REQUEST:

Review of the proposed, new Tehaleh Development Agreement by the Pierce County Hearing Examiner, as required per the April 7 and 23, 2014, decisions of the Pierce County Hearing Examiner approving the Phase 1 Major Amendment to the Cascadia-

Tehaleh EBPC/PUD. The Tehaleh Development Agreement would update the 1999 Cascadia Development Agreement to include changes resulting from amendments and modifications to the original 1999 EBPC/PUD approval including the Phase 1 Major Amendment. The Tehaleh Development Agreement would also implement the Tehaleh PUD, as amended, in Phase 1, excluding Parcel O. The site is located at the southern end of the Bonney Lake Plateau, south of 128th Street East, in Sections 11, 16, 17, 20, the N 1/2 of Sections 21, 22, the NW 1/4 of Section 23, and the NE 1/4 of Section 27, T19N, R5E, W.M., in Council District No. 1.

SUMMARY OF RECOMMENDATION: Approve

DATE OF RECOMMENDATION: March 11, 2015

PUBLIC HEARING:

After reviewing the Planning and Land Services Staff Report and examining available information on file with the application, the Examiner conducted a public hearing on the request as follows:

The hearing was opened on February 25, 2015, at 9:01a.m.

Parties wishing to testify were sworn in by the Examiner.

The following exhibits were submitted and made a part of the record as follows:

EXHIBIT "1" - Department of Planning and Land Services Staff Report with Attachments

EXHIBIT "20GG" - Letter from Bruce C. Mitchell dated November 15, 2014

ROBERT JENKINS appeared, presented the Planning Division Staff Report, and testified that the previously issued Major Amendment Decision requires a revised Development Agreement. Sumitomo, the owner of Parcel O, agrees with the proposed Development Agreement for its parcel. The RCW require a public notice and public hearing prior to the Examiner making a recommendation to the Pierce County Council. The hearing must occur before the Council approves the Agreement. He then referred to Exhibits attached to the Development Agreement and noted that no changes have occurred to the Parcel O portion of the project. It contains the same acreage. He referred to changes in the Phase 1 parks, but again noted that Parcel O remains unchanged. Under Tab G, the Affordable Housing Plan from 1999 has changed. However, the new plan will result in proactive marketing and a better effort to provide low income housing. The zoning map is updated to include the use types and is much closer to current County zoning regulations. He then discussed several other tabs in the Staff Report. He is satisfied that the non-residential uses will develop in accordance with the plan. Parcel O cannot change without the owners' input. The present changes

show that nothing affects Parcel O, but the owners can opt into the new Agreement if they desire. The Development Agreement adequately reflects the PUD approval and the Major Amendment approval.

WILLIAM LYNN, attorney at law, appeared and testified that the director actually signs the Development Agreement. The Pierce County Code does not require Council review, but requires the Hearing Examiner to approve projects, and then the Development Agreement is negotiated as an accomplished fact. However, the RCW requires the Council to approve the Agreement. The Examiner's action is therefore in the form of a recommendation to the Council, but the Council does not hold a further public hearing. The Council will probably approve the Agreement through the resolution process. All provisions of the Agreement are anticipated by the prior action. They presented a Development Agreement to PALS in December, 2013. The current version of the Agreement continues to incorporate all of the previous actions taken by the County plus the 2014 Major Amendment Decision. These actions and the Decision are carried forward into the new Development Agreement. The Agreement also reflects all actions from 1999 to the present. Some actions are completed and others were changed. Parcel O was addressed in the Reconsideration Decision and the Major Amendment Decision. Parts of the previous Development Agreement needed amending as well. For those items left for resolution in the Major Amendment Decision that were not considered, the Examiner directed the parties to reach agreement. These items included affordable housing and signs. These sections are the only new items in the Agreement.

SCOTT JONES, Newland Homes, appeared and testified that they have sold 400 homes since September, 2012, and are averaging 15 to 20 sales per month. They have recently engaged three new builders that target houses under \$300,000 and in the \$240,000 to \$320,000 range. They have engaged a commercial broker, NAI, that is very familiar with the South Sound. They have already located two potential tenants but have no water or roads to serve the commercial sites as yet.

