



Pierce County

Office of the Pierce County Hearing Examiner

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STEPHEN K. CAUSSEAU, JR.
Pierce County Hearing Examiner

June 3, 2019

NASH Cascadia Verde, LLC, a.k.a. Newland Communities
Attn: Scott Jones
505 South 336th Street, Suite 430
Federal Way, WA 98003

**RE: DEVELOPMENT AGREEMENT: TEHALEH
EMPLOYMENT-BASED PLANNED COMMUNITY (EBPC)
PHASE 2 PROJECT MASTER PLAN
Application Number: 784759**

Dear Applicant:

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

Very truly yours,

A handwritten signature in blue ink, appearing to read "SKC", written over a horizontal line.

STEPHEN K. CAUSSEAU, JR.
Hearing Examiner

SKC/jjp

cc: Parties of Record



OFFICE OF THE HEARING EXAMINER

PIERCE COUNTY

REPORT AND DECISION

CASE NO.: **DEVELOPMENT AGREEMENT: TEHALEH
EMPLOYMENT-BASED PLANNED COMMUNITY (EBPC)
PHASE 2 PROJECT MASTER PLAN
Application Number: 784759**

OWNER: NASH Cascadia Verde, LLC
505 South 336th Street, Suite 430
Federal Way, WA 98003

APPLICANT: NASH Cascadia Verde, LLC, a.k.a. Newland Communities
Attn: Scott Jones
505 South 336th Street, Suite 430
Federal Way, WA 98003

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

PLANNER: Robert Jenkins, Current Planning Supervisor

SUMMARY OF REQUEST:

As required by the Pierce County Council per Resolution No. R2018-80s and the Tehaleh Employment Based Planned Community (EBPC) Phase 2 Development Agreement (Ordinance No. 2018-90s), the applicant requests approval of a Project Master Plan, as described in PCC 18A.75.080.M.1., for review and approval. The Tehaleh EBPC is located at the southern end of the Bonney Lake Plateau, south of 128th Street East and accessed via 198th Avenue East, in Sec. 16, the E 1/2 of Sec. 17, the NE 1/4 of Sec. 20, Sec. 21 and 22, the NW 1/4 of Sec. 23, and the NE 1/4 of Sec. 27, T19N, R5E, W.M., in Council District No. 1.

SUMMARY OF DECISION: Request granted, subject to conditions.

DATE OF DECISION: June 3, 2019

PUBLIC HEARING:

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

The hearing convened on May 1, 2019, at 10:00 a.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" - Planning and Public Works Staff Report**
- EXHIBIT "2" - Application**
- EXHIBIT "3" - Agency Comments**
- EXHIBIT "4" - Public Comments**
- EXHIBIT "5" - Notice and Routing Documents**
- EXHIBIT "6" - County Council Decisions**
- EXHIBIT "7" - State Environmental Policy Act (SEPA)**
- EXHIBIT "8" - Site Information**
- EXHIBIT "9" - Power Point Presentation**
- EXHIBIT "10" - Agreement Coversheet with Signatures**
- EXHIBIT "11" - Environmental Impact Statement Supplemental Draft**
- EXHIBIT "12" - November 14, 2017 CD**
- EXHIBIT "13" - May 3, 2018 CD**
- EXHIBIT "14" - Tehaleh Chronology**
- EXHIBIT "15" - Tehaleh Power Point Presentation**
- EXHIBIT "16" - Submittal to County Council**
- EXHIBIT "17" - Ms. Urback's Submittal about Services**
- EXHIBIT "18" - Letter from Scott Sissons dated March 18, 2015**
- EXHIBIT "19" - Email Exchange with Scott Sissons and Angie Orr dated November, 2016**
- EXHIBIT "20" - Recommended Conditions of Approval**
- EXHIBIT "21" - Tehaleh Zoning Issue**
- EXHIBIT "22" - Submittal from Tom Shepard**
- EXHIBIT "23" - Revised Recommended Conditions of Approval**
- EXHIBIT "24" - FSEIS dated July 2018**
- EXHIBIT "25" - Ordinance No. 2018-90s**
- EXHIBIT "26" - Phase 2 Land Use Classifications, Use Table and Descriptions**

The Minutes of the Public Hearing set forth below are not the official record and are provided for the convenience of the parties. The official record is the recording of the hearing that can be transcribed for purposes of appeal.

