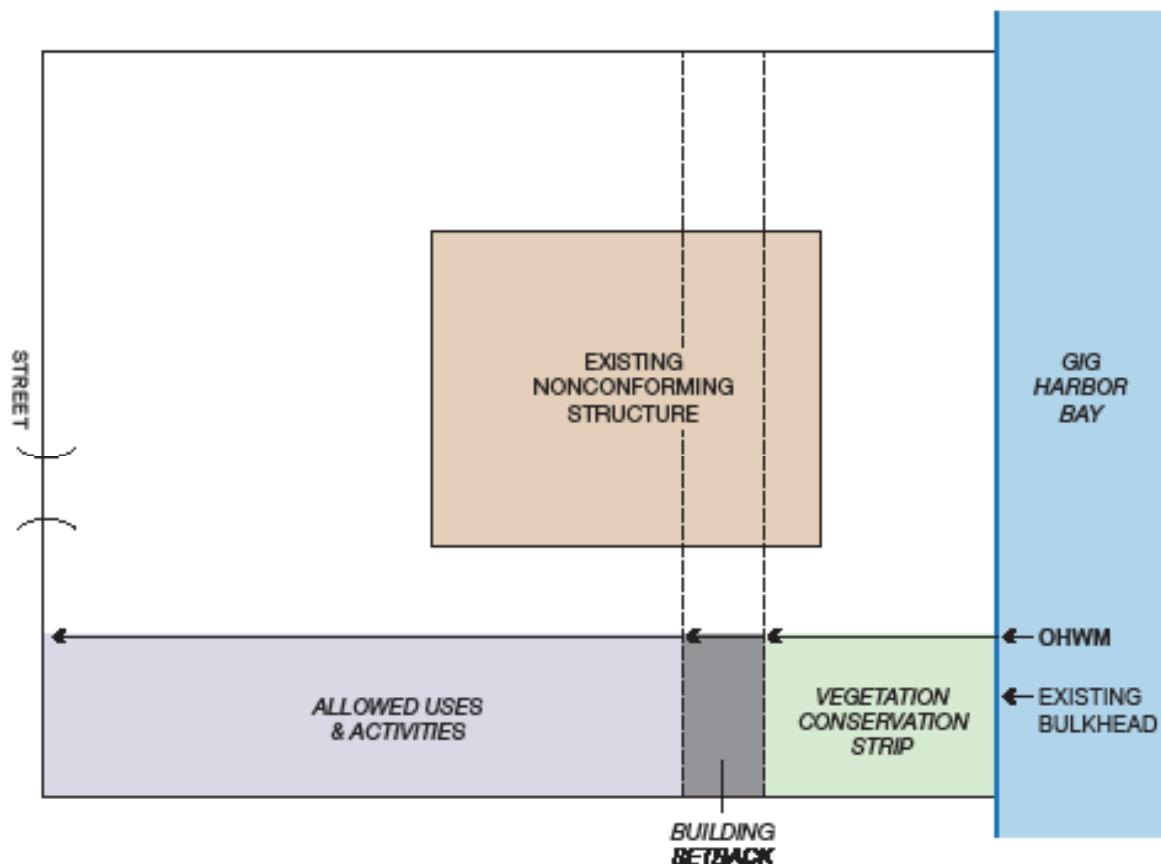




# Nonconforming Development

## What is a nonconforming development?

A nonconforming development is a use or structure which was legally built before the current Shoreline Master Program (SMP) was adopted but which does not conform to the regulations in the SMP. For example, a legally built house that is located closer to the ordinary high water mark than what would be allowed under the current SMP is considered to be a nonconforming structure. See section 8.11 of the SMP for the applicable regulations.



*Disclaimer: You should consult with the Planning Division to determine if your property is nonconforming.*

**Further Information:** If you have any questions please contact the Gig Harbor Planning Division at (253) 851-6170.



# Nonconforming Development

## How can I tell if my property is a nonconforming development?

There are several regulations in the SMP that may cause your property to be considered nonconforming. If you answer yes to any one of the following questions, you might have a nonconforming property:

**YES    NO    HELPFUL QUESTIONS**

- 1. Is the use of your property (for example, residential or retail) allowed in the shoreline environment designation? See *shoreline environment designation handouts to determine what uses are allowed or conditionally allowed*.
- 2. Do you have a building located closer to the ordinary high water mark than the required **minimum structure setback**? See *Table 6-1 (pg. 6-11) in the SMP to determine the minimum structure setback requirement*.
- 3. Do you have a building located closer to the ordinary high water mark than the required **minimum nonconforming structure setback**? See *Table 6-1 (pg. 6-11) in the SMP to determine the minimum nonconforming structure setback requirement*.

