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Non-conforming Development

- A. The following provisions shall apply to lawfully established uses, buildings and/or structures that do not meet the specific standards of this Program.
1. The lawfully established use of any building, structure, land or premises existing or vested on the effective date of ~~initial~~ adoption of the Program (~~August 27, 1976~~), or any subsequent amendment thereto ~~or authorized under a permit or approval issued, or otherwise vested, prior to August 27, 1976 or any subsequent amendment thereafter~~, shall be considered nonconforming and may be continued, subject to the provisions of this section; ~~provided that, bulkheads shall conform to the provisions in Article 7.~~
 - ~~2. An existing use designated as a conditional use that existed prior to the adoption of this Program or the adoption of an applicable amendment hereto and which has not obtained a conditional use permit shall be considered a non-conforming use.~~
 - ~~3. A structure for which a variance has been issued shall be considered a legal non-conforming structure and the requirements of this section shall apply.~~
 - 4.2. If a non-conforming development is damaged or to an extent up to but not exceeding seventy five percent (75%) of the replacement cost of the original development, it may be reconstructed to those configurations existing immediately prior to the time the development was damaged, ~~provided that the applicant makes a good faith effort to apply for the permits necessary to restore the development within six (6) months of the date the damage occurred, and complete the restoration within two (2) years of permit issuance.~~
- ~~B. If a non-conforming development is damaged by fire, explosion, flood, or other casualty to an extent exceeding seventy five percent (75%) of the replacement cost of the original development, it must be reconstructed in a location and manner that complies with the Program. A single family residential development shall be able to redevelop in kind if there is no ability to redevelop in a manner that conforms to the Program.~~
- ~~C. Replacement of any non-conforming structures or buildings or portions thereof within the Aquatic or Priority Aquatic shoreline area shall comply with Program requirements for materials that come in contact with the water pursuant to Article 6.~~
- ~~D. Non-conforming structures, other than non-conforming single family residences that are expanded or enlarged, must obtain a variance or be brought into conformance with this Program and the Act. Any non-conforming development that is moved any distance must be moved to comply with the bulk and dimensions requirements of this Program.~~

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1 | E.B. Non-conforming structures with conforming uses within commercial or
2 | mixed-use developments may be expanded or enlarged within the existing building
3 | footprint as a conditional use.

4 | F.C. The Administrator may allow enlargement or expansion of single family
5 | residences by the addition of space to the exterior of the main structure or the addition
6 | of normal appurtenances without a shoreline conditional use permit or shoreline
7 | variance subject to the following and provided the structure is located landward of the
8 | ordinary high water mark:

- 9 | 1. Enlargements, expansions or additions that increase the total footprint of the
10 | existing structure(s) by up to ten (10) percent or increase the structure height up
11 | to the limits allowed by this Program shall be allowed provided the expansion or
12 | addition will not adversely affect critical areas or significantly impair the ability
13 | of a substantial number of people to view the shoreline.
- 14 | 2. Enlargements, expansions or additions that increase the total footprint of the
15 | existing structure(s) by eleven (11) to twenty five (25) percent or increase the
16 | structure height up to the limits allowed by this Program shall be allowed
17 | provided that the addition will not adversely affect critical areas or significantly
18 | impair the ability of a substantial number of people to view the shoreline and
19 | further provided that an equivalent area of shoreline buffer is enhanced through
20 | planting. The Administrator shall require a planting plan to ensure this standard
21 | is implemented.

22 | G.D. The Administrator shall require a conditional use permit for any of the
23 | following:

- 24 | 1. Enlargement or expansion of single family residences by the addition of space
25 | to the exterior of the main structure or normal appurtenances in excess of those
26 | allowances provided in 10.6.F.C.
- 27 | 2. Enlargement or expansion of single family residences where the addition of
28 | space to the exterior of the main structure is likely to adversely affect critical
29 | areas, or is likely to obstruct the view of a substantial number of people.

30 | H.E. Enlargement or expansion of single family residences that extend waterward
31 | of the existing residential foundation walls, further into a critical area, further into the
32 | minimum required side yard setback, or that increase the structure height above the
33 | limits established by this Program shall require a variance.

34 | I.F. A structure that is being or has been used for a non-conforming use may be used for a
35 | different non-conforming use only upon ~~the approval of a conditional use permit by~~
36 | ~~the Administrator~~. To approve a change in non-conforming use, all of the following
37 | criteria shall be met:

- 38 | 1. ~~No reasonable alternative conforming use is practical because of the~~
39 | ~~configuration of the structure and/or the property; and~~

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- 1 2. The proposed use will be at least as consistent with the policies and provisions
2 of the Act and this Program and as compatible with the uses in the area as the
3 preexisting use; and
- 4 3. The use or activity is enlarged, intensified, increased or altered only to the
5 minimum amount necessary to achieve the intended functional purpose; and
- 6 4. The structure(s) associated with the non-conforming use shall not be expanded
7 in a manner that increases the extent of the non-conformity including
8 encroachment into areas, such as setbacks, and/or buffers established by this
9 Program, where new structures, development or use would not be allowed; and
- 10 5. The vegetation conservation standards of Article 6 are met; and
- 11 6. The change in use, remodel or expansion will not create adverse impacts to
12 shoreline ecological functions and/or processes; and
- 13 7. Uses which are specifically prohibited or which would thwart the intent of the
14 Act or this Program shall not be authorized.

15 ~~J.G. _____ If a non-conforming use is discontinued for twelve (12) consecutive months or~~
16 ~~for twelve (12) months during any two (2) year period, the non-conforming rights~~
17 ~~shall expire and any subsequent use shall be conforming.~~

18 ~~K.H. _____ New single family development on lots whose dimensions do not allow a~~
19 ~~residence to be constructed outside the required shoreline buffer may be allowed~~
20 ~~without a variance in accordance with the provision in Article 6 section 1~~
21 ~~(Nonconforming Lots).~~

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