ROB JENKINS appeared, presented the Planning Division Staff Report, and introduced Exhibits 9-13. The applicant proposes approval of Phase 2 of the Tehaleh Master Plan that includes the Phase 2 area plus the Phase 1 surplus areas. The applicant proposes the same type of development as approved for Phase 1. In December, 2018, the County Executive signed a Development Agreement between the County and the applicant. Following execution of said agreement, the code provides that the Hearing Examiner approves a Project Master Plan in accordance with the objectives of the Development Agreement. The County then uses the 2018 Development Agreement in all land use decisions. The Examiner considers the PUD criteria and the terms of the Development Agreement in considering the proposed master plan. The project is vested to the August, 2014, regulations. He has received comments on both the Master Plan and the FSEIS for Phase 2. The applicant will provide traffic improvements in advance and previously constructed a waste water treatment plant. Traffic improvements are tied to the number of vehicle trips and the WWTP is highly regulated. Other commenters request public bike trails, but the project is owned by residents and they have the discretion to determine use. Other concerns include fire safety in the alleés. The applicant has preserved the corridors as logging has occurred. The corridors provide recreation, but also need management. The County will allow management activities to occur, but is not interested in creating beautiful, treed areas behind homes. The applicant has installed fire hydrants and provided a fire station location plus water tanks for TPU. All of these issues are reviewed in detail in the FSEIS and Comprehensive Plan. The application is generally consistent with GMA and the Pierce County Code. He then reviewed the criteria for a PUD. The traffic management plan is found in the FSEIS, and the Council has determined the appropriate traffic mitigation. The Hearing Examiner needs to determine the threshold of dwelling units for the Rhodes Lake corridor construction. Concerning the business park development, the Council determined that the development would include infrastructure and roads, but did not require that businesses be up and running.

PAUL BARBER, Development Engineering, appeared and testified that Public Works has approved the traffic management plan that is Exhibit N to the Development Agreement.

WILLIAM LYNN, attorney at law, appeared on behalf of the request and reminded everyone that in 1999 the original Cascadia Master Planned Community was approved after a 12 to 13 day hearing. Three to four days of that hearing concerned impacts to State highways. We have a different concept here as the change is now a legal concept. Originally, the PUD required a Development Agreement and all matters were set forth in the PUD code. The County Council had no role. The Examiner issued the original Decision without a Development Agreement. In 2013 the Major Amendment approval restated the Development Agreement. A State statute now requires that Development Agreements go to the Council. In 2015 the Council approved the restated Development Agreement. The Council also said it wanted another Development Agreement for Phase 2 and adopted codes to specify the authority of the Examiner and the Council. The code says that a master plan is approved after the Development Agreement. The Council decided that it would approve a development agreement in advance. The agreement spells out the terms the Council wants to see in the master plan and they are very detailed.

The Council approved items of the previous Development Agreements in the December, 2018, agreement. The same effort will go into Phase 2 as into Phase 1. The County has received no appeals of the Development Agreement or the FSEIS for the project or the EIS for Rhodes Lake Road. The Examiner is asked to approve the Master Plan, modify it, or reject it. The plan must also meet the elements of a PUD. It is easier being here today because the applicant is not at odds with the County.

