

July 19, 2023

**VIA REGULAR U.S. MAIL & EMAIL**  
**(jrmoores@co.skagit.wa.us; pdsccomments@co.skagit.wa.us)**

Jack Moore  
Director  
Planning and Development Services  
Skagit County  
1800 Continental Place  
Mount Vernon, WA 98273

**RE: Proposed Text Amendment - Bayview Ridge Buffer Requirements and Landscape Requirements**

Dear Mr. Moore,

Thank you for meeting with our client John Bouslog, John Ravnik, and myself in early June 2023 regarding concerns with the inordinate size of the buffer surrounding BR-LI zoned land. We thought it would be of assistance to present options to review. We have developed two alternative proposals for amendments to the County Code that we would ask that the County put forward. These changes are tracked and underlined. Once docketed, we can discuss and determine which approach the County believes is more suitable. Attached here is the cover form for the text amendment and the two alternative proposals (See **Exhibit A-1** and **Exhibit A-2**, attached hereto). We understand that a fee is not required, but if there is, please advise and we will submit the fee without delay.

As you may recall, John Bouslog owns approximately 135 acres of undeveloped land zoned BR-LI on the north side of Peterson Road (the "Bouslog Property"). His ownership begins approximately 600' east of Bay Ridge Drive and proceeds east nearly to Sunrise Lane. The Bouslog Property is essentially due north of the Port of Skagit Watershed Business Park (125 acres) on the adjoining south side of Peterson Road.

The Bouslog Property is only bordered on the north side by industrial/manufacturing uses (Westland Distillery, which has 3 current storage buildings with plans for up to 10 buildings) that are allowed in the RRv zone or vacant land, but the Bouslog Property is still subject to the extraordinary 250' buffer. The Bouslog Property is bordered by existing residential development of RRv land to the east side. The total impact of the 250' buffer encumbers 56.42 acres on both sides of Peterson Road. The Bouslog Property, north of Peterson, has 33.29 acres total impacted. Reducing to a 50' buffer would save 26.63 acres of industrial land on the Bouslog Property and would leave 6.66 acres encumbered

in the buffer zone. Attached here are maps that show the existing required 250' buffer. (See **Exhibit B** and **Exhibit C**, attached hereto).

The existing 250' overreaching buffer will cause companies to look outside Skagit County to locate their facility. These parcels of BR-LI zoned land are the largest remaining tracts of industrial land not only in Skagit County but also in the north Puget Sound area. The county should consider the value of developed, serviced, light industrial land to their tax base for economic development and job creation. Saving 26.63 acres of private, serviced, industrial land at a value of \$9.00/sf would equal a value of \$10 million.

The proposed text amendment would result in revising setbacks between the BR-LI and residentially zoned land. This would apply to the residential development along the west side of Sunrise Lane adjoining the east property line of the Bouslog Property, and would also apply to the undeveloped RRv land adjoining the north side of the Bouslog Property consistent with buffers seen in other Skagit County urban/industrial lands that border residential properties.

Since our meeting in early June 2023, we have met with the Port of Skagit County the Port does not object to the proposed text amendment. Following our conversations, we reviewed the buffer requirements in the cities and other urban growth areas in Skagit County. The Bayview Ridge buffer requirements adjacent to potential residential uses exceeds other urban area buffers by roughly 500%! Most other communities have buffers that range from 30-50', and many also provide for an administrator's discretion to reduce the buffer requirements.

Alternative 1 establishes different buffers for established single-family uses and for other properties. This alternative keeps a large buffer to existing single-family residences while allowing the distance of the existing residence to its boundary to the BR-LI land to be factored in and allows for the BR-LI development to have a reduced buffer when the loading and maneuvering are located on the opposite side of a building from a residential zone. This proposal also modifies the landscaping requirements between BR-LI land and adjacent parcels where the adjacent use is an established non-residential use; the Type V landscaping requirements would not apply between BR-LI land and adjacent properties that have an established non-residential use. Further, provisions are added to allow the retention of existing landscaping, fences, and/or walls.

