



STAFF REPORT

Permit Number: 15 00711 | Merlinco, LLC

DATE: March 2, 2016

TO: Kitsap County Board of Commissioners; Kitsap County Planning Commission

FROM: Katrina Knutson, AICP, Senior Planner, DCD and

Jeff Arango, AICP, Senior Associate, BERK Consulting

RE: Merlinco, LLC Reclassification Request

APPLICATION INFORMATION

1. **Applicant Name:** Merlinco LLC Yoga Studio / Terence Simons (applicant and owner)
2. **Parcel Number:** 4571-016-009-0602
3. **Address or Location Information:** 6491 SE Mile Hill Drive, Port Orchard WA; see Attachment 1.
4. **Current Land Use:** Residential; see Attachment 3.
5. **Current Comprehensive Plan Map Designation:** Rural Residential
6. **Proposed Comprehensive Plan Map Designation:** Rural Commercial
7. **Current Zoning:** Rural Residential (RR); see Attachment 4. Attachment 4. Current Zoning.
8. **Proposed Zoning:** Rural Commercial (RCO); see Attachment 5.
9. **Lot Area / Size:** 0.38 Acres
10. **Comprehensive Plan Alternatives:** Request included with Comprehensive Plan Update 2016 Supplemental Environmental Impact Statement (SEIS) Alternative 3.
11. **Preferred Alternative:** The request is not included in the Preferred Alternative.

Submitted Application Materials

- Project Application
- Site-specific Amendment Criteria
- Environmental Checklist
- Ownership Certification

Application Request

Merlinco, LLC has requested approval of a reclassification to the Comprehensive Plan and Zoning Map from Rural Residential (RR) to Rural Commercial (RCO). The current Comprehensive Plan and Zoning Map designations are the same. The applicant has indicated the request is to allow for a yoga studio on the property. If the amendment is approved the full range of uses allowed in the RCO Zone would be allowed.

BACKGROUND

The subject property is approximately 0.38 acres and contains two built structures – a rambler one-story house built in the 1940s and a residential detached garage. The site is currently served by a septic system and has access to well water provided by the Manchester Water District. The subject parcel occurs within a Category I critical aquifer recharge area due to proximity to an offsite well. The property fronts SE Mile Hill Drive (State Route 166), a 3-lane arterial.

Surrounding Zoning and Land Use

The property is adjacent to both RCO and RP zoning with a mix of existing land uses as shown in Exhibit 1.

Exhibit 1. Summary of Surrounding Areas Current Zoning and Land Use

Surrounding Areas	Current Zoning	Current Land Use
North	• RR	• Residential
East	• RR	• Residential
South	• RCO	• Agriculture
West	• RCO	• Government Services

Source: Kitsap County GIS; BERK Consulting 2015

Current Comprehensive Plan and Zoning Designations

The present Comprehensive Plan and Zoning Map designations are RR, described similarly in the Comprehensive Plan and in the Kitsap County zoning code. The Comprehensive Plan describes the Rural Residential designation as:

- **Rural Residential:** This designation is intended to allow low-density residential development consistent with rural character, and primarily focuses on single-family dwellings. This designation is applied to areas that are relatively unconstrained by environmentally sensitive areas or other significant landscape features, and also recognizes areas that are already committed to a pattern of smaller rural lots. The Rural Residential designation is implemented by the Rural Residential zone.

The Kitsap County code describes the RR Zone as:

- **Rural Residential (RR):** This zone promotes low-density residential development consistent with rural character. It is applied to areas that are relatively unconstrained by environmentally sensitive areas or other significant landscape features. These areas are provided with limited public services.

Proposed Comprehensive Plan and Zoning Designations

As described in the current Comprehensive Plan, the proposed Comprehensive Plan and Zoning Map designation is RCO, which are described similarly in the Comprehensive Plan and the Kitsap County Code. The Comprehensive Plan describes RCO as:

- **Rural Commercial:** The intent and function of the Rural Commercial Zone is to permit the location of small-scale commercial retail businesses and personal services which serve a limited service area and rural population outside established UGAs. The rural commercial zone permits small-scale retail; sales and services located along county roads on small parcels that serve the immediate rural residential population. Rural businesses, which serve the immediate rural population, may be located at crossroads of county roads, state routes, and major arterials.