SCOTT JONES, Newlands, appeared and testified that the applicant purchased the Cascadia property in 2011 out of bankruptcy and has subsequently invested \$340,000,000 in the project. They are focused on recruiting companies for the Tehaleh commercial area to include food providers. They will turn over the waste water treatment plant to the County within the next 30 days. The 198th corridor is either complete or under construction and will provide a significant difference in the access. Rhodes Lake Road is a series of projects. The hill climb is proposed for completion in 2024 and will cost \$70,000,000. The applicant will pay \$25,000 per single-family residential home for traffic mitigation. Affordable housing was added to the Development Agreement and they must make fee payments if it is not provided. They cannot meet the low income requirement, but can provide medium income housing. Phase 2 will be a continuation of Phase 1 and no one will ascertain any difference between the two phases. Sixty percent of Tehaleh residents work at home at least one day per week. The project pays 3.4 times the Traffic Impact Fee as homes in other subdivisions. The parks and trails are open to the public. Sumner, Orting, and Bonney Lake pulled out of the Pierce Transit service area and they will attempt to restore transit service. Concerning cash flow, they are still spending more than they are recovering. They anticipate a zero cash flow by 2027. They will need to obtain additional capital from their investment partners.

JOHN SHARP, a resident of Trilogy at Tehaleh, appeared and testified that he does not oppose Phase 2, but has concerns regarding wildfire safety. The applicant has provided 15 miles of trail. However, trees have died and brush piles are located within 35 to 50 feet from homes. Tehaleh says they cannot remove the downed trees and brush as they are part of nature, but they are also fuel for wildfires. He wants to see compatibility between the residential dwellings and the forest. He talked with the Fire Department and DNR who stated that the allees are in a state of decline. They have a hard time keeping up with what drops on the ground. Hopefully, residents can help the development manage the forest. He wants permission to remove branches, trees, and debris that will provide fire safety. He wants to make the area safer. Approval of Phase 2 should take into consideration the people already living there. He knows of people who will serve and donate their time, as he represents many people who feel the same way. If fire trucks can't get up the hill, Tehaleh needs to take a proactive stance and not a reactive stance. We should not have to fight fires, but should prevent them. Residents can create safe zones behind their homes 30 feet in width. We must look at the fire danger and the health of the forest.

JACK ALLWARDT who also resides in Trilogy appeared and supported Mr. Sharp's comments. He is not opposed to an emergency response team for Trilogy.

MICHAEL CULLIN appeared and testified that his residence is 30 feet from the forest, but it is not in bad condition. He walks the trails, which are a real attribute, but much fuel material including dead branches and trees cover the area. These are not small trees. Some are 100 to 200 feet long and located directly behind homes. They create a huge fire hazard. Currently 1,600 homes and 5,000 people have a single road in and out of Tehaleh. The summers are hot and dry and sometimes windy. Only one cigarette, ATV backfire, or match could cause a catastrophic fire. All of the residents favor Phase 2, but want to encourage the developer to clean up the forest. They should remediate the Phase 1 forest and employ forest practices for Phase 2.

JUDI GIBIAN-MENNENGA, a resident of Trilogy, appeared and supported Mr. Sharp. For Phase 2 her concern is the elementary schools and forest management. Over 1,000 children will attend elementary schools and they have no evacuation plan and only one road. They now propose both a middle school and high school. We must be proactive.

MARY URBACH, attorney at law, appeared and testified that Tehaleh Phase 2 is located within two school districts. She represents one of those, the Sumner-Bonney Lake District. They have worked cooperatively in locating the school sites and the rights-of-way. They have worked without expressed directives and are now negotiating for a school site. She requests any criteria be consistent with the FEIS and Development Agreement. Such is required by the PUD criteria. She referred to Section 3.2.2 of the Development Agreement that addresses schools. That section requires cooperation with the districts and permits schools in all zones and the payment of impact fees. She requested a correction to the Staff Report and conditions. She introduced Exhibit 17 and requested language regarding negotiation, but did not want the "fair market value" standard.

MR. LYNN reappeared and testified that they will reach consensus with the district. Section 3.12 is fine and they do not need the "fair market value" language.

MS. URBACH agreed that such is consistent with the Development Agreement.

