

February 12, 2023

Olympia City Council
PO Box 1967 Olympia
WA 98507-1967

SUBJECT: Zoning Code Text Amendments Related to Reasonable Use Exceptions

Dear Councilmembers:

At the February 6th Olympia Planning Commission (OPC) meeting, the Commission voted 8:1 in favor recommending the Reasonable Use Exception (RUE) zoning code update for Council approval. I was the sole dissention due to my concerns with the removal of the consolidated lot ownership test for properties impacting up to 75% of a critical area buffer.

Critical area buffers are based upon best available science for the protection of sensitive areas including wetlands and streams which provide habitat, clean water, and recharge our aquifers. Buffers help protect these sensitive areas from human impacts. RUEs are meant to provide a balance between the economic interest of property owners and protection of the environment by allowing the minimum necessary reasonable use of a property.

Under existing Olympia Municipal Code, properties seeking an RUE are subject to consolidated lot ownership test. This means if a property owner holds multiple adjacent legal lots within a critical area or its buffer the lot owner is allowed one RUE for all adjacent lots held since January 10, 1985. The proposed language not only updates the date for the consolidated ownership test to June 5, 2005 but removes the consolidated lot ownership test for all RUE requesting buffer impacts up to 75%. As a result, all legal lots which could be developed with buffer impacts of 75% or less are now developable regardless of ownership history. This could have significant impacts on critical areas, as illustrated in the following example.

Example 1:

Tim purchased a set of 5 adjacent lots (Lots A - E) in 1984 which are within a Type F stream buffer. Tim sold Lot E to Jerry in 2003. Under current code, the consolidated ownership test applies, and Tim would be able to request one RUE for the legal lots while Jerry would not be able to request an RUE.

Type F Stream: Fishbearing, 250ft buffer

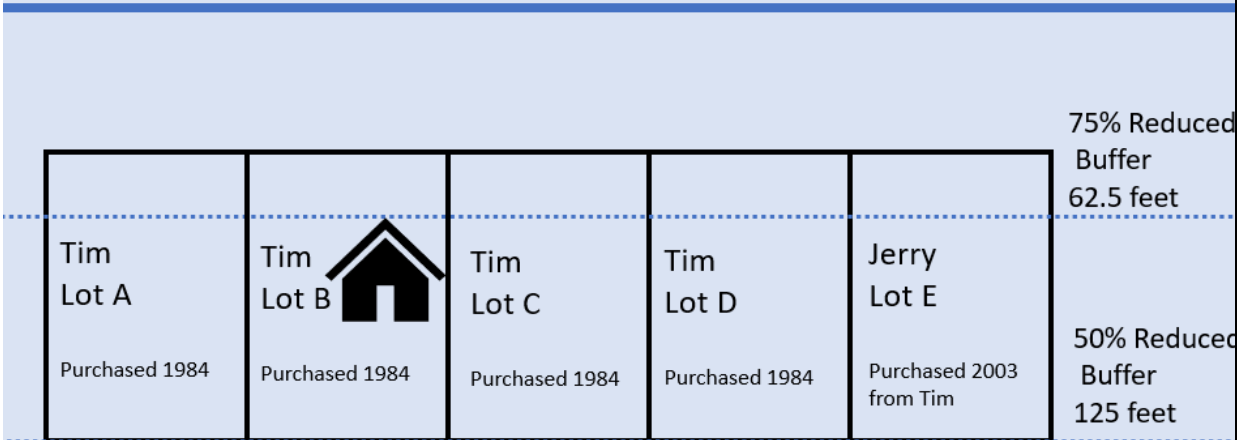


Image 1: Under existing code language only one RUE could be applied to the five lots owned by Tim.

With the update of the effective date of OMC 18.66.040.E from 1984 to June 5, 2005. Jerry would now be able to request an RUE for Lot E.