Exhibit 2 provides a comparison of allowed land uses between the RCO and RR zones. The RCO zone allows higher density residential development and commercial uses compared to the RR zone which focuses on single family dwellings.

Exhibit 2. Selected Allowed Uses (KCC 17.381.040.B and E)

Selected Uses	RCO (proposed zoning)	RR (current zoning)
Residential Uses		
• Single family dwelling, detached	X	P
• Mixed use development	X	X
• Hotel/motel	X	X
Commercial/Business Uses		
• Espresso stands	ACUP	X
• General office and management services – less than 4,000 s.f.	ACUP	X
• General retail merchandise stores – less than 4,000 s.f.	ACUP	X
• General retail merchandise stores – 4,000 to 9,999 s.f.	C	X
• General retail merchandise stores – 10,000 to 24,999 s.f.	X	X
• Laundromats and laundry services	X	X
• Restaurants	C	X
• Tourism facilities, including outfitter and guide facilities	ACUP	X
Industrial Uses		
	ACUP	
• Manufacturing and fabrication, medium	X	X
• Storage, indoor	X	X
• Warehousing and distribution	C	X
• Wrecking yards and junk yards	X	X

Legend: P = Permitted, X = Prohibited, ACUP = Administrative Conditional Use, C = Conditional

The development standards differ substantially between the RR and RCO zones. The RCO zone does not allow residential development and has few dimensional standards. The RR zone has a minimum lot size of 5 acres with a minimum depth and width of 140 feet. See Exhibit 3.

Exhibit 3. Selected Development Standards Comparison (KCC 17.382.100)

Density and Dimensions	RCO (proposed zoning)	RR (current zoning)
Base/Maximum density (du/acre)	NA	NA
Minimum lot size (acres)	NA	5
Lot width (feet)	NA	140
Lot depth (feet)	NA	140
Maximum height (feet)	35	35
Maximum impervious surface coverage	85	NA

PUBLIC COMMENTS

Two citizen commenters proposed denial of this application because commercial growth should occur in the existing urban areas.

EVALUATION

Site specific reclassification requests to the Comprehensive Plan must be reviewed in accordance with the criteria outlined in the Kitsap County Code (KCC) Chapter 21.08. Applicable review criteria for site specific reclassification requests are in sections KCC 21.08.070.A and KCC 21.08.070.D.

General Criteria

A. General. For each proposed amendment to the Comprehensive Plan the review authority, the planning commission in reaching its recommendation, and the board of commissioners in making its decision, shall develop findings and conclusions, which demonstrate:

1. How circumstances related to the proposed amendment and/or the area in which the property affected by the proposed amendment is located have substantially changed since the adoption of the Comprehensive Plan or applicable development regulations;

Circumstances related to the proposed amendment or area in which the property is located have not substantially changed since the adoption of the Comprehensive Plan.

2. How the assumptions upon which the Comprehensive Plan is based are no longer valid, or there is new information available which was not considered during the adoption of, or during the last annual amendment to, the Comprehensive Plan or development regulations; and

The assumptions upon which the Comprehensive Plan is based are still generally valid. Updated growth targets and capacity analysis is being conducted as part of the 2016 Comprehensive Plan update, but in general that process will not change the assumptions relative to the subject property and proposed amendment.

3. How the requested redesignation is in the public interest and the proposal is consistent with the Kitsap County Comprehensive Plan.

The County aims to focus a greater share of growth into the urban areas. The proposed amendment is inconsistent with this goal as it would increase commercial development intensity and capacity in the rural

area for a property already developed as a single-family residential use. It would create a precedent to continue beyond historically developed commercial areas along a highway.

Reclassification Request Criteria (KCC 21.08.070.D)

D. Site-Specific Amendments. In addition to the findings and conclusions in subsection (A) of this section, a proposed site-specific map amendment may be recommended for approval by the planning commission and may be approved by the board of commissioners if the following findings are made:

1. All Site-Specific Amendment Requests. Each of the following requirements must be satisfied for a recommendation for approval.

a. The proposed amendment meets concurrency requirements for transportation, sewer and water, and will not result in significant adverse impacts on adopted level of service standards for other public facilities and services, such as police, fire and emergency medical services, park services, and general government services;

The proposed amendment is in the rural area and will not be served by urban services at this time. The amendment request, if approved, would increase the demand for services in comparison to the existing single-family residential use. However, the increases in demand for services would be relatively minor and would not likely impact adopted level of service standards for public facilities. There could be a greater demand for fire/EMS services to a commercial site.