Alternative 2 is modeled after other buffer regulations in other Skagit County communities, specifically Sedro-Woolley and Anacortes. Alternative 2 provides a set 50' buffer from a residential zone. Further, similar to Alternative 1, the Type V landscaping requirements would not apply between BR-LI land and adjacent properties that have an established non-residential use.

We prepared a table comparing the buffer and landscaping requirements in other Skagit County urban areas/cities. See **Exhibit D**, attached hereto. Also for further reference, in the City of Marysville, pursuant to its City Code (MMC 22C.020.090 Densities and Dimensions – Development Conditions), LI designated properties which abut residentially designated properties are required to have a minimum 25' setback from the property line. And, if the specific industrial use requires a Conditional

Use Permit, a 50' minimum setback is required. In the City of Everett, the setback for LI zoning from a residential zone is 50'.

We are hopeful that this additional comparative analysis is enlightening. We believe it supports our view that the existing 250' buffer is unreasonable, and overreaches its purported goal of establishing a visual and noise screening function from existing residential areas, and results in a taking of valuable industrial lands from use for that purpose.

We look forward to working with you and the Planning and Development Services office on this proposed amendment.

We ask that the County docket this proposal as part of the 2023 Code Amendments. Thank you for your consideration in this matter.

Sincerely,

CSD ATTORNEYS AT LAW P.S.



Jon Sitkin

JS/kab  
Cc: Client



# Comprehensive Plan Policy or Development Regulation Amendment Suggestion

Planning & Development Services · 1800 Continental Place · Mount Vernon WA 98273  
voice 360-416-1320 · www.skagitcounty.net/planning

Per RCW 36.70A.470(2), this form is intended for use by any interested person, including applicants, citizens, hearing examiners, and staff of other agencies, to suggest amendments to Skagit County's Comprehensive Plan policies or its development regulations, which are contained in Skagit County Code Title 14. Please do not combine multiple unrelated Comprehensive Plan policy or development regulation amendments on a single form. This form is for policy or development regulation amendments; use the Comprehensive Plan Map Amendment Request form for changes to the land use/zoning map.

## Submitted By

Name	<u>Bouslog Properties/John Bouslog, c/o Jon Sitkin</u>	Organization	<u>CSD Attorneys at Law, P.S.</u>	
Address	<u>1500 Railroad Ave.</u>	City, State	<u>Bellingham, WA</u>	Zip <u>98225</u>
Email	<u>jsitkin@cSDLaw.com</u>	Phone	<u>360.306.3007</u>	

## Proposal Description

Please answer all of the questions below that are applicable to your suggestion.

1. Describe your proposed amendment.

Revise SCC 14.16.180 (7) and SCC 14.16.830(4)

2. Describe the reasons your proposed amendment is needed or important.

Existing code language creates significant loss of industrial lands with buffer size

3. If you are suggesting revision to a particular section of the Comprehensive Plan, please identify which section(s):

NA

4. If you are suggesting revision to the Comprehensive Plan, would the revision create inconsistencies with existing sections of the Comprehensive Plan? If so, please list those sections:

NA

5. If you are suggesting revision to the Comprehensive Plan, would the revision require corresponding amendments to the County's development regulations?

NA

6. If you are suggesting revision to a particular section of Skagit County Code Title 14, please identify which section(s).

SCC 14.16.180 (7) and SCC 14.16.830(4)

7. If you are suggesting this development regulation amendment as a result of a particular project or permit application, please identify which project or application:

NA

8. If you are suggesting specific language as part of your amendment, please attach that specific language. Specific language is not required.

See attached alternative approaches and attached cover letter.

9. Describe why existing Comprehensive Plan policies should not continue to be in effect or why they no longer apply.

NA

10. Describe how the amendment complies with the Comprehensive Plan's community vision statements, goals, objectives, and policy directives.

NA

11. Describe the anticipated impacts to be caused by the change, including geographic area affected and issues presented.

No anticipated adverse impacts. See accompanying cover letter.

12. Describe how adopted functional plans and Capital Facilities Plans support the change.

NA

13. Describe any public review of the request that has already occurred.

NA

## Notices

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**Fees.** No fees are required for a policy or code change suggestion, per Skagit County Fee Schedule, SCC 14.08.030(3).

