Izze Liu <isabella.liu@multco.us>

Fwd: Case File T3-2024-0006

1 message

LUP Hearings <lup-hearings@multco.us> Mon, Jul 7, 2025 at 1:31 PM
To: Izze Liu <isabella.liu@multco.us>

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---------- Forwarded message ---------
From: **Mark Greenfield** <sauviemark@gmail.com>
Date: Mon, Jul 7, 2025 at 12:27 PM
Subject: Case File T3-2024-0006
To: <lup-hearings@multco.us>
Cc: Houle John <jmhoule52@gmail.com>, Topaz Kat And jim Abeles <kat@topazfarm.com>, Rubenstein Michael And carolyn <michael_rubenstein@q.com>

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Dear Hearings Officer.

I am writing to comment on, and offer certain objections to, the staff report and recommendation on this request for a Lot of Record Determination, Accessory Use Determination, and Variance.
I routinely review land use applications on Sauvie Island for the Sauvie Island Community Association land use committee.

A. Lot of Record Request.

The standards for a lot of record application are clear and objective. Here, those standards have been shown to be met. No objection.

B. Accessory Use Determination.

The applicant (property owner) is seeking “retroactive approval” of a 1,185 square foot accessory building to be used as a personal office and storage shed. I agree that the storage shed use is allowed. I do not agree that under MCC 39.4310(F)(1), a personal office is a similar use to a workshop. A workshop involves tools and perhaps some machinery that would not appropriately go inside an adjoining or nearby dwelling. In contrast, unless the applicant can show that there is no room in the dwelling for a personal office (and using dwellings to do office work is common), then I think this code interpretation goes too far, especially when the office work does not appear to be related to the storage shed.

To add to my concern, the applicant wants a sink, toilet and bathing facilities in the accessory structure. While CC 39.4310(F)(3) is clear that an accessory building may contain a sink, MCC 39.4310(F)(4)(c) and (d) are abundantly clear that such a structure “shall not” contain a toliet or bathing facilities such as a shower or bathtub. **“Shall not” means exactly what is says - these uses are not permitted.** There are already bathing and toilet facilities in the applicant’s house. That is more than adequate to serve the applicant’s needs. Permitting an unnecessary toilet and shower facilities under MCC 39.4315 practically begs for the structure to be used in some manner of residential use, notwithstanding staff’s recommended condition against this. And regrettably, based on many comments I have received from islanders over the years, Multnomah County doesn't exactly have the best record of enforcing its approval conditions. The code

Exhibit D.1

prohibition removes the temptation for this to happen. Because compelling reasons are otherwise lacking to justify a toilet and shower in the structure, staff should not undermine that prohibition by permitting these otherwise prohibited uses under the review process. I ask that you overturn staff's recommendation on this.

Added to this, there is no good reason why a storage shed use requires a shower and toilet, nor is there a reason why using a portion of the structure for an office requires bathing facilities, especially given that bathing facilities are not typically found at most offices. Here, of course, given the code prohibition ("shall not"), making an exception would be even more unwarranted, Even if the office use is allowed, the user can bathe before or after coming to the structure, or do so in the dwelling. And the applicant can also use the toilet facilities in the dwelling, which is but a very short walk from the accessory structure. These prohibitions were a strong reason why the Sauvie Island community supported the code provisions when they were adopted.

As for consistency with MCC 39.4315(H), which allows exceptions to the prohibitions mentioned above, I offer these additional comments.

First, adding a toilet and shower to an "office" does, in fact, help design the facility as an accessory dwelling or guesthouse,or for some other residential purpose. In particular, it makes the structure extremely attractive as a guesthouse, apartment, accessory dwelling unit, housing rental unit, sleeping quarters or other residential use, and it is highly unlikely the county would know if a form of bed is inserted into the structure after the fact, notwithstanding the prohibition is subsection (5).

Second, Staff says that the county has previously approved bathing facilities in an accessory building when used for "similar activities such as a farm use." **But a "garden" does not raise to the level of a "farm use."** Again, a sink is fine, but the toilet and shower are not.

3. Variance requirements.

The accessory structure was constructed without first obtaining county approval, and now approval is sought retroactively. Unfortunately, we see all to often situations where a property owner first constructs a structure without obtaining a permit, then seeks approval retroactively. And too often, it seems, staff is willing to allow that structure, whereas it might have denied the structure in the first instance had the applicant sought the permit prior to construction. The effect of this is that folks are inclined to build first, then seek retroactive approval, figuring they will get away with it.

Here, of course, the applicant bought a property where a previous owner had done this. As staff notes, the applicant was not responsible for constructing the accessory building or aware of the code violation. Given the location of the accessory structure, it does not appear that its violation of setback requirements causes any real harm to adjoining properties. But I cannot say this from direct knowledge, and if an adjoining property owner protests, that protest should be given due consideration. But that said, I am uncomfortable with the reasoning that a variance should be permitted merely because it would be costly for the property owner to relocate or demolish a building constructed in violation of the code. All staff's reasoning does is encourage property owners to build without permits and then apply for them after the fact, saying it would cost too much to take it out. If this variance is allowed, it should be done so under the narrowest of justifications.

Thank you for the opportunity to comment.

Mark Greenfield

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