Type F Stream: Fishbearing, 250ft buffer

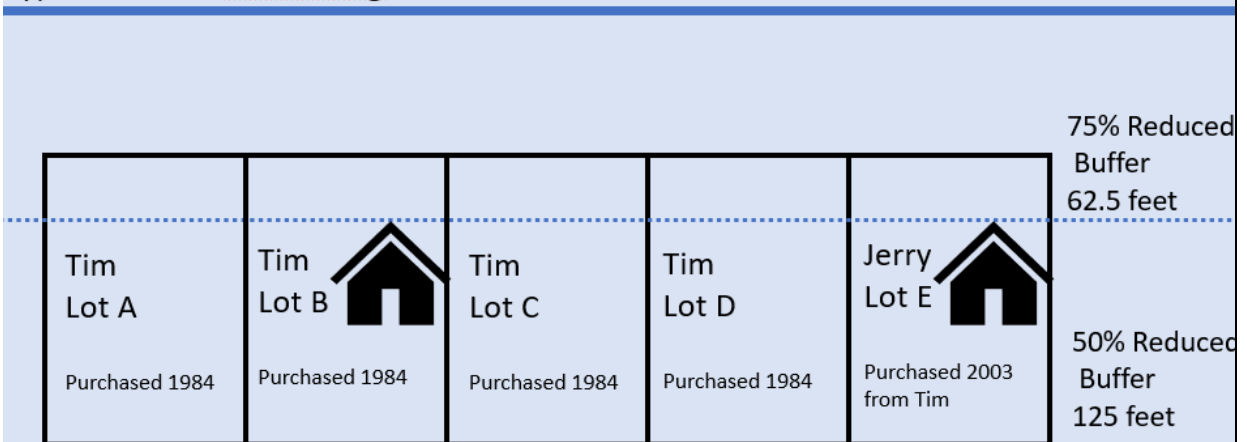
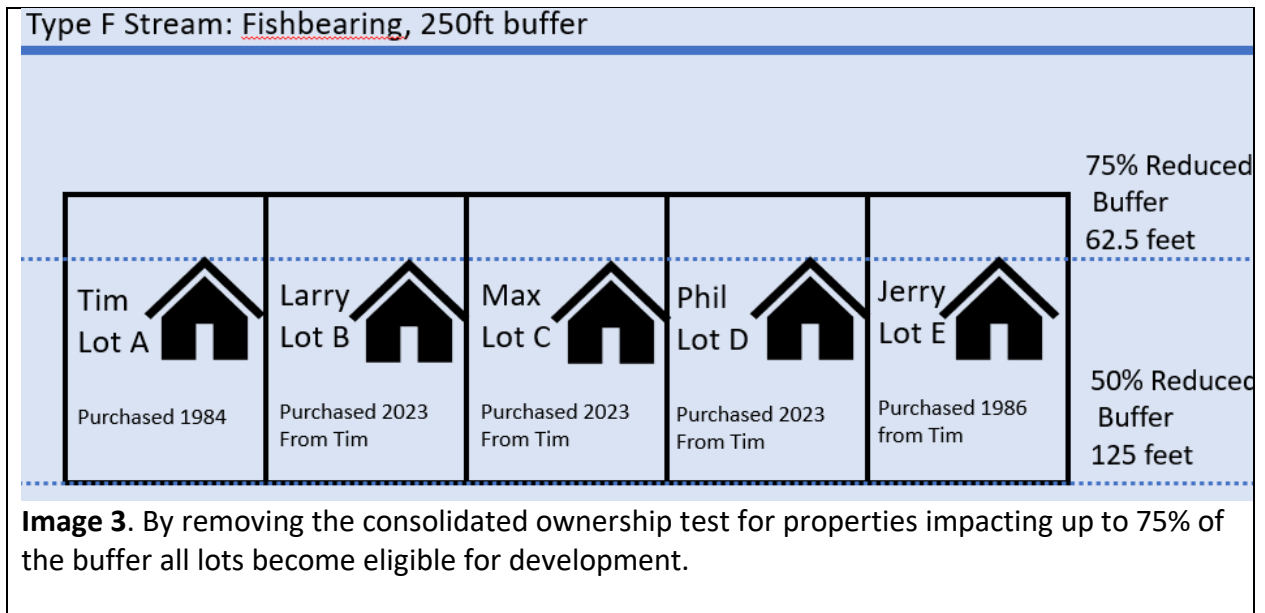


Image 2: With update of the effective date of OMC 18.66.040.E to June 5, 2005, two RUEs could be applied to the five lots.

By removing the consolidated ownership requirement, all lots become eligible to apply for an RUE. Tim could sell Lots B-D to other individuals who could then seek RUEs.



There is significant need for new housing units in Olympia, however growth should not come at an environmental cost when such costs could be avoided. As indicated in the staff report, this code update would primarily benefit relatively affluent individuals who can undertake the high costs of developing in these sensitive areas.

Please consider retaining the consolidated ownership test for those properties impacting up to 75% of the buffer. If the concern is the loss of potential housing units this code change could generate, that could be mitigated by allowing landowners to sell/transfer the equivalent development right which would exist if the properties were not within the buffer to another lot within the City. The landowners would then realize economic benefit from each legal lot, critical areas would be protected, and the units created elsewhere would be done so at a lower cost than those which would be developed within the critical area buffer.

Best,
Zainab Nejati
Chair, Olympia Planning Commission