MR. LYNN then testified concerning the fire protection and forest management. The issue is really between the County, the residents, and the homeowners association and not Tehaleh. Tehaleh has sought to do the work requested by the residents, but was rebuffed by the County. He then introduced an email exchange dated November 8, 2016, regarding cleanup of the forest. He also introduced a letter dated March 18, 2015, concerning the same topic. They request no exceptions from the code, and are actually exceeding the requirements of the code. They have nothing to ask for and are completely off the scale for all requirements. He introduced Exhibit 20, revised conditions of approval. He then discussed elimination of Condition 2 and modifications to Conditions 3 and 5. Concerning Condition 1, they do not need a zoning map. The zone is MPC and they have a use map. He is unsure why two maps were necessary for Phase 1. They simply do not need a zoning map. It serves no purpose. Exhibit 21 addresses the zoning issue and provides excerpts from the code. There is no requirement for zoning as the implementation is through the Master Plan. He questioned what happens if they provide more open space.

What can it be used for? He proposes that the property would acquire the zone or designation of the abutting parcels.

SCOTT JONES reappeared and testified that they will not reduce open space, but may just slide the open space over.

MR. JENKINS reappeared and requested that the record remain open to the end of the week so that he could consult with legal counsel. He agrees to the removal of Condition 2. Condition 5 addresses recording, and the Development Agreement is recorded. The Hearing Examiner will determine if the Master Plan is consistent with the Development Agreement. He will address proposed changes to Conditions 1 and 3. Concerning the open space he referred to page 10 of Exhibit B. The same language exists in the Master Plan. Wetlands and buffers are treated differently for logging purposes. Other open space logging areas are in-between. They are not critical areas, but do provide habitat. He wants to discuss with the applicant the downed trees, etc., that appear to be left over from logging operations. He will also have a discussion with Scott Sissons. The County's preference is to allow downed trees to remain, but there are provisions for maintenance. He referred to page 48 of 68 attached to Ordinance 90-2018s that provides a survey of traffic impacts. It also identifies all traffic projects.

No one spoke further in this matter and the Examiner left the record open as requested. The Hearing Examiner took the matter under advisement. The hearing was concluded at 12:28 p.m.

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

FINDINGS, CONCLUSIONS, AND DECISION:

FINDINGS:

1. The Hearing Examiner has admitted documentary evidence into the record, viewed the property, heard testimony, and taken this matter under advisement.
2. A Final Supplemental Environmental Impact Statement (FSEIS) was issued for Tehaleh Phase 2 on July 5, 2018. No appeals were filed.
3. Public and Legal Notice:
 - February 27, 2019: Notice of Application and Public Notice of the Examiner's hearing was sent to property owners within a radius of 300 feet, but not less than two parcels deep, around the exterior boundaries of the subject property and parties of record to the EBPC PUD approval.
 - March 6, 2019: Notice to Tehaleh Residents was made by The Management Trust on behalf of Newland Communities (This was a voluntary notice by

Newland Communities)

- April 17, 2019: Legal notice was published in the official County newspaper (Tacoma News Tribune), advertising the hearing to be held by the Pierce County Hearing Examiner.
4. The applicant, NASH Cascadia Verde, LLC (Newland Communities), is the owner and developer of the Tehaleh Employment Based Planned Community (EBPC) and Planned Unit Development (PUD). The Tehaleh EBPC PUD is located at the southern end of the Bonney Lake plateau south of 128th Street East and currently accessed via 198th Avenue East from SR-410 and Rhodes Lake Road. The overall project consists of approximately of 5,000 acres.
 5. A complete chronology of the project is found on pages 6-7 of the Staff Report, and a concise chronology is provided as follows:
 - A. The original EBPC, known as Cascadia, was approved by the Examiner in a primary Report and Decision issued June 18, 1999, and a subsequent Decision on Reconsideration issued on August 24, 1999. The decisions authorized a three phase EBPC PUD that included residential, employment, business park, school, park, and open space uses. Subsequent thereto Pierce County and the previous applicant, Cascadia Development Corporation, entered into a Development Agreement that authorized development of Phase 1 and granted conceptual approval to Phases 2 and 3.
 - B. Following acquisition of the project by NASH and the change of name to Tehaleh, the Examiner approved a Major Amendment to the EBPC PUD that modified Phase 1. Subsequent thereto the Pierce County Council and NASH entered a 2015 Restated Tehaleh Development Agreement pursuant to Ordinance No. 2015-3s. The 2015 Development Agreement requires Council approval of a separate Development Agreement for Phase 2.
 - C. On August 14, 2014, the applicant submitted an application for a Phase 2 Tehaleh Major Amendment to the EBPC PUD and submitted additional clarifying information on August 29, 2014. Pierce County required preparation of a Supplemental Environmental Impact Statement (SEIS) that would address the environmental impacts of Phase 2. The Draft SEIS was issued December 21, 2017, and the Final SEIS was issued July 5, 2018. No appeals were filed.
 - D. The Pierce County Council approved the Development Agreement for Tehaleh Phase 2 by Ordinance No. 2018-90s dated November 27, 2018, and authorized the Pierce County Executive to enter said agreement. Pierce

