

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

- Stronger New Jersey Business Loan Program (SBL) Project No. SBL38781
- 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 includes the demolition and reconstruction of the retail building at 201 West Walnut Avenue, in the City of North Wildwood, Cape May County. The project is located on a barrier island and is entirely within the 100-year floodplain. The property contains one single-story building. The building is located within the AE Flood Zone (area of special flood hazard with water surface elevations determined), as indicated on Flood Insurance Rate Map (FIRM) Panel 329 of 611 no. 3453080001E, revised July 20, 1998. 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 Star Ledger, the local and regional paper, on April 11, 2014. A Spanish translation of the ad was published in the Reporte Hispano newspaper on April 11, 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. In addition, NJDEP issued a notice via email to the U.S. Fish and Wildlife Service (USFWS), Environmental Protection Agency (EPA), Army Corps of Engineers (ACOE), Federal Emergency Management Agency (FEMA), and National Oceanic and Atmospheric Administration (NOAA). 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.

The following comments were received during the comment period:

- The USFWS replied to NJDEP with a request for project information and an impact determination on threatened and endangered species within the project area. The required consultation with USFWS occurs during the development of the environmental review record and impacts to federally listed plant and animal species is factored into the analysis included in the Environmental Assessment (EA).
- The ACOE responded to the notice requesting further information regarding projects within ACOE jurisdiction. The response was towards other applications included in NJDEP’s notice and not applicable to the subject application.

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

The SBL program provides grant awards to eligible owners of small businesses, as defined by the U.S. Small Business Administration, for activities necessary to restore their storm-damaged properties, including renovations, construction, new equipment, and/or working capital. To qualify, the property must be located within one of the nine most impacted counties (Atlantic, Bergen, Cape May, Essex, Hudson, Middlesex, Monmouth, Ocean and Union).

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. Reconstruction and dry-floodproofing to a point above the Base Flood Elevation (BFE). (Option A).
- B. Reconstruction and elevating the building above the BFE (Option B).
- C. “No Action Alternative” (Option C).

Due to the significant amount of storm damage sustained, the building is proposed to be reconstructed. Since the building is located entirely within the tidal 100-year floodplain, it will require mitigation measures to at least one foot above the BFE in order to qualify for program funding. These mitigation measures may include dry-floodproofing or elevation. Dry-floodproofing is accomplished when the building foundation, floor slab and walls are designed to resist hydrostatic pressure, and any exterior wall opening (such as doors or windows) are designed to include waterproof seals that can resist hydrostatic pressure, up to the flood hazard area design flood elevation. In order to qualify, an applicant must provide reasoning as to why dry-floodproofing measures were used in lieu of elevation of the building. This option is the Proposed Alternative as identified in the project application.

Option B includes reconstruction and elevation of the structure. This option was deemed by the applicant to be impractical. In order to be compliant with American with Disability Act (ADA), a ramp would need to be installed from the sidewalk to the building entrance. Under Option B, the elevation difference from the ground to the entrance would be approximately six and one half feet. Using this scenario, the ramp would need to have additional switchbacks installed in order to make the slope suitable. Space limitations on the subject parcel prohibit the construction of such a ramp. Therefore, Option B was rejected by the applicant.

Under the “No Action Alternative,” the applicant would not demolish and reconstruct the building, therefore, the existing storm-damaged building would continue to be dilapidated and vacant, and would continue to be vulnerable to flood hazards. Therefore, the “No Action Alternative” would not meet the State’s need to rehabilitate storm-impacted communities nor would it require buildings within the floodplain to be protected from flood hazards.

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

The HUD-funded SBL program is for owners of small businesses. HUD’s regulations limit what actions can be considered under the SBL program, including prohibition of any construction in the floodway. The businesses would have to be elevated or floodproofed to the elevation height standards mentioned in Step 3 above, based off of the best available flood elevation data. Descriptions of the potential impacts from the proposed actions are below:

- Option A – This option would involve reconstructing the building and dry-floodproofing above the BFE, thereby reducing the impact of the flood hazards on the property. This option would also enable the applicant to more feasibly construct the building to meet ADA requirements.
- Option B – This option would involve reconstruction and elevation of the building to above the BFE. This would reduce the impact of flood hazards on the property and reduce the impact of the development on the floodplain. Option B would minimize the impact of development on the floodplain to a greater degree than Option A because the building itself would be lifted outside of the flood hazard area. However, due to the limitations of the site the construction of an ADA ramp would not be practicable.
- Option C – The “No Action Alternative” would involve not reconstructing the building. Instead, the storm-damaged building would remain on the property and would continue to deteriorate, which would be a detriment to the community and further hinder the restoration of New Jersey’s storm-impacted communities. This option would also not meet the project objectives by reducing the impact of the development on floodplains and reducing future risk from flooding.

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 dry floodproofing 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. Commercial properties must be elevated or flood proofed above the BFE in accordance with N.J.A.C. 7:13-11.5;
- B. All participants in the SBL 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 SBL Program will help ensure a minimal adverse impact to the floodplain.

Step 6: *Reevaluate the Alternatives.*

Option C would result in a continued exposure to flood hazards and further inhibit the revitalization of the shore community. Furthermore, since this option would involve leaving the existing dilapidated building in-place, the impact to the floodplain from the development would remain. Therefore, this option was not considered a viable alternative.

Options A and Option B would result in the applicant qualifying for funding due to the incorporation of mitigation measures for flood hazards on the property. Option B, through elevation of the structure, would reduce to a greater extent the impact of development on the floodplain. However, the lack of available space needed to construct the ADA-compliant ramp to the elevated structure makes Option B less feasible than Option A. Under Option A, the building entrance would be nearer to ground level, thereby making it more feasible to construct an ADA-compliant ramp to the building entrance.

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 need to provide ADA compliant ingress and egress; 2) the desire to not displace businesses; 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.