If you answered yes to any one of these questions, then your property is probably nonconforming.

## What can I do if the use of my property is nonconforming?

### Things you can do

- If the building with a nonconforming use is accidentally damaged or destroyed by fire or other causes beyond your control, the building can be rebuilt. The new building has to have the same footprint (or smaller footprint) as it had before it was damaged. Refer to SMP subsection 8.11.4 for additional requirements.
- You can modify the building with a nonconforming use as long as the cost to modify the building is equal to or less than 50 percent of the replacement value of the existing building.

### Things you cannot do

- You cannot expand or extend your use so that it occupies a greater area of land than what it currently occupies. Let's say, for example, your restaurant is 2,000 square feet in size. You cannot expand your restaurant by adding additional square feet to the building.
- You cannot move the nonconforming use to any part of the property that was not already occupied by such use.
- You cannot discontinue the use for more than one year and then restart the use again. After one year, the property can only be occupied by a use allowed in the shoreline environment designation.

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## Nonconforming Development

What can I do if my property does not conform to the *minimum structure setback*?

### Redevelopment due to unexpected damage

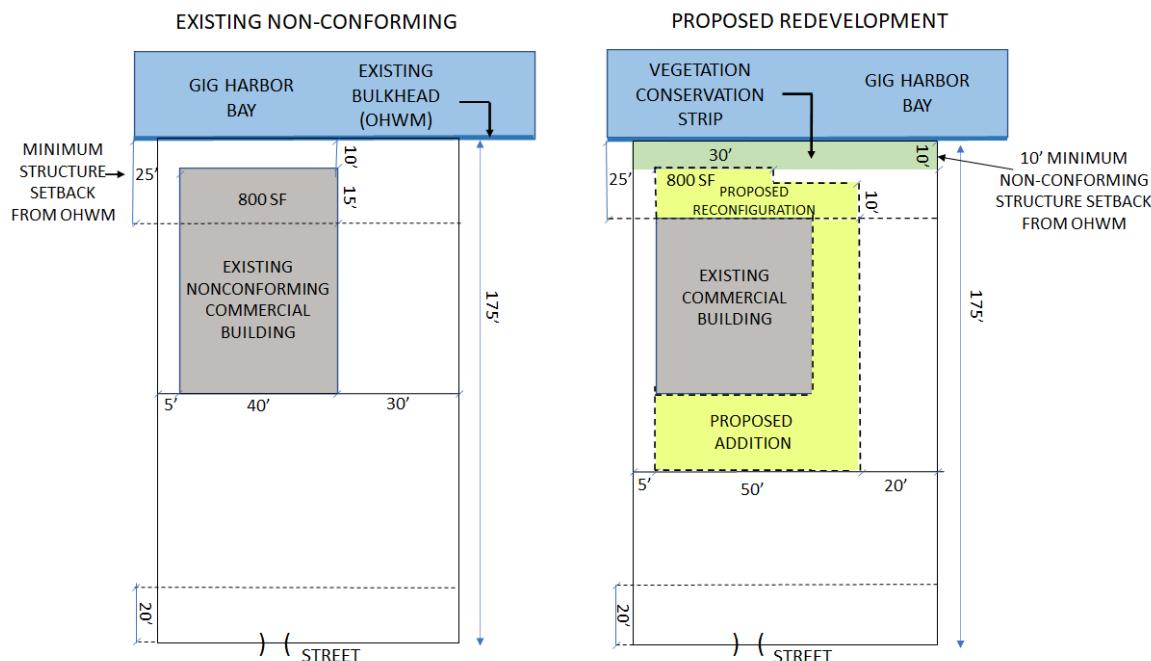
If the building is accidentally damaged or destroyed by fire or other causes beyond your control, the building can be rebuilt only if:

- Reconstruction happens within 1 year (two one-year extensions are allowed based on good cause);
- You plant native plants within the **minimum nonconforming structure setback area**;
- The new building square footage is equal to or less than the existing building square footage; and
- The existing setback between the building and the ordinary high water mark is not decreased.