County Executive, Bruce F. Dammeier, approved the ordinance on December 11, 2018, and it became effective December 21, 2018.

- F. Pursuant to said Development Agreement the applicant submitted a Phase 2 Project Master Plan on February 7, 2019, and subsequent revisions on April 17, 2019.
6. Pierce County Council Resolution No. 2018-80s and the Phase 2 Development Agreement require the Examiner to approve a Project Master Plan. Prior to approval the Examiner must find that the Master Plan complies with applicable provisions of Section 18A.75.080 of Pierce County Code (PCC) and the provisions of the Development Agreement. Furthermore, the Examiner must find that the EBPC meets the requirements of RCW 36.70A.350.
 7. In its Findings of Fact the County Council notes that Pierce County Planning and Public Works negotiated in good faith with NASH and arrived at acceptable terms and conditions for development of Phase 2 of Tehaleh. The Council incorporated such terms and conditions into a Phase 2 Development Agreement consistent with the criteria set forth in Resolution No. 2018-80s. The Phase 2 Agreement adopted by Ordinance 2018-90s includes an employment center within the first component of the Phase 2 development. No more than 6,437 residential dwellings may be approved until the applicant has prepared 100 acres for employment uses to include necessary utilities and infrastructure. The applicant and staff clarified at the hearing that the applicant needs to provide 100 acres ready for lease or sale to potential businesses. However, none of the 100 acres needs to be occupied prior to lifting the restriction on the number of residential dwellings.
 8. Phase 2 shows a mix of employment, commercial, civic, residential, public facility, open space, and park uses. The applicant will dedicate a minimum of 40 percent of the project site as open space that will include critical areas, buffers, alleés, parks, and other amenities. A minimum of 457 acres or ten percent of total acreage will be made available for commercial, light industrial, retail, and civic employment. No more than 15 percent of the employment acreage can be devoted to low employment uses as defined in the Development Agreement. The overall Tehaleh EBPC is authorized a maximum of 9,700 dwelling units, 23 percent of which may be deed restricted as "age-qualified". A minimum of 11 percent of the dwelling units must be multi-family. Densities in single-family residential areas may vary between one and ten dwelling units per acre. In multi-family residential areas densities may vary between ten and 25 units per acre. Densities will vary in response to changing market conditions. Public roads, public water, and sanitary sewers will serve Phase 2.
 9. The Phase 2 Development Agreement includes a substantial, affordable housing obligation. Furthermore, Tehaleh will become the first development in Pierce County to pay a voluntary fire impact fee. In addition, Tehaleh is providing a

location for a fire station, funding for which is included within a bond recently passed by district voters. Tehaleh will also provide a maximum of six school sites, and has recently commenced operation of a waste water treatment plant that will serve both phases of Tehaleh. The applicant will dedicate the plant to Pierce County Utilities within the next 2-3 months. Phase 2 will continue capturing all stormwater onsite and recharging the water to the aquifer in its regional stormwater system.

10. The proposed Project Master Plan satisfies all terms and conditions of the Development Agreement.
11. Section 18A.75.080(A) PCC sets forth the purpose of a PUD. A PUD is a flexible zoning concept that encourages development of a variety of housing types, allows for non-residential development, preserves open space, provides recreational opportunities, and provides aesthetic enjoyment for residents. Furthermore, to the extent possible a PUD maintains the natural characteristics of the land, encourages creativity in design, and provides for maximum efficiency in street layout, utilities, and public improvements. In the present case Phase 1 and the Project Master Plan for Phase 2 satisfy all of the objectives and purposes of a PUD.
12. Section 18A.75.080(C)(1) PCC defines EBPC as follows:

Employment Based Planned Community (EBPC). Employment Based Planned Community means a planned unit development within an established Urban Growth Area which contains a mix of jobs, services, recreation, housing types and densities.