Reappearing was MR. LYNN who testified that they have worked with Public Works and obtained an agreement for the preliminary design. They will present two plats within the next month. They have filed an application for Phase 2 and have combined Phases 2 and 3 such that the new application is for the balance of the project. They are preparing a SEIS for the balance of the project.

RANDALL OLSEN, attorney at law representing Sumitomo Forestry that owns Parcel O, appeared and testified that their delay is due to financial problems that were addressed in Conditions 39 and 40 in the Major Amendment Reconsideration Decision. They previously provided comments on the new Development Agreement. The applicant and the County made the changes and additions that they requested.

BRUCE MITCHELL who owns a 100 acre parcel in the center of the site appeared and testified that he is concerned about access for development of his land. He needs information as to what he needs to do.

MR. LYNN responded by saying that the applicant would stub a sewer line to his property to make sewers available.

MR. JENKINS testified that Mr. Mitchell has private access easements to his parcel. These are issues that need to be discussed outside of the Development Agreement.

No one spoke further in this matter and the Hearing Examiner took the matter under advisement. The hearing was concluded at 9:41a.m.

NOTE: A complete record of this hearing is available in the office of the Pierce County Planning and Land Services.

FINDINGS, CONCLUSIONS, AND RECOMMENDATION:

FINDINGS:

1. The Hearing Examiner has admitted documentary evidence into the record, previously viewed the property, heard testimony, and taken this matter under advisement.
2. Environmental review exempt
3. Public and Legal Notice:
 - February 10, 2015: Public Notice of the Examiner's hearing sent to parties of record to the Phase 1 Major Amendment to the Cascadia-Tehaleh EBPC/PUD.
 - February 11, 2015: Legal notice published in the official County newspaper (Puyallup Herald), advertising the public meeting to be held by the Pierce County Hearing Examiner.
4. The Tehaleh Employment Based Planned Community (EBPC) Planned Unit Development (PUD), formerly known as Cascadia, by and through its owners, NASH Cascadia Verde, LLC, and Cascadia Resort Communities, LLC, along with Newland Communities (applicants) request approval of a revised Development Agreement that would update and replace the 1999 Cascadia Development Agreement for Phase 1 of Tehaleh, excluding Parcel O. The 1999 Cascadia Development Agreement and amendments to land use approvals approved between 2006 and 2013 will continue to govern development of Parcel O. However, the owners of Parcel O may request development under the

presently proposed Development Agreement or under a future Tehaleh Development Agreement.

5. RCW 36.70B.200 requires the Pierce County Council to approve the Tehaleh Development Agreement by ordinance or resolution. Said section provides:

A county or city shall only approve a development agreement by ordinance or resolution after a public hearing. The county or city legislative body or a planning commission, hearing examiner, or other body designated by the legislative body to conduct the public hearing may conduct the hearing. If the development agreement relates to a project permit application, the provisions of chapter 36.70C RCW shall apply to the appeal of the decision on the development agreement.

In the present case the Pierce County Hearing Examiner is designated by the Pierce County Council (legislative body) to conduct public hearings to consider development agreements. Following such public hearing, the Examiner makes a recommendation to the Council. The Council then determines whether to approve/disapprove the development agreement by ordinance or resolution. Thus, the Examiner's action in the present matter is a recommendation to the Pierce County Council.

6. Pursuant to a Report and Decision dated April 7, 2014, the Examiner approved a Major Amendment to the Tehaleh EBPC/PUD that revised and expanded Phase 1 of the development. However, said Decision did not affect development of Parcel O. In a Reconsideration Decision dated April 23, 2014, the Examiner provided a new set of conditions of approval that will govern development of the expanded Phase 1. Conditions 39, 40, and 41 provide that none of the changes affect Parcel O. Both Decisions recognize that the Major Amendment approval requires an amendment to the Cascadia Development Agreement presently governing development of Phase 1. Procedures for approval of an amended development agreement required the second public hearing before the Examiner.
7. The 2014 Report and Decision approving the Major Amendment to Phase 1 authorizes the following changes to the Tehaleh EBPC/PUD:
 - A. Move the 227.2 acre Parcel P from Phase 1 to Phase 2 and eliminate the equestrian center.
 - B. Add a 25.4 acre area and a 461.1 acre area located in Phase 2 to the west and north of Phase 1 into Phase 1.
 - C. Increase the area of Phase 1 by 259.3 acres.