### Intentional redevelopment

You can intentionally modify or reconstruct the building if:

- Your property is not in the Natural shoreline environment designation;
- Construction must be completed within 1 year (two one-year extensions are allowed based on good cause);
- You place native plants within the **minimum nonconforming structure setback area**;
- The new building square footage is equal to or less than the existing building square footage;
- The existing setback between the building and the ordinary high water mark is not decreased; and
- You comply with all building codes.



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## Nonconforming Development

What can I do if my property does not conform to the *minimum nonconforming structure setback*?

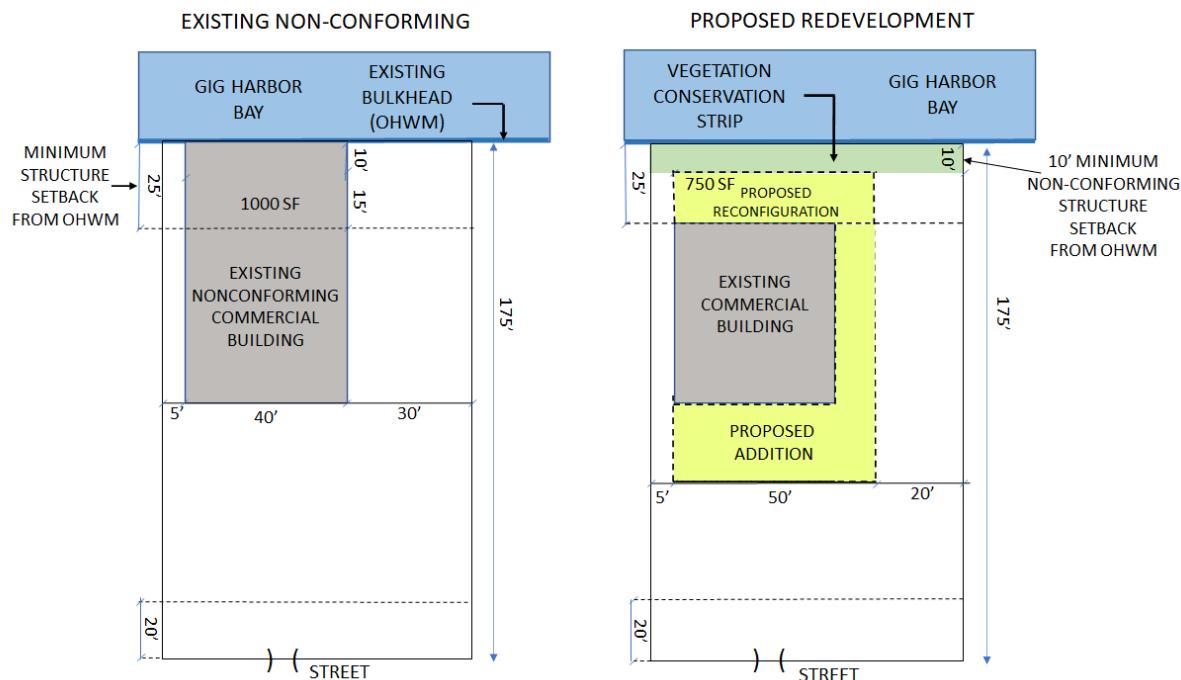
### Redevelopment due to unexpected damage

If the building is accidentally damaged or destroyed by fire or other causes beyond your control, the building can be rebuilt. The new building has to have the same footprint (or smaller footprint) as it had before it was damaged. Also, the reconstruction must occur within 1 year (two one-year extensions are allowed based on good cause).

### Intentional redevelopment

You can intentionally modify or reconstruct the building if:

- Your property is not in the Natural shoreline environment designation;
- Construction must be completed within 1 year (two one-year extensions are allowed based on good cause);
- You move the building so that it meets the **minimum nonconforming structure setback**;
- You plant native plants within the **minimum nonconforming structure setback area**;
- The new building square footage is equal to or less than the existing building square footage; and
- You comply with all building codes.



*Disclaimer: You should consult with the Planning Division to determine if your property is nonconforming.*

**Further Information:** If you have any questions please contact the Gig Harbor Planning Division at (253) 851-6170.