

EXECUTIVE ORDER 11988 – FLOODPLAIN MANAGEMENT

EIGHT-STEP PROCESS

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

COMMUNITY DEVELOPMENT BLOCK GRANT – DISASTER RELIEF (CDBG-DR) PROGRAM

- Neighborhood and Community Revitalization (NCR) Project No. NCR40014
- Decision Process for Executive Order 11988 as Provided by 24 CFR §55.20

Step 1: *Determine whether the action is located in a 100-year floodplain (or a 500-year floodplain for critical actions).*

The proposed project is intended to rehabilitate and flood-proof the Gateway Theater. The project is located at 100 Higbee Avenue in Somers Point, Atlantic County, New Jersey. The project is located entirely within the 100-year floodplain. The property is within the AE flood zone (area of special flood hazard with water surface elevations determined). The property is located on Flood Insurance Rate Map (FIRM) Panel 1 of 2 no. 3400170001B, revised November 17, 1982. Executive Order (EO) 11988 within HUD Regulations 24 CFR Part 55 details floodplain management. The purpose of EO 11988 is “to avoid to the extent possible the long and short term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative.” The project is located within the 100-year floodplain and for this reason, EO 11988 applies. An evaluation of direct and indirect impacts associated with construction, occupancy, and modification of the floodplain is required.

Step 2: *Notify the public for early review of the proposal and involve the affected and interested public in the decision making process.*

A public notice describing the project was published in the Press of Atlantic City, the local and regional paper, on November 21, 2014. A Spanish translation of the ad was published in the Reporte Hispano newspaper on November 21, 2014. The ad targeted local residents, including those in the floodplain. A copy of the published notification is kept in the project’s environmental review records and is attached to this document. The required 15 calendar days were allowed for public and agency comment. As required by regulation, the notice also included the name, proposed location and description of the activity, total number of floodplain acres involved, and the HUD official or responsible entity contact for information as well as the location and hours of the office at which a full description of the proposed action can be viewed. No comments were received following the conclusion of the comment period.

Step 3: *Identify and evaluate practicable alternatives to locating in the base floodplain.*

The Neighborhood and Community Revitalization program funds projects that contribute to economic revitalization throughout New Jersey. These projects are commercial or mixed use projects, typically development and public improvement or streetscape revitalization.

New Jersey is the most densely populated state in the country and therefore a policy to prohibit any development in the floodplain is not considered practicable due to the great number of parcels located within the floodplain in the counties most affected by Superstorm Sandy. The following viable alternatives have been identified:

- A. Rehabilitation of the theater and incorporation of flood-proofing measures (Option A).
- B. “No Action Alternative” (Option B).

Option A is the Proposed Alternative as identified in the project application. This option will involve rehabilitating the Gateway Theater. The rehabilitation would include the incorporation of dry flood-proofing measures, such as installation of flood gates at the at-grade doorways, replacement of at-grade structural lumber with moisture resistant concrete board, elevation of utilities, and elevation of the dressing room floor levels. The proposal does not include elevation of the entire building. In addition, the existing building would be rehabilitated within its current footprint.

Option B is the “No Action Alternative”. Under this alternative, the Gateway Theater would not be rehabilitated. Under this scenario, the theater would continue to remain dilapidated and vacant. The theater would not be able to contribute to the economic vitality of Somers Point, and its dilapidated state would detract from the quality of the local community. This alternative would not meet the State’s need to rehabilitate and revitalize storm-impacted communities.

Step 4: *Identify Potential Direct and Indirect Impacts of Associated with Floodplain Development.*

The HUD-funded NCR program is for projects that contribute to economic revitalization throughout New Jersey. HUD’s regulations limit what actions can be considered under the NCR program, including prohibition of any construction in the floodway. Descriptions of the potential impacts from the proposed actions are below:

- Option A – This option would involve rehabilitating and flood-proofing the Gateway Theater. While the proposal will continue to represent an impact on the floodplain (i.e., the building will remain within its current footprint, within the floodplain) the project will result in long-term benefits by mitigating impacts of the floodplain on the development. In addition, through the redevelopment of the property, the proposal will help the local community attract shore tourism, thereby benefiting the local economy.
- Option B – This option would involve not rehabilitating the building. This would enable the existing building to continue to deteriorate, which would represent a blight on the city’s historic district. In addition, the building would continue to remain vulnerable to future flooding events. This would not assist the state’s efforts to provide for a more resilient shore community, would not meet the project objectives and would not meet the NCR program goals.

Step 5: *Where practicable, design or modify the proposed action to minimize the potential adverse impacts to lives, property, and natural values within the floodplain and to restore, and preserve the values of the floodplain.*

New Jersey Department of Environmental Protection (NJDEP) requires elevation or flood proofing of all “substantially damaged” structures in the floodplain. When followed, these regulations will reduce the threat of flooding damage to properties located in the floodplain and reduce the impact of development on the floodplain. Applicants are required to adhere to the most recent floodplain elevation levels when considering reconstruction of their “substantially damaged” property.

In summary, applicants participating in this program would be required to adhere to the following conditions to minimize the threat to property, minimize losses from flooding and high wind events, and benefit floodplain values:

- A. All proposed reconstruction and repair of “substantially damaged” structures in the floodplain must adhere to the latest (most recent) elevation requirements in accordance with the Emergency Flood Hazard Area Control Act rules (N.J.A.C. 7:13). Flood elevations are now determined either using the higher of the ABFE, the effective BFE, or the design flood elevation shown on the NJDEP flood maps;
- B. All participants in the NCR Program must carry flood insurance on the subject structure, when mandated, in perpetuity; and
- C. In the case of “Coastal High Hazard” areas (“V” or “VE” Zones on the latest [most recent] FEMA-issued Maps), that the applicant adhere to construction standards, methods and techniques requiring a registered professional engineer to either develop, review or approve, per the associated location, specific Applicant elevation plans that demonstrate the design meets the current standards for V zones in FEMA regulation 44 CFR Part 60.3 (e) as required by HUD Regulation 24 CFR Part 55.1 (c)(3).

Therefore, the requirements of the NCR Program will help ensure a minimal adverse impact to the floodplain.

Step 6: *Reevaluate the Alternatives.*

Option B would involve not reconstructing the borough hall; therefore, this option would not contribute to the state’s efforts to rehabilitate and to provide for a more resilient shore community. This option was not considered a viable alternative.

Options A would involve rehabilitating and flood-proofing the Gateway Theater. This option would restore a formerly operating theater, within the borough’s main business district. While no elevation of the building is proposed, the building will be flood-proofed, affording a greater degree of protection to the building and inhabitants from future flood impacts than what is currently there. As a result, this option is the preferred alternative.

Step 7: *Determination of No Practicable Alternative*

It is our determination that there is no practicable alternative to locating the project in the floodplain. This is due to: 1) the location of the project entirely within the 100-year floodplain; 2) the desire to restore pre-existing theater facilities; and 3) the ability to mitigate and minimize impacts on human health, public property, and floodplain values.

A final notice detailing the reasons why the modified project must be located in the floodplain was included in the joint Notice of Intent to Request Release of Funds (NOI/RROF) publication. The notice stated the reasons why the project must be located in the floodplain, a list of alternatives considered, and all mitigation measures to be taken to minimize adverse impacts and preserve natural and beneficial floodplain values. All comments received were considered.

Step 8: *Implement the Proposed Action*

Step eight is implementation of the proposed action. The DCA will ensure that all mitigation measures prescribed in the steps above will be adhered to.