- D. Increase the number of non-age restricted, single-family dwelling units from 1,433 to 1,600.
- E. Add 700 age restricted (senior), single-family dwelling units.
- F. Modify the size, location, and use of parcels within the expanded Phase 1 based on detailed topographic information; road and drainage design; changes in the housing market; commercial and industrial employment development trends; desires and needs of the school district, the fire district, and the water utility; and land uses that will accommodate the vision of the current developers of Cascadia-Tehaleh.

The Major Amendment also approved 12 major revisions in the land use plan as set forth in Finding 6F of the April 7, 2014, Report and Decision.

- 8. The April 23, 2014, Reconsideration Decision sets forth a complete set of conditions of approval governing development of Phase 1 of Tehaleh. Conditions also require changes to the Cascadia Development Agreement to implement the PUD and Major Amendment to the EBPC covering Phase 1. In accordance with said conditions, the applicants submitted a draft Tehaleh Development Agreement to Pierce County Planning and Land Services (PALS) on May 23, 2014. A series of meetings occurred among the applicants, their consultants, and Pierce County staff during June-October, 2014, to discuss the draft development agreement and its exhibits. The applicants submitted a final draft agreement on October 2, 2014, and pursuant to Condition 40 of the Reconsideration Decision, said draft was transmitted to the attorney representing the majority owners of Parcel O (Cascadia Resource Communities, LLC, and Sumitomo Forestry America, Inc.) for review. Correspondence then occurred between PALS, the Prosecuting Attorney's Office, the owners of Parcel O, and the applicants and their attorneys in November and December, 2014. All parties reached agreement on the final draft of the proposed Development Agreement on January 15, 2015. The applicants submitted a final agreement to PALS on January 16, 2015. The hearing before the Examiner to consider the final agreement occurred on February 25, 2015. At said hearing the attorney for the owners of Parcel O, the applicants' attorney, and PALS all supported the Tehaleh Development Agreement. All speakers either supported or expressed no concerns with staff's analysis of either the conditions of approval imposed in the April 23, 2014, Reconsideration Decision or the changes to the Cascadia Development Agreement. The Examiner therefore incorporates staff's analysis set forth on Pages 12-23 of the Staff Report herein as if set forth in full.
- 9. Mr. Bruce C. Mitchell appeared and expressed concerns regarding access to his 100 acre parcel abutting the south central portion of Tehaleh. Mr. Mitchell is concerned that changes to Tehaleh's development plans and/or Pierce County

development regulations could affect adequate access for future residential and/or commercial development on his parcel. The Tehaleh Development Agreement proposed for adoption has no impact on Mr. Mitchell's access, which is evidently provided across private lands. Tehaleh representatives testified that they would install a sewer line to the north property line of Mr. Mitchell's parcel that will allow him to provide sewer service to all future improvements on his parcel. Tehaleh has no control over future legislative actions that might affect access or road standards.

10. Subsequent to the issuance of the Decisions approving the 2014 Major Amendment, the applicants submitted a new application for a Major Amendment that, if approved, would grant project level approval of not only Phase 2 of Tehaleh but also Phase 3 (the final phase). Phase 2, which now includes the balance of the Tehaleh EBPC/PUD, proposes the following:
 - A. 1,052 acres of residential uses
 - B. 250 acres of employment uses
 - C. 1,199 acres of open space/recreational uses
 - D. 307 acres of public facility uses including four, potential, school sites

The new Major Amendment includes a westerly access into Tehaleh from SR-162 in the Sumner-Orting Valley. The Major Amendment would increase the total number of dwelling units allowed in Phases 1 and 2 from 6,437 to 9,700, but some of the residential development in Phase 2 would accommodate additional age restricted (senior) housing. The Pierce County responsible official has required preparation of a Supplemental Environmental Impact Statement (SEIS) pursuant to the State Environmental Policy Act (SEPA). The SEIS will identify and propose mitigation for probable, significant, environmental impacts associated with development of Phase 2. Implementation of the Phase 2 Major Amendment will also require either a future amendment of the presently proposed Tehaleh Development Agreement or approval of a new, separate, development agreement.