**Docketing.** SCC Chapter 14.08 governs the process for docketing of Comprehensive Plan amendments; suggestions for changes to the development regulations are docketed following the same process. Docketing of a suggestion is procedural only and does not constitute a decision by the Board of County Commissioners as to whether the amendment will ultimately be approved. Amendments are usually concluded by the end of the year following the request. State law generally prohibits the County from amending its Comprehensive Plan more than once per year.

**Submission deadline.** Suggestions must be received by the last business day of July for docketing. Suggestions received after that date will not be considered until the following year's docket.

**How to Submit.** Submit your suggestion via email (preferred) to [pdscomments@co.skagit.wa.us](mailto:pdscomments@co.skagit.wa.us) or to Planning & Development Services at the address above.

# **EXHIBIT A-1**

## ALTERNATIVE 1

### DIFFERENT BUFFERS FOR ESTABLISHED EXISTING SINGLE FAMILY RESIDENCES AND OTHER ADJACENT EXISTING OR POSSIBLE USES

**SCC 14.16.180(7)** Buffering between Industrial and Established Residential Uses Zoned Land. The following measures are intended to minimize impacts from noise, vibration, dust, other industrial impacts, and to maintain privacy and aesthetic compatibility:

(a) Loading Areas. Truck loading operations and maneuvering areas may not be located within 250 feet of an existing and established single family residence, excluding outbuildings, garages, and accessory dwelling units unless the loading and maneuvering area is located on the opposite side of a building from a residential zone. For adjacent properties with either (a) established non-residential uses, (b) established single family residences located more than 200' from the abutting property line, or (c) vacant land, truck loading operations and maneuvering areas may not be located within 50 feet of the Property line. areas zoned for residential use, unless the loading and maneuvering area is located on the opposite side of a building from a residential zone.

(b) Building Height. Building height may not exceed 35 feet for those portions of a building located within 50-100-feet from a residential zone.

(c) Within 250 feet of ~~a residential zone~~, an existing and established single family residence, excluding outbuildings, garages, and accessory dwelling units all outdoor lighting must be full cut-off unless the lighted area is located on the opposite side of a building from a residential zone and lighting is at or lower than building roof line.

(d) Within 100 feet of an existing and established single family residence, excluding outbuildings, garages, and accessory dwelling units ~~a residential zone~~, mechanical equipment located on the roof, facade, or external portion of a building shall be architecturally screened by incorporating the equipment in the building and/or site design so as not to be visible from adjacent residential zones or public streets. In all other circumstances, the buffer for this purpose shall be 50 feet from the property line.

(e) Equipment or vents that generate noise or air emissions shall be located to minimize impacts on adjoining residentially zoned properties.

(f) Landscaping. Type V landscaping per SCC 14.16.830 is required between BR-LI and residential zones, provided that Type V landscaping are not required adjacent to parcels with established non-residential uses as the primary use. Further, any berms that may be constructed between lands zoned BR-LI or AVR-L adjacent to parcels with established non-residential uses as the primary use shall be grassed covered without plantings.

**SCC14.16.830(4)** (f) Type V, Industrial Adjoining Residential in Bayview Ridge.

(i) Description. Type V landscaping is intended to provide a visual and noise buffer of industrial uses where they adjoin residential zones at Bayview Ridge.

(ii) Applicability. Type V landscaping is required along the entire property line for development within BR-LI or AVR-L where it abuts BR-R or RRv, provided that Type V landscaping are not required adjacent to parcels with established non-residential uses as the primary use. Further, any berms that may be constructed

between lands zoned BR-LI or AVR-L adjacent to parcels with established non-residential uses as the primary use shall be grassed covered without plantings.

(iii) Requirements.

(A) Width. Plantings and screening must total 30 feet in width with vegetation (existing and/or new) at 80% sight obscuring at planting, unless a fence or berm is used. With a 6' berm or 6' fence, the buffer is reduced to 15' or to 10' with a 6' wall with landscaping.

(B) Plantings and screening.