As set forth above and in the Development Agreement, the project provides opportunities for jobs not only in established commercial areas, but also for home based jobs. Phase 2 will provide appropriate services, a variety of housing types and densities, and significant recreational opportunities. Thus, Phase 2 meets the definition of an EBPC.

13. Section 18A.75.080(G) PCC requires an EBPC to have a minimum area of 320 acres. Tehaleh, by comparison, contains approximately 5,000 acres. Said section also authorizes all residential and non-residential uses as permitted within an EBPC. The project satisfies residential density requirements set forth in PCC 18A.75.080(H) of 4-8 units per acre. Finally, said section requires that a minimum of ten percent of the total gross acreage of the EBPC be developed as an employment center. The applicant has proposed a minimum of ten percent of the EBPC for commercial/industrial development.
14. The project satisfies all road standards, stormwater management standards, infrastructure planning standards, and infrastructure cost sharing requirements. The applicant may apply for latecomer fees, offsets, credits, reductions, or other adjustments to reflect its fair share contribution. The project therefore satisfies the

criteria set forth in PCC 18A.75.080(J)(K)(L)(M). Pierce County has previously approved a zoning code for the entire Tehaleh EBPC that prescribes uses, bulk requirements, and landscaping as well as required yards, height, parking, buffers, and screening. The project therefore complies with PCC 18A.75.080(I).

15. Section 18A.75.080(N) PCC sets forth the requirements for “PUD Applications/Agreements” and requires submittal of a Project Master Plan that complies with standards set forth in Subsection N(1). The proposed Phase 2 Project Master Plan complies with the recently approved Development Agreement and therefore satisfies all such criteria.
16. Section 18A.75.080(O) PCC sets forth the criteria for approval of a PUD. Findings on each criterion are hereby made as follows:
 - A. The proposed Tehaleh Phase 2 PUD is consistent with the Pierce County Comprehensive Plan and is not within the jurisdiction of a Community Plan. Tehaleh is located within the EBPC designation of the Comprehensive Plan and the Master Plan is consistent therewith. The proposed Master Plan is consistent with GMA, the VISION 2040, and the Countywide Planning Policies. The Master Plan is also consistent with the EBPC zone classification.
 - B. The applicant has requested no exceptions from any adopted standards. The system of ownership and means of developing, preserving, and maintaining open space by a homeowners association is suitable. The Development Agreement sets forth the locations, types, and timing of employment uses as well as the provision of open space and recreational facilities.
 - C. The applicant has complied with all SEPA requirements. As previously found the applicant prepared and submitted a Supplemental Environmental Impact Statement and received no appeals. Mitigation measures identified in the FSEIS are incorporated into both the Development Agreement and Project Master Plan.
 - D. No evidence shows that the applicant does not have the financial resources to construct Phase 2 and its required infrastructure. The applicant has made outstanding progress on Phase 1 and has provided the significant amenities required therefor.
 - E. Adequate provisions are made for the preservation of open space consistent with Comprehensive Plan policies. The Development Agreement requires dedication of a minimum of 40 percent of the gross land area of Phases 1 and 2 as open space. Recreational facilities are identified in the Tehaleh Master Park Plan and Tehaleh Master Trail Plan found in Exhibit P to the

Project Master Plan. The plans set forth tentative timelines for completion of the recreational facilities. The Phase 2 Master Plan also addresses preservation of open spaces to include parks, natural open spaces, buffers, and alleés.