CONCLUSIONS:

1. The Hearing Examiner has the jurisdiction to consider and decide the issues presented by this request.
2. The Tehaleh Development Agreement adequately reflects and implements Major Amendment and PUD approvals for the Tehaleh EBPC/PUD. The Development Agreement also includes conditions of approval for the Tehaleh EBPC/PUD

imposed in the Examiner's April 7 and April 23, 2014, Decisions.

3. The Tehaleh Development Agreement serves as an update and replacement for the 1999 Cascadia Development Agreement covering Phase 1, excluding Parcel O.
4. The 1999 Cascadia Development Agreement and amendments from 2006 to 2013 will continue to implement development of Parcel O unless its owners request an amended Tehaleh Development Agreement or implementation under the present Agreement.
5. The Pierce County Council should approve the Tehaleh Development Agreement dated January 9, 2015, together with Exhibits A-D and E-1 through O as the implementation mechanism for the revised and expanded Phase 1 of the Tehaleh EBPC/PUD excluding Parcel O.

RECOMMENDATION:

It is hereby recommended that the Pierce County Council approve by ordinance or resolution pursuant to RCW 36.70B.200 the Tehaleh Development Agreement dated January 9, 2015, along with Exhibits A-D and E-1 through O as the implementation mechanism for Phase 1 of the Tehaleh EBPC/PUD, excluding Parcel O.

RECOMMENDED this 11th day of March, 2015.

STEPHEN K. CAUSSEAU, JR.
Hearing Examiner

TRANSMITTED this 11th day of March, 2015, to the following:

PROPERTY OWNERS: NASH Cascadia Verde, LLC
16701 S.E. McGillivray Boulevard, Suite 150
Vancouver, WA 98683-3462

Cascadia Resort Communities LLC
11747 N.E. 1st Street, Suite 320
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APPLICANT: Newland Communities
Attn: Scott Jones
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P.O. Box 1157
Tacoma, WA 98401

Cairncross & Hempelmann
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524 Second Avenue, Suite 500
Seattle, WA 98104-2323

OTHERS:

Bruce C. Mitchell
3220 Magnolia Boulevard West
Seattle, WA 98199

Mary Urbach
12417-12th Street East
Edgewood, WA 98372

PIERCE COUNTY PLANNING AND LAND SERVICES
PIERCE COUNTY BUILDING DIVISION
PIERCE COUNTY DEVELOPMENT ENGINEERING DEPARTMENT
PIERCE COUNTY PUBLIC WORKS AND UTILITIES DEPARTMENT
TACOMA-PIERCE COUNTY HEALTH DEPARTMENT
FIRE PREVENTION BUREAU
PIERCE COUNTY PARKS AND RECREATION
PIERCE COUNTY COUNCIL
PIERCE COUNTY RESOURCE MANAGEMENT
PIERCE COUNTY CODE ENFORCEMENT

**CASE NO.: Major Amendment to the Cascadia (a.k.a. Tehaleh)
Employment-Based Planned Community (EBPC)
Planned
Unit Development (PUD): Phase 1 Revision/Expansion-
Review of Tehaleh Development Agreement
Application Numbers: 760298, 760302, 763634, 763635**

NOTICE

1. RECONSIDERATION:

Any aggrieved party or person affected by the decision of the Examiner may file with the Department of Planning and Land Services a written request for reconsideration including appropriate filing fees within seven (7) working days in accordance with the requirements set forth in Section 1.22.130 of the Pierce County Code.

2. APPEAL OF EXAMINER'S DECISION:

The final decision by the Examiner may be appealed in accordance with Ch. 36.70C RCW.

NOTE: In an effort to avoid confusion at the time of filing a request for reconsideration, please attach this page to the request for reconsideration.