(I) Existing vegetation within the required buffer width that functionally meets or exceeds these planting requirements ~~may~~ must be retained.

(II) At least three alternating rows of evergreen trees, with a minimum of two-and-one-half-inch caliper and planted at intervals of 20 feet or less on center.

(III) Shrubs must be planted no more than five feet apart using plants that are at least three and one-half feet in height at the time of planting. A combination of plants and landscape materials must be placed so that the ground surrounding the shrubs will be covered within ~~five~~ three years.

(IV) The combination of existing vegetation, shrubs and evergreen trees should cover 70% of ground surface within 5 years of planting.

~~(C) Screening.~~

~~(I) A masonry, block, or textured concrete wall, or fully obscuring wood fence is required and must be architecturally integrated with colors and textures of the surrounding development.~~

~~(II) Where existing vegetation exceeds 150 percent of the required landscaping width, no wall or fence is required.~~

**(D) Existing vegetation and Landscaping.** Existing vegetation, landscaping and/or wall or fence within the required buffer in Section (A) above, may suffice for the planting and screening requirements in Section (B) above if in the opinion of a landscape architect the existing landscaping, wall and fencing provides the functional equivalent of the landscaping and screening requirements in section (B) above.



# **EXHIBIT A-2**

## ALTERNATIVE 2

### (SIMILAR TO SEDRO WOOLEY AND ANACORTES- HYBRID COMBINATION)

**SCC 14.16.180(7)** Buffering between Industrial and Residential Zoned Land. The following measures are intended to minimize impacts from noise, vibration, dust, other industrial impacts, and to maintain privacy and aesthetic compatibility:

- (a) Loading Areas. Truck loading operations and maneuvering areas may not be located within 50 250 feet of areas zoned for residential zone use, unless the loading and maneuvering area is located on the opposite side of a building from a residential zone.
- (b) Building Height. Building height may not exceed 35 feet for those portions of a building located within 50 100 feet from a residential zone.
- (c) Within 50 250 feet of a residential zone, all outdoor lighting must be full cut-off.
- (d) Within 50 100 feet of a residential zone, mechanical equipment located on the roof, facade, or external portion of a building shall be architecturally screened by incorporating the equipment in the building and/or site design so as not to be visible from adjacent residential zones or public streets.
- (e) Equipment or vents that generate noise or air emissions shall be located to minimize impacts on adjoining residentially zoned properties.
- (f) Landscaping. Type V landscaping per SCC 14.16.830 is required between BR-LI and residential zones, provided that Type V landscaping are not required adjacent to parcels with established non-residential uses as the primary use. Further, any berms that may be constructed between lands zoned BR-LI or AVR-L adjacent to parcels with established non-residential uses as the primary use shall be grassed covered without plantings.

**SCC14.16.830(4)** (f) Type V, Industrial Adjoining Residential in Bayview Ridge.

- (i) Description. Type V landscaping is intended to provide a visual and noise buffer of industrial uses where they adjoin residential zones at Bayview Ridge.
- (ii) Applicability. Type V landscaping is required along the entire property line for development within BR-LI or AVR-L where it abuts BR-R or RRv, provided that Type V landscaping are not required adjacent to parcels with established non-residential uses as the primary use. Further, any berms that may be constructed between lands zoned BR-LI or AVR-L adjacent to parcels with established non-residential uses as the primary use shall be grassed covered without plantings.
- (iii) Requirements.
  - (A) Width. Plantings and screening must total 30 feet in width with vegetation (existing and/or new) at 80% sight obscuring at planting, unless a fence or berm is used. With a 6' berm or 6' fence, the buffer is reduced to 15' or to 10' with a 6' wall with landscaping.

(B) Plantings and screening.

(I) Existing vegetation within the required buffer width that functionally meets or exceeds these planting requirements ~~may~~ must be retained.

(II) At least three alternating rows of evergreen trees, with a minimum of two-and-one-half-inch caliper and planted at intervals of 20 feet or less on center.

(III) Shrubs must be planted no more than five feet apart using plants that are at least three and one-half feet in height at the time of planting. A combination of plants and landscape materials must be placed so that the ground surrounding the shrubs will be covered within five ~~three~~ years.