The site is located adjacent to a segment of SE Mile Hill Drive with projected 2036 deficiencies under Alternative 3, although no existing deficiencies are identified. If developed commercially, this site would result in access and safety issues along the state highway. Increased commercial density at the proposed site would add trips beyond what was reflected in the 2036 travel demand forecasts. Therefore, the proposal would result in an impact to transportation. However, the transportation improvement projects identified to address deficiencies expected without the proposal would also be expected to address the additional impact resulting from the proposal. Future development and new uses would be subject to transportation standards and analysis per the Kitsap County Code.

b. The proposed amendment is consistent with the balance of the goals, policies and objectives of the current Kitsap County Comprehensive Plan and reflects the local circumstances of the County;

Kitsap County Comprehensive Plan Chapter Vision

Kitsap County’s Comprehensive Plan shows the relationship between chapter concepts and the comprehensive plan vision. See Exhibit 4.

Exhibit 4. County Vision for Rural and Urban Areas

Vision	Rural Chapter Relationship to Vision
<p>Rural Areas. Rural areas and communities where unique historical characters, appearances, functions, and pioneering spirits are retained and enhanced. Natural resource activities, such as forestry, agriculture, and mining continue to contribute to the rural character and economy. Rural recreation opportunities are enhanced, including equestrian facilities, trails, and others.</p>	<ul style="list-style-type: none"> Maintain low residential densities in rural areas and provides policy guidance for development standards which help to preserve the County’s rural character. Foster small sustainable farms and agricultural enterprises that provide locally-grown food and fiber for Kitsap citizens.
<p>Urban Areas. Healthy urban areas that are the region's centers for diverse employment and housing</p>	<ul style="list-style-type: none"> Support focused development in urban areas as centers for population, employment, and civic

Vision	Rural Chapter Relationship to Vision
<p>opportunities, all levels of education, and civic and cultural activities.</p> <p>Economic Development. A stable, prosperous and diversified economy that provides living wage jobs for residents, supported by adequate land for a range of employment uses and that encourages accomplishment of local economic development goals.</p>	<p>and cultural activities (See the Land Use chapter for further policy guidance affecting the urban area.)</p> <ul style="list-style-type: none">• Preserve opportunities for resource-based economic activities within the County.• Allow for limited commercial and industrial uses in rural areas, while preserving rural character

Source: Kitsap County Comprehensive Plan (December 2012).

The proposed amendment is inconsistent with the above vision statements as it would expand commercial land use and zoning designations into a rurally designated single-family neighborhood.

Kitsap County Comprehensive Plan 2036 Goals and Policies: Chapter 2 and 3

The proposed zoning amendment generally does not support the following current Comprehensive Plan Goals:

2.2.7 Urban Commercial Lands

- **Goal 15: Focus most commercial growth within the UGAs where most of the County’s future population growth will be guided and where urban public services and facilities will be provided.**

The amendment would allow for additional commercial growth in the rural area on a property that is already in single-family use rather than a UGA.

3A.2.1 Rural and Resource Lands Goals and Policies

Rural Commercial. Lands contained within this designation are often found at crossroads, where historical development has allowed for smaller lot sizes. These areas also serve neighboring residences, with quick shopping that is compatible with neighboring uses. Land uses include businesses that provide a service to rural residents. Rural Commercial is implemented by the Rural Commercial zone. Rural lands goals and policies regarding commercial uses refer to these uses outside of UGAs.

- **Policy RL-4: Outside of the Type III LAMIRDS, limit development only to that which serves rural residential or resource needs and not draw people from UGAs.**

The subject property is adjacent to the RCO zone, but would set a precedent of rezoning single-family residential properties adjacent to commercial zones when there may be more desirable locations to increase commercial development capacity inside UGAs. The nearby Port Orchard UGA is over capacity for commercial development based on the Buildable Lands analysis as of 2014.