- F. The Master Plan addresses school impacts as set forth in the Development Agreement, which incorporates mitigating measures from the Phase 2 FSEIS. The Phase 2 conceptual plan provides four specific locations for future schools. Two elementary schools presently operate in Phase 1. Furthermore, the Tehaleh Phase 2 zone classifications permit schools within residential and employment zones. The applicant and the school district(s) will negotiate the purchase of school sites. School impact fees are payable at building permit application.
- G. In accordance with the FSEIS an inventory of the critical areas on and adjacent to the PUD has been completed. Development on environmentally constrained lands or required buffers is avoided where possible. Avoidance and mitigation is addressed by the Public Facilities and Infrastructure Sections of the Project Master Plan.

17. Prior to obtaining approval of an EBPC the applicant must show that the request satisfies the criteria set forth in PCC 18A.75.080(O)(2). Findings on each criterion are hereby made as follows:

- A. Transit oriented site planning and traffic demand management programs can be implemented. Exhibit N to the Phase 2 Development Agreement sets forth traffic mitigating measures that will address traffic demands and encourage transit use. Mitigation measures set forth in the FSEIS are found in Appendix V of the Project Master Plan.
- B. The applicant will provide buffers between the project and adjacent urban development. The Master Plan requires a minimum, 100 foot wide, perimeter, forest buffer around the outer perimeter of the overall Tehaleh EBPC and around the inner perimeter of abutting, exception parcels.
- C. The Tehaleh Phase 2 Housing Affordability Program will ensure the provision of a broad range of affordable housing for various income levels.
- D. Subsection (d) requires the Hearing Examiner to review and evaluate each residential phase for consistency in achieving overall density as approved in the conceptual plan. During the review and approval of any Tehaleh residential development, the Pierce County Hearing Examiner must find that each individual project complies with the density ranges allowed in Section 4.5 of the Phase 2 Project Master Plan. Furthermore, the current net density per acre will be evaluated during the periodic five year reviews.

- E. Criteria (e) requires the Examiner to review and evaluate each employment phase for consistency in achieving overall intensity as approved in the conceptual plan. The applicant's progress towards implementation of the employment areas is set forth in the Development Agreement. The applicant can obtain approval for no more than 6,437 dwelling units until it has developed all necessary infrastructure and utilities for 100 acres of developable land in the employment center zones.
- F. Subsection (f) requires that an EBPC project meet the requirements set forth in RCW 36.70A.350. Subsection 1 authorizes a new, fully contained community if the project meets the criteria set forth therein. Said section requires that provisions are made for new infrastructure impact fees; transit oriented site planning and traffic demand management programs; exterior buffers; a mix of uses; affordable housing; environmental protection; development regulations to ensure urban growth will not occur in adjacent non-urban areas; mitigation of impacts on designated and cultural lands, forest lands, and mineral resource lands; and protection of critical areas. Both the Development Agreement and the Project Master Plan satisfy all criteria set forth in RCW 36.70A.350(1) for the reasons set forth above. The applicant will not extend urban services to adjacent non-urban areas and will maintain a 100 foot wide, undisturbed buffer from exterior properties. Such will mitigate impacts on agricultural lands, forest lands, and mineral resource lands.
18. Concerns were raised by John Sharp representing himself and other residents of Trilogy at Tehaleh regarding the applicant's failure to remove hazard trees and failure to cleanup downed trees and slash following clearing for trails. Mr. Sharp included photographs with his presentation. Other Trilogy residents testified in support of Mr. Sharp. Subsequent to the close of the record the Examiner also received a letter expressing similar concerns from Mr. Tom Shepard. As part of the site visit that occurred on Friday, May 17, 2019, the Examiner went to the Trilogy neighborhood, drove around, and walked on one of the trails adjacent to a wetland between 145th and 146th. The Examiner noted large trees on the ground sawed into sections, as well as snags and brush piles. Trilogy residents request a condition that requires the applicant to remove the brush and downed trees to protect against wildfires. However, it appears that Pierce County Resource Management will not allow the applicant to remove downed trees. Scott R. Sissons, Pierce County Environmental Biologist, wrote in a letter to Tammy Braun, Newland Communities, dated March 18, 2015 (Exhibit 18) in part:

No stumps are to be removed and the trees are to be left to where they are felled to provide habitat, structure and nutrients back to these areas.

