INSTRUCTIONS FOR ALTA ENDORSEMENT FORM 3.3-06

**ZONING – COMPLETED IMPROVEMENT- NON-CONFORMING USE**

**PURPOSE OF ENDORSEMENT**

This endorsement insures against loss or damage resulting from a Non-Conforming Use, described in the endorsement, not being allowed because that Non-Conforming Use violates a zoning ordinance or regulation applicable to the property being insured. This endorsement also insures against loss if a court decision either prohibits the Non-Conforming Use, or requires the removal or alteration of an existing building, because the Non-Conforming Use violates certain zoning requirements regarding the land or the building listed in the endorsement. The endorsement defines Non-Conforming Use as a use existing at the Date of Policy and prior to the enactment of a zoning ordinance applicable to the land.

**UNDERWRITING REQUIREMENTS**

1. Verify the zoning classification for the land and the allowed uses in that zone, then determine when any building existing on the land was completed and when the zoning ordinance applicable to the land was enacted.

2. Describe the Non-Conforming Use in Section 2a of the endorsement.

3. Obtain a zoning letter or certificate from each zoning department or agency with regulatory authority over the land confirming that the use of the land or the building where applicable, is legally non-conforming under all applicable zoning regulations.

4. An up-to-date "as built" ALTA survey or equivalent, certified to CATIC, must be provided to CATIC sufficiently in advance of the closing for CATIC to review it.

The survey should contain a zoning matrix showing the following zoning requirements for the property in the subject zone and showing whether the land or any existing buildings violate the zoning requirements regarding:

1. Area, width, or depth of the Land as a building site for any existing building,
2. Floor space area of the building,
3. Setback of the structure from the property lines of the Land,
4. Height of the building, or
5. Number of parking spaces.

In order to issue this endorsement, the property cannot be vacant land and any buildings must be completed.

5. If the surveyor is unable to provide the zoning matrix and both the land and the existing building are non-conforming, then the zoning letter or certificate from each zoning department or agency with regulatory authority over the property must confirm that both the land and the existing building are legally non-conforming as to items i-v in Section 2b

of the endorsement. If neither the surveyor nor the regulatory authority is able to provide that confirmation, then the coverage provided by this endorsement cannot be used. A modified form of endorsement, prepared with CATIC’s assistance, will be needed.

6. This endorsement must be reviewed and approved by a CATIC Underwriting Counsel prior to issuance.

**ADDITIONAL PREMIUM**

Because of the risks associated with this endorsement, an additional premium is required each time one of these endorsements is issued. The additional premium is equal to $0.50 per thousand dollars of insurance coverage. There is no agent split on this endorsement. The entire additional premium shall be remitted to CATIC.

***Please contact a member of CATIC's underwriting staff prior to issuing this endorsement.***

ZONING - COMPLETED IMPROVEMENT - NON-CONFORMING USE ENDORSEMENT

Attached to and made a part of Policy No.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. For purposes of this endorsement:

a. “Improvement”: A building located on the Land at the Date of Policy.

b. “Non-Conforming Use”: The use of the Land described in Section 2.a. existing at the Date of Policy and before the Zoning Ordinance was enacted, although the use is not authorized in the Zoning Ordinance.

c. “Zoning Ordinance”: A municipal or county zoning ordinance or zoning regulation applicable to the Land at the Date of Policy.

2. The Company insures against loss or damage sustained by the Insured resulting from:

a. The following Non-Conforming Use not being allowed by the municipality or county because the Non-Conforming Use violates a Zoning Ordinance:

 *[DRAFTING INSTRUCTION: Describe the existing Non-Conforming Use]*

b. A final decree of a court of competent jurisdiction either prohibiting the Non-Conforming Use or requiring the removal or alteration of the Improvement because, at the Date of Policy, the Non‑Conforming Use violates a Zoning Ordinance with respect to any of the following matters:

i. The area, width, or depth of the Land as a building site for the Improvement;

ii. The floor space area of the Improvement;

iii. A setback of the Improvement from the property lines of the Land;

iv. The height of the Improvement; or

v. The number of parking spaces.

3. Section 2 does not insure against loss or damage and the Company will not pay costs, attorneys’ fees, or expenses resulting from:

a. The lack of compliance with any condition, restriction, or requirement contained in a Zoning Ordinance regarding the continuation or maintenance of the Non-Conforming Use;

b. The failure to secure necessary consents or authorizations as a condition for continuing the Non‑Conforming Use;

c. The invalidity of a Zoning Ordinance, the effect of which is to prohibit the Non-Conforming Use;

d. Any change, cessation, abandonment, or replacement of the Non-Conforming Use or an Improvement;

e. A prohibition to restore an Improvement;

f. The violation of or the lack of compliance with any law, order, or regulation regarding the continuation or maintenance of the Non-Conforming Use or an Improvement;

g. Any law, order, or regulation requiring the amortization, expiration, or elimination by passage of time of the Non-Conforming Use; or

h. Any refusal to purchase, lease, or lend money on the Title.

This endorsement is issued as part of the policy. Except as this endorsement expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsement, (iii) extend the Date of Policy, (iv) insure against loss or damage exceeding the Amount of Insurance, or (v) increase the Amount of Insurance. To the extent a provision of the policy or any prior endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and any prior endorsement.

|  |  |
| --- | --- |
|  | CATICByJAMES M. CZAPIGA, PRESIDENT |