(IV) the combination of existing vegetation, shrubs and evergreen trees should cover 70% of ground surface within 5 years of planting.

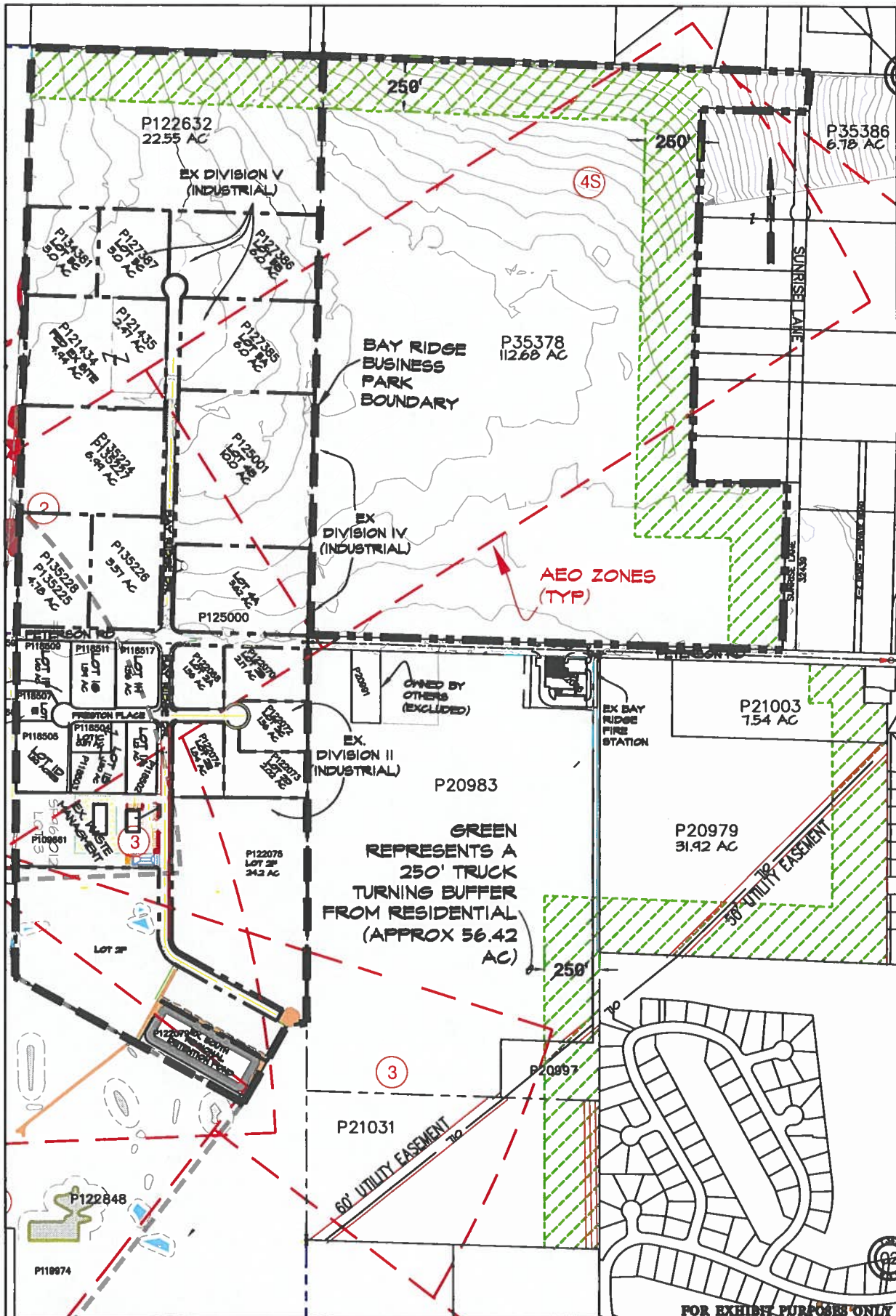
~~(C) Screening.~~

~~(I) A masonry, block, or textured concrete wall, or fully obscuring wood fence is required and must be architecturally integrated with colors and textures of the surrounding development.~~

~~(II) Where existing vegetation exceeds 150 percent of the required landscaping width, no wall or fence is required.~~

**(D) Existing vegetation and Landscaping.** Existing vegetation, landscaping and/or wall or fence within the required buffer in Section (A) above, may suffice for the planting and screening requirements in Section (B) above if in the opinion of a landscape architect the existing landscaping, wall and fencing provides the functional equivalent of the landscaping and screening requirements in section (B) above.