Furthermore, in an email to Angie Orr, Mr. Sissons wrote:

...I went by and took a quick look at the hazard trees yesterday (11/7/16). We are in agreement that the trees could be a hazard to nearby homes and/or people. Go ahead and cut the 3 trees. Please try and leave a wildlife habitat snag that won't be a hazard in the future and leave the cut material in the open space to provide habitat and structure....

Thus, it appears that Pierce County Resource Management does not want the material shown in Mr. Sharp's photographs removed. It further appears that the applicant complied with the requirements of Resource Management in its forest management. This issue should be resolved in discussions among residents, Resource Management, the applicant, and the fire district.

CONCLUSIONS:

1. The Hearing Examiner has the jurisdiction to consider and decide the issues presented by this request.
2. The applicant has shown that the Project Master Plan for Phase 2 of the Tehaleh Employment Based Planned Community and Planned Unit Development satisfies all criteria set forth in PCC 18A.75.080 and complies with the 2018 Tehaleh Phase 2 Development Agreement. Therefore, the EBPC PUD for Tehaleh Phase 2 should be approved subject to the following conditions:
 1. The following changes shall be made prior to approval of the final Project Master Plan:
 - a. Rename Exhibit C, i.e., "Tehaleh Phase 2 Conceptual Plan", to also refer to land use classification, i.e., "Tehaleh Phase 2 Conceptual Plan and Land Use Classification Map".
 - b. References to Exhibit E, i.e., "Phase 2 Zone Classification Map", shall be replaced with references to renamed Exhibit C.
 - c. Revise Exhibits B, i.e., "Tehaleh Overall Conceptual Plan", and Exhibit C to delete the "Misc. Employment" land use designation/classification and replace it on the plan/map with the "Business Park" land use designation/classification.
 - d. Revise the legend on Exhibits B and C to read as follows:

Residential Designations/Zones
- Residential (Detached)

- Residential (Multi-family)

Employment Designations/Zones

- BP – Business Park
- CC – Community Center
- NC – Neighborhood Center

Public Facilities Designations/Zones

- Schools
- Master Stormwater Drainage Facilities
- Public Facilities

Parks and Open Space Designations/Zones

- Community Parks
- Wetlands
- Buffers/Alleés
- Natural Open Space

- e. Revise Sections 4.4 and 4.6 to refer to “parks and open space” not “parks”.
 - f. Revise Exhibit F, i.e., “Phase 2 Land Use”, to refer to the “parks and open space” classification rather than the “parks” classification and replace reference to “zone or zoning classifications” with “land use classifications”.
- 2. Minor wording changes needed for clarity shall be permitted to be made to the Exhibit V, Mitigation Measures from the Tehaleh EBPC Phase 2 Final SEIS, to the Tehaleh EPBC Phase 2 Project Master Plan, and related adjustments to the Project Master Plan prior to approval of the final Project Master Plan.
 - 3. Any dispute regarding the above that cannot be resolved between the applicant and staff may be returned to the Hearing Examiner for resolution.
 - 4. A Final Project Master Plan shall be provided by the applicant for signature by both the applicant and Pierce County.

DECISION:

The request for approval of the Phase 2 Project Master Plan for the Tehaleh Employment Based Planned Community and Planned Unit Development is hereby granted subject to the conditions contained in the conclusions above.

ORDERED this 3rd day of June, 2019.



STEPHEN K. CAUSSEAU, JR.

Hearing Examiner

TRANSMITTED this 3rd day of June, 2019, to the following:

OWNER: NASH Cascadia Verde, LLC
505 South 336th Street, Suite 430
Federal Way, WA 98003

APPLICANT: NASH Cascadia Verde, LLC, a.k.a. Newland Communities
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PIERCE COUNTY PLANNING AND PUBLIC WORKS
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.: DEVELOPMENT AGREEMENT: TEHALEH
EMPLOYMENT-BASED PLANNED COMMUNITY (EBPC)
PHASE 2 PROJECT MASTER PLAN
Application Number: 784759**

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.