3A.2.1 Rural Lands

- **Goal 5. Encourage and foster rural businesses and business opportunities on currently designated commercial and industrial lands in the rural area, and continue to monitor the rural need for new commercial and industrial allocations to be consistent with the GMA requirement to foster rural economies.**

No additional need for commercially designated properties has been identified by the applicant. If a need is identified by the applicant that cannot be met elsewhere, and the subject property is determined to be a desirable location for expansion of commercial development capacity then the amendment may be approved.

- c. **The subject parcel(s) is suitable for the requested land use designation based upon, but not limited to, access, provision of utilities, consistency with existing and planned uses, environmental constraints and compatibility with the neighborhood;**

The subject property is relatively small and currently used as a single-family residence. The subject property is adjacent to the RCO Zone and is generally suitable for the proposed designation. It occurs within a Category I critical aquifer recharge area and any proposed uses would be reviewing in accordance with the aquifer protection standards at 19.600 KCC.

- d. **The proposed amendment does not materially affect the land uses and growth projections which are the basis for comprehensive planning, and reflects local circumstances in the county;**

The amendment would not materially affect the land use and growth projections, but would expand employment capacity in the rural area.

- e. **The proposed amendment does not materially affect the adequacy or availability of urban facilities and services to the immediate area or the overall area of the urban growth area;**

The proposed amendment is in the rural area and would not materially affect the adequacy or availability of urban facilities and services to the immediate area or the overall area of the urban growth area.

- f. **The proposed amendment is consistent with the GMA, Kitsap County-wide Planning Policy, state and local laws and other applicable inter-jurisdictional policies or agreements.**

The following state and local policies and laws are applicable to the applicant's zoning amendment request.

Growth Management Act Planning Goals (RCW 36.70a.020)

2) Reduce Sprawl. Reduce the inappropriate conversion of undeveloped land into sprawling low-density development

The amendment is consistent with the above GMA goal to reduce sprawl because the subject property is already developed.

(5) Economic development. Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities.

While the proposed amendment may support additional economic development in the area, there may be other more desirable sites for expanding economic development opportunities in the Port Orchard UGA or other existing RCO sites that may have vacancies. The site does not contain an existing commercial use.

Kitsap County-wide Planning Policies

D-2. Rural Land uses and Development Patterns

c. The County shall develop criteria consistent with the Growth Management Act for designating future industrial and commercial development outside of Urban Growth Areas that protect rural character while encouraging vehicle trip reduction. The criteria should allow for industrial resource-based land use and recreation and for convenience commercial that is scaled to serve the daily needs of rural residents.

The amendment is consistent with the above policy because it is adjacent to an already designated commercial area.

3. Rural Commercial/Industrial and Type III LAMIRD Site-Specific Amendment Requests. Each of the following requirements must be satisfied for a recommendation for approval.

a. Demonstration of an unmet need for the proposed land use designation in the rural area.

No unmet need has been identified by the applicant.

b. Demonstration that Kitsap County's rural character will be preserved or unaffected by the change of designation.

Rural character would be preserved with the proposed change as the site is currently developed and contiguous to a commercially designated rural area that maintains a rural character. The lot is already smaller than the standard RR zone lot size of 1 per 5 acres. It however increase pressure to extend commercial uses along the roadway, which has the potential to affect rural character in the long term.

c. Demonstration that the proposed designation will principally serve the rural area.

The adjacent commercially designated area is intended to principally serve the rural area. The subject property is relatively small in size and the amendment is not anticipated to draw significant numbers of people from urban areas.

d. Demonstration that appropriate rural services are available (i.e., water, wastewater disposal, etc.) and that urban services will not be required for the proposed designation.

The site is not served by urban services and they will not be required for the proposed RCO designation.

e. Demonstration that the proposal is contiguous to existing industrial or commercial zoning. (Exceptions to this policy must demonstrate a unique or exceptional need for the proposed land use designation).

The subject property is contiguous to RCO designated properties to the west. See Attachment 4.

f. Demonstration that the property is sized appropriately for the proposed land use designation.

The property is relatively small at approximately 0.38 acres and is more characteristic of a single-family parcel than a commercially zoned parcel. However, two of the adjacent RCO properties on the north side of SE Mile Hill Drive appear to be similar in size to the subject property and support existing commercial uses. The site appears appropriately sized to support a small-scale commercial use.

g. Demonstration that there is a lack of appropriately designated and available sites within the vicinity.