# **EXHIBIT B**



**Ravnik & Associates**  
 CIVIL ENGINEERING & PLANNING  
 100 N. COLLETT AVENUE, BOX 361  
 SUITE 1000, VA. 22031  
 PH: (804) 707-2244 FAX: (804) 707-2235

SHEET DESCRIPTION:  
**PROJECT EXHIBIT  
 W/ SETBACK BUFFER**

SCALE: 1"=400'  
 DRAWN BY: HJM  
 CHECKED BY:  
 DATE: 08.10.21

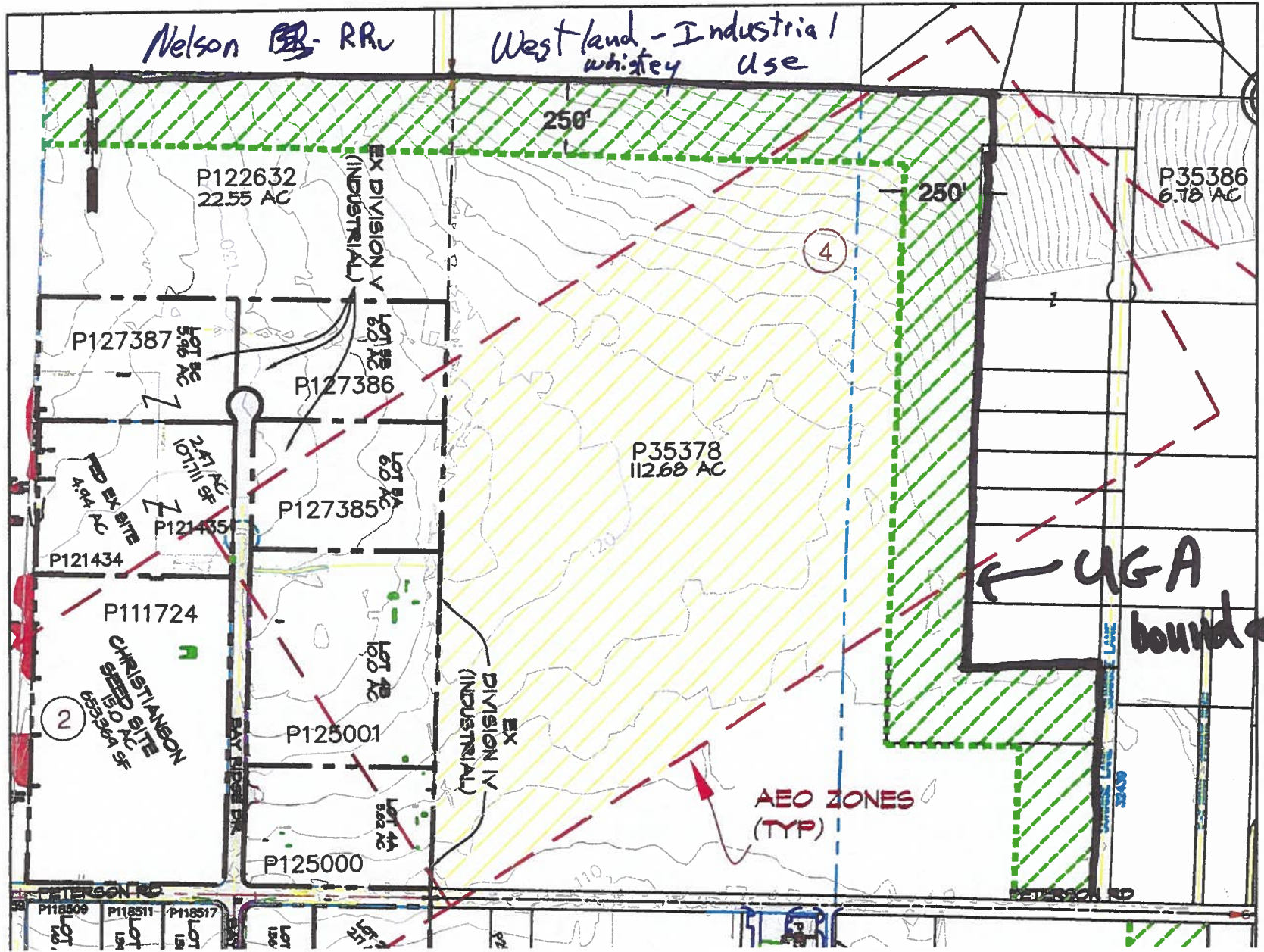
SHEET TITLE:  
**BAY RIDGE  
 BUSINESS PARK**

FOR EXHIBIT PURPOSES ONLY

CRASHING NO. 08.10.21 DWH/LWD  
 JOB NO. 01027  
 SHEET NO.

# **EXHIBIT C**





Nelson RR

Westland - Industrial / Whiskey Use

P122632  
22.55 AC

P35386  
6.78 AC

P127387  
5.96 AC

P127386

P35378  
112.68 AC

EX SITE  
4.94 AC

P121435

P127385

P121434

P111724

CHRISTIANSON  
SEED SITE  
15.0 AC  
653364 SF

P125001

EX  
DIVISION IV  
(INDUSTRIAL)

P125000

AEO ZONES  
(TYP)

UGA  
boundary

PETERSON RD

P118509 P118511 P118517

# **EXHIBIT D**



**COMPARISON TABLE OF  
BUFFER AND LANDSCAPE REQUIREMENTS FOR INDUSTRIAL USES NEXT TO RESIDENTIAL ZONES  
IN SKAGIT COUNTY**

	<b>SKAGIT COUNTY</b>	<b>BURLINGTON</b>	<b>MT. VERNON</b>	<b>SEDRO WOOLEY</b>	<b>ANACORTES</b>
<b>Buffer Width/Requirement</b>	250' for truck loading unless on opposite side of building where it is 50'	10', may be reduced to 5' (BMC 17.80.105.C)	10'	30' with vegetation at 80% sight obscuring at planting unless fence or berm is used. With berm, or 6' fence <b>reduced to 15'</b> with landscaping, or <b>reduced to 10'</b> with 6' wall with landscaping	5' <b>with fence</b> plus screening or <b>10' with no fence</b> , screening required  Service Areas (loading docks, etc.) <b>20' from</b> residential zoned property
<b>Admin Reduction Allowed</b>	<b>NO</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Screening Requirement</b>	Plantings must be 30' in width, 3 alternating rows of trees at 20' intervals, shrubs 5' apart with plants 3.5' in height at planting	Evergreen Trees 15' on center Maximum; cover 85% of ground surface of screening area within 2 years; <b>PLUS</b> wall or fully	Type II- solid sight barrier- double row of trees minimum 15' spacing off set with earth berm minim of 2.5' with ground cover over 85% of buffer/screen area; alternative to berm	6' sight obscuring fence in Ind zone Evergreen trees 15' on center for effective barrier covering 85% of ground surface of screening area	Minimum 10%-15% depending on zone; selected plant materials and configuration must be able to screen 70 percent of the unwanted views within five years of planting and screen

		obscuring fence unless existing vegetation exceeds 150% of required landscaping width	is 6' sight screening fence		100 percent of the unwanted views within six years of planting; spacing between 10-25 feet on center depending on tree size
<b>Landscaping</b>		5% of site area (BMC 17.80.070.A)	Type II- solid sight barrier- double row of trees minimum 15' spacing off set with earth berm minim of 2.5' with ground cover over 85% of buffer/screen area; alternative to berm is 6' sight screening fence		Primarily evergreen trees; spacing between 10-25 feet on center depending on tree size; 1 shrub per 20 sq. feet, ground cover to cover buffer area