A relatively large undeveloped property designated RCO exists to the south across SE Mile Hill Drive that according to Kitsap County maps does not have any environmental constraints.

Findings of Fact

1. The applicant, Merlinco, LLC, submitted the application to Kitsap County on February 27, 2015.
2. The applicant seeks a Comprehensive Plan and Zoning Map amendment to change the current zoning of from Rural Residential (RR) to Rural Commercial (RCO).
3. The property is approximately 0.38 acres and located along SE Mile Hill Dr.
4. The subject property contains an existing single-family residential use.
5. According to Kitsap County maps the subject property and surrounding parcels occur within a Category I critical aquifer recharge area and are therefore subject to the critical aquifer protection standards at 19.600 KCC.
6. A significant area of undeveloped land designated RCO exists to the south of the subject property.
7. The subject property is contiguous to RCO zoned properties to the west and south.
8. No unmet need for the RCO designation was identified by the applicant.
9. The proposed amendment is included with Comprehensive Plan Update 2016 Supplemental Environmental Impact Statement (SEIS) Alternative 3.
10. The request is not included in the Preferred Alternative.

Conclusion of Law

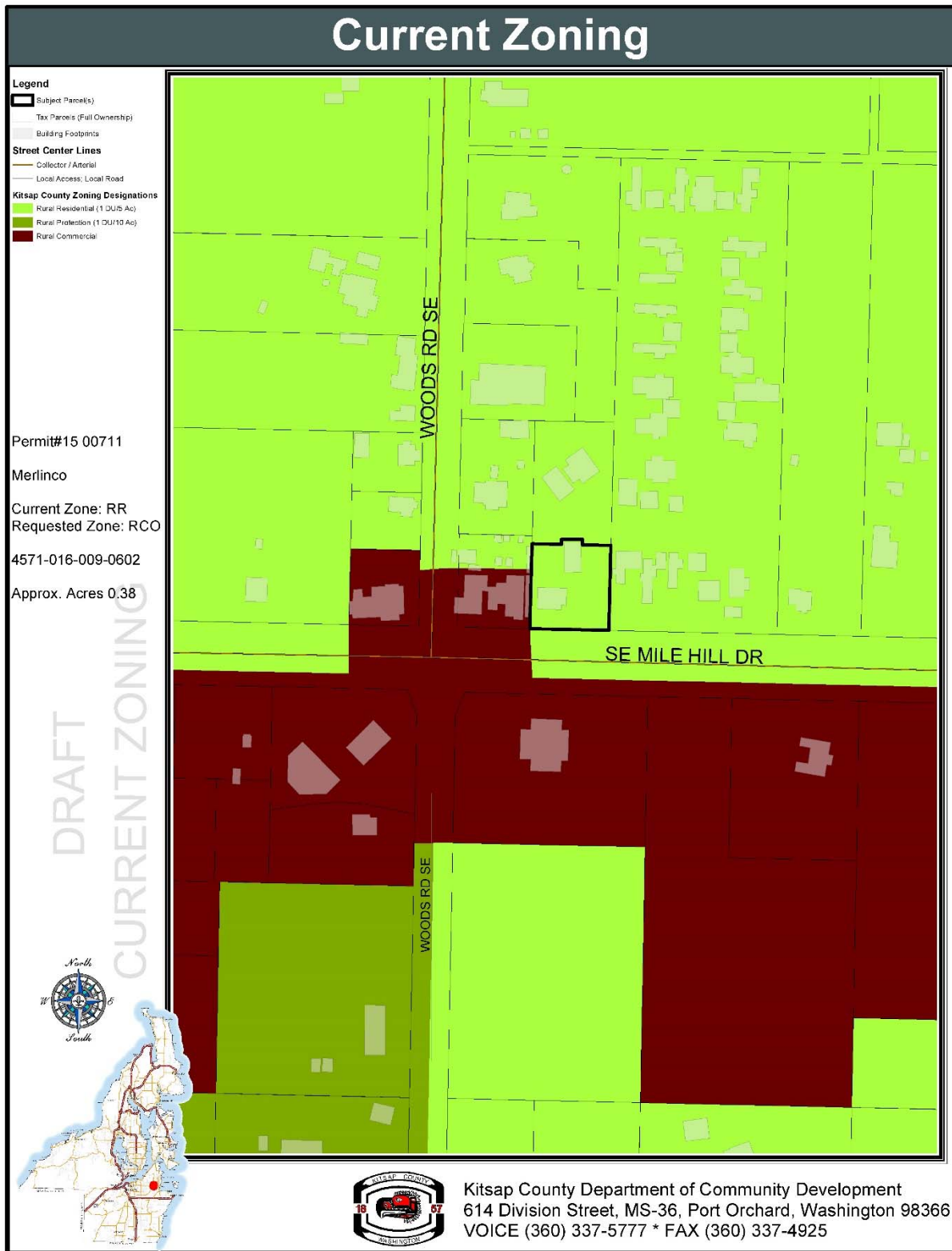
The project does not comply with all the provisions of the Washington State Growth Management Act, Kitsap Countywide Planning Policies, and Kitsap County Comprehensive Plan.

Recommendation

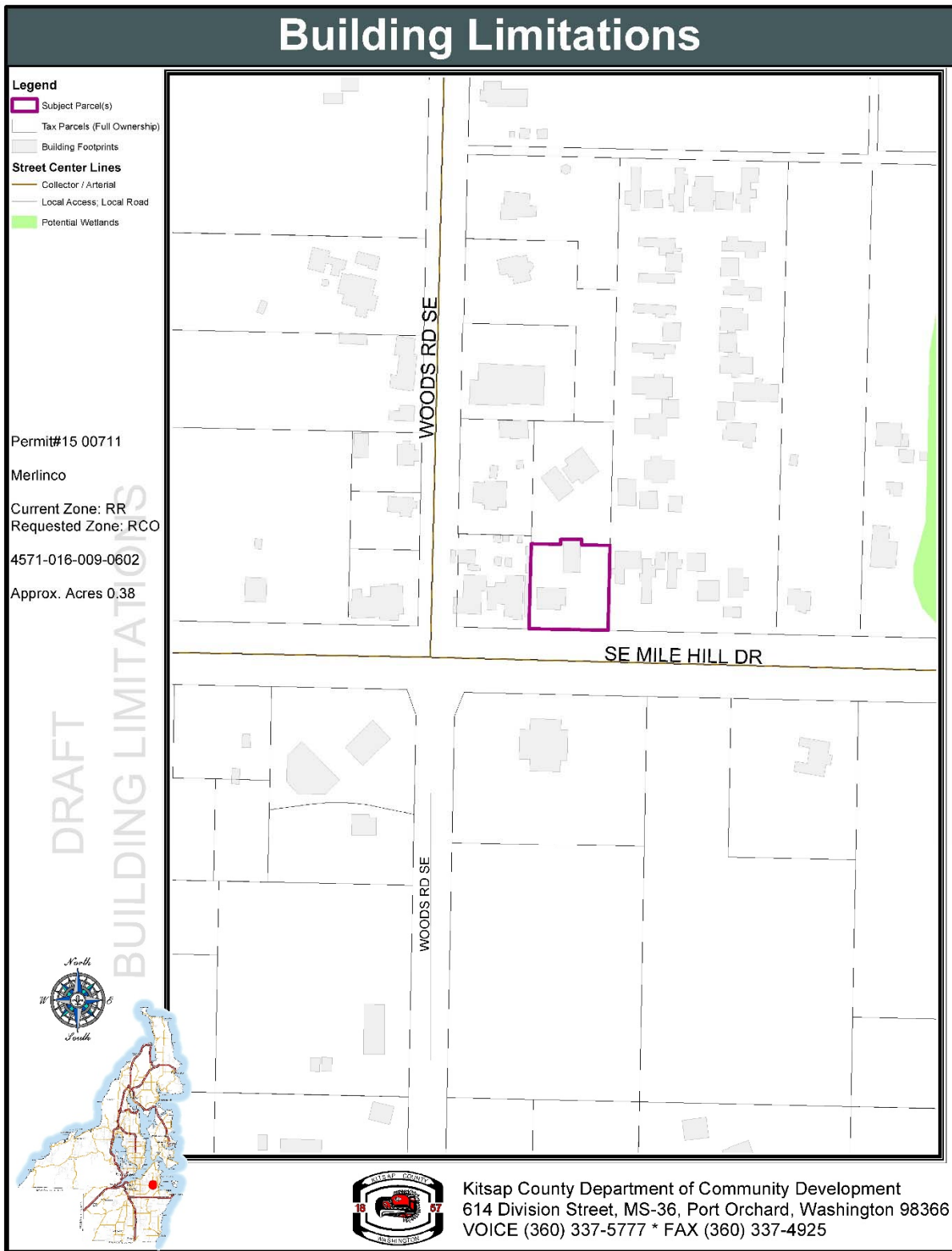
Based on the findings of fact and conclusion of law staff recommends denial of application #15 00711.

ATTACHMENTS

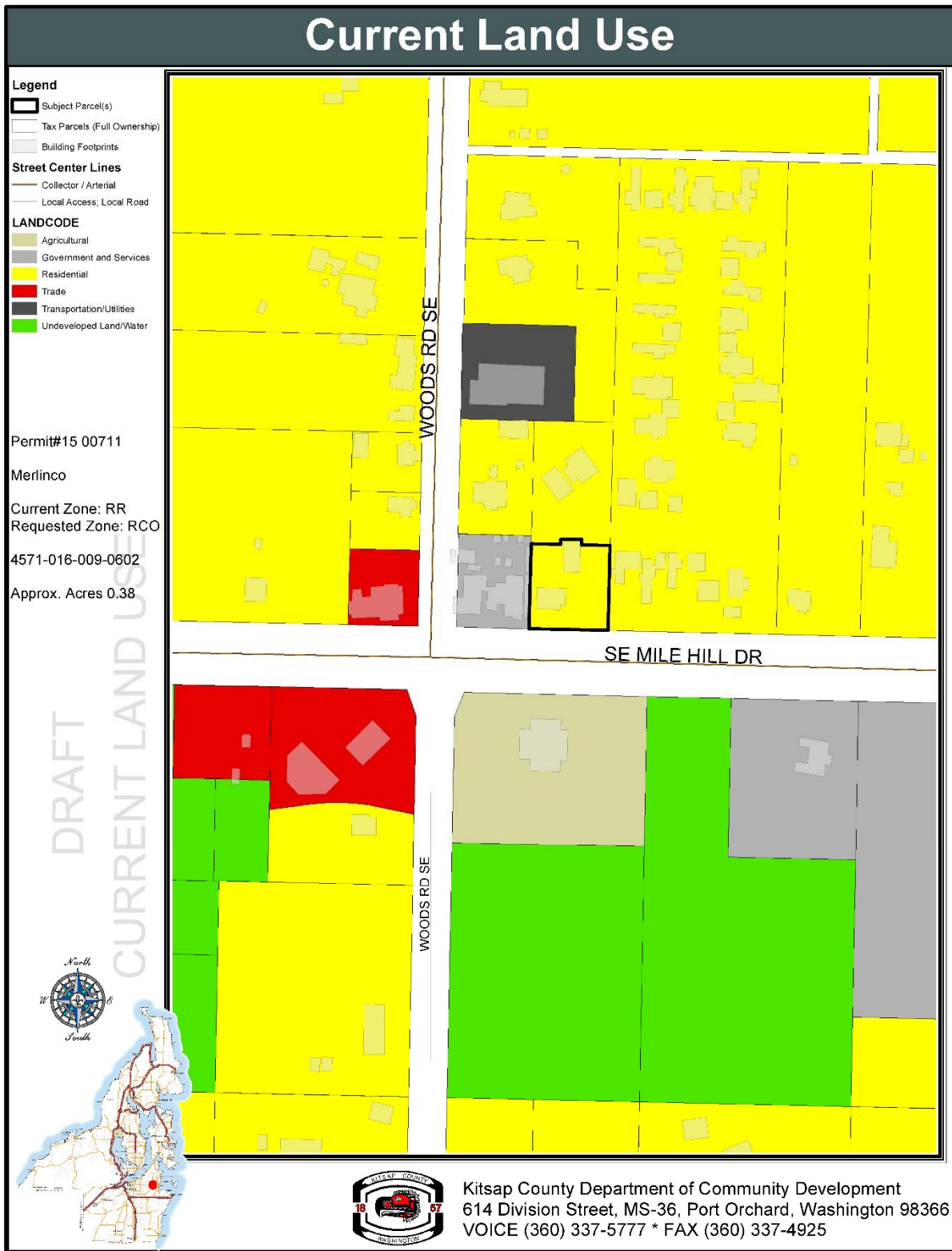
Attachment 1. 2013 Aerial Imagery



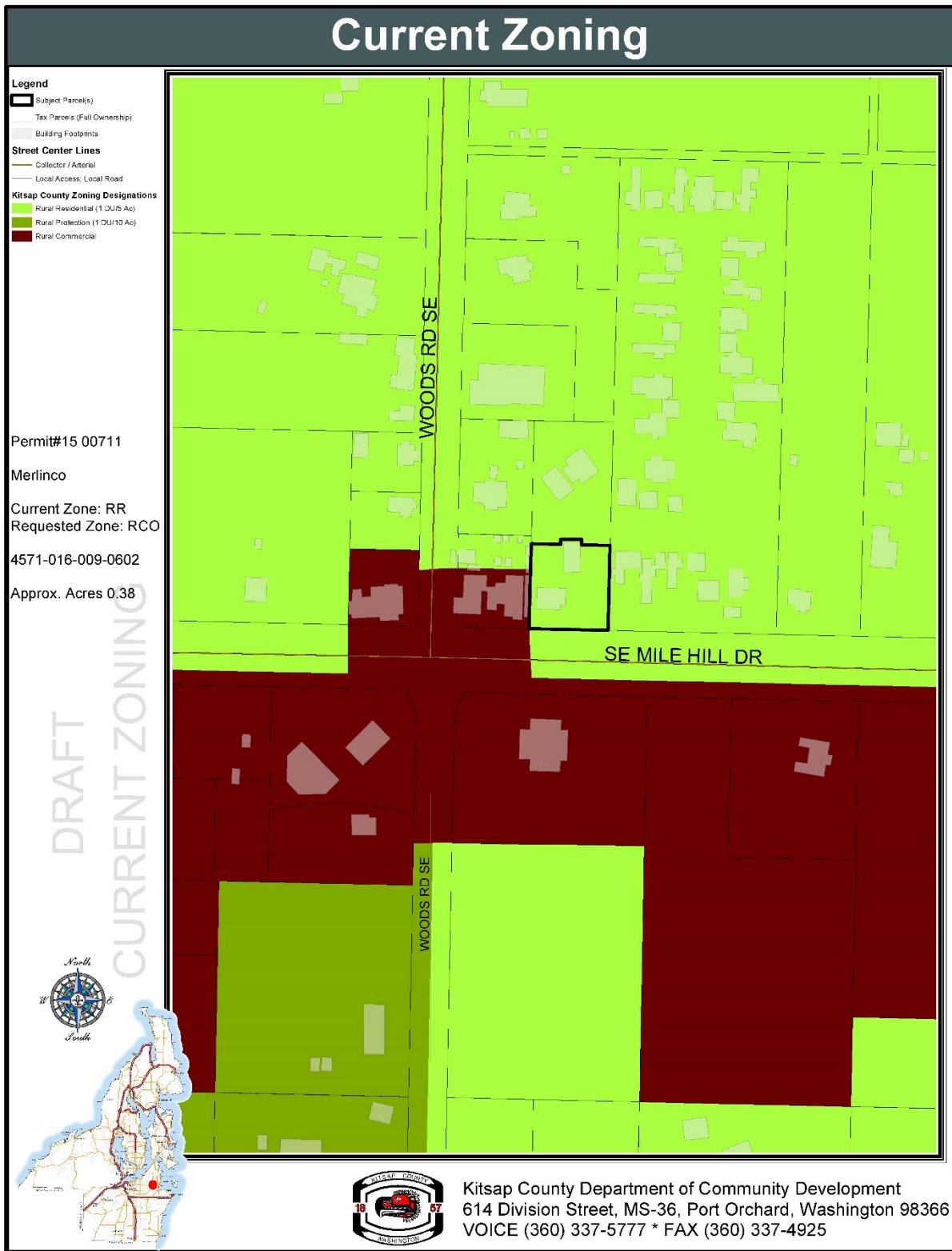
Attachment 2. Building Limitations



Attachment 3. Current Land Use



Attachment 4. Current Zoning



Attachment 5. Proposed Zoning

