

# 24 CFR Part 55

8-Step Determination: Floodplain Management &  
Wetlands Protection Determination

**Shore Drive Drainage Improvement/ Road Raising Project**  
**Floodplain Management & Wetlands Protection Determination**

*January 16, 2020*

**Introduction & Overview**

The purpose of Executive Order (EO) 11988, Floodplain Management, is “to avoid to the extent possible the long- and short-term adverse impacts associated with occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative.” The purpose of EO 11990 Protection of Wetlands is “to avoid to the extent possible the long- and short-term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative.” This report contains the analysis prescribed by 24 CFR Part 55.

This project involves U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant Program – Disaster Recovery (CDBG-DR) funding for the replacement of drainage infrastructure along Shore Drive within the Town of Islip, New York. The analysis that follows focuses on floodplain impacts, as there are no new direct wetland impacts associated with this project. Based on the “non-substantial” level of work and other case characteristics, it is concluded that there is a reasonable basis to proceed with funding for this project/ activity within the floodplain and floodway.

**Description of Proposed Action & Land Use**

DASNY is requesting CDBG-DR funding for the Shore Drive Drainage Improvement / Road Raising Project (Project), which will involve the installation of drainage improvements and elevating approximately 1,000 linear feet of Shore Drive, from approximately 345 Shore Drive to 454 Shore Drive, hamlet of Oakdale, Town of Islip, Suffolk County, New York. Project activities will occur on the existing right-of-way of Shore Drive and several adjacent parcels that abut the right-of-way.

The proposed Project will include the following components: removal of existing asphalt from approximately 1,000 feet of an approximately 32 foot-wide roadway and replacement with approximately 21 inches of asphalt to elevate the roadway; addition of fill material and turf restoration adjacent to the roadway to meet existing grade; removal of existing catch basins and installation of a drainage system beneath the roadway that will include drainage pipe, new catch basins with curb inlets, and drainage manholes, which drains into two (2) drainage outfalls proposed for installation on Town of Islip property; addition of stone underlay beneath the proposed drainage system; installation of two (2) concrete headwalls; removal and replacement of existing outfall pipe; in-kind replacement of existing asphalt, cobblestone, and brick/paver driveways adjacent to the roadway; removal of existing curb and replacement with Belgian block curb and concrete curb and gutters; in-kind replacement of existing landscaping; sawcutting the roadway; installation of approximate two (2) trench drains beneath driveways; modification of several existing catch basins; and adjusting existing manholes. All disturbed areas will be top soiled, fine graded, and seeded. Erosion and sediment controls will be implemented, including the installation of silt fence, curb inlet sediment protection, and temporary sediment filter bags on drainage structures in the right-of-way.

In addition to the Shore Drive right-of-way, temporary, in-kind construction activities will occur on portions of the following parcels of land: 357 Shore Drive, 409 Shore Drive, 376 Shore Drive, 384 Shore Drive, 394 Shore Drive, 402 Shore Drive, 408 Shore Drive, 412 Shore Drive, 418 Shore Drive, 428 Shore Drive, 434 Shore Drive, 438 Shore Drive, 458 Shore Drive, 448 Shore Drive, and 454 Shore Drive, and two (2) parcels owned by the Town of Islip.

Shore Drive in Oakdale is a major collector road in the community, with commercial and residential development. The commercial uses are important economic generators to the local economy and contribute to the marine economy of the South Shore Estuary. The effects of Superstorm Sandy on Oakdale were

significant. At the highest point of inundation, much of Oakdale south of Montauk Highway was flooded. Flooding was equal to the expected impacts of a Category Two hurricane, despite the fact that Superstorm Sandy was not at hurricane level when it made landfall on Long Island. The area of inundation in Oakdale was over one square mile and extended a mile inland along Edgewood Avenue. Further to the east in Oakdale, the West Oak Recreation Club (WORC), a seasonal residential community, experienced extensive inundation. Many of the dwellings were damaged and property was destroyed. Throughout the communities, a high number of trees and power lines were down. In many cases, roads were impassable to homeowners, police, fire rescue, and other emergency responders. Widespread damage occurred to many coastal facilities including docks, marinas, and bulkheading. The communications were also severely affected by Superstorm Sandy. Both landline and cellular services were unavailable for periods of time. This was a major issue to the Community and a significant impediment to response efforts during the storm and recovery efforts afterward. The raising of road elevations (and enhanced drainage systems) would directly reduce the incidence of flooding for critical access routes in the area.

The raising of road elevations will benefit public health and safety by enabling better access to the Community during storm events. This will allow for improved emergency response and evacuation. In addition, it will also enable better access for public service agencies (e.g., public works, fire and rescue departments) and utility providers. Improved access will also enable a faster recovery following a storm since road blockages due to flooding will be reduced. Increased access to sites within the community will help to ensure that locations remain available for evacuation and emergency, and that Shore Drive is able to be used for food and supply distribution purposes.

#### **Applicable Regulatory Procedure Per EO 11988 and 11990**

The proposed action corresponds with a noncritical action not excluded under 24 CFR §55.12(b) or (c). Funding is permissible for the use in the floodplain if the proposed action is processed under §55.20 and the findings of the determination are affirmative to suggest that the Project may proceed.

The activity planned to elevate the existing roadway and replace existing stormwater drainage infrastructure and occurs in a community that is in the regular program of the National Flood Insurance Program (NFIP) and the community is currently in good standing. Substantial Improvement/ Substantial Damage calculations do not apply to this Project. In accordance with definitions set forth in §55.2, the Project involves new construction in wetlands and modification of the 100-year floodplain; therefore, the decision making steps in §55.20 (b), (c), and (g) apply to the Project. As such, the full eight-step floodplain determination process in §55.20 is required and the following analysis examines each step in the floodplain management and wetlands protection determination process.

#### **Step 1. Determine Whether the Proposed Action is Located in the 100-year Floodplain (500-year for Critical Actions) or results in New Construction in Wetlands.**

According to the Federal Emergency Management Agency (FEMA) National Flood Hazard Layer (**Appendix I**), the Project is located in the 100-year floodplain. The activity planned occurs in a community that is in the regular program of the National Flood Insurance Program (NFIP) and the community is currently in good standing. Substantial Improvement/ Substantial Damage calculations do not apply to the Project.

According to the U.S. Fish & Wildlife Service (USFWS) National Wetlands Inventory Map and New York Department of Environmental Conservation (NYSDEC) Wetlands and Waterways Map and Tidal Wetlands Map, (**Appendix II**), there are wetlands located in the Project area and there are wetlands located adjacent to the Project area. Due to the proximity of mapped wetlands to the Project area, a wetland delineation was performed by Louis Berger on March 8 and 9, 2017. Based on Louis Berger's Wetland Delineation Report which is included in DASNY's Joint Permit Application being prepared to submit to the NYS DEC and US ACE in early 2020, the removal and replacement of existing outfall pipes and headwall will occur in two

locations which will require an evaluation and permits by these regulatory agencies. A stormwater treatment device will also be installed at one of the outfalls. Applicable permits from the NYSDEC, USACE, and Town of Islip, if needed, will be obtained prior to the commencement of Project activities, and all permit conditions will be followed. A Stormwater Pollution Prevention Plan (SWPP) and State Pollutant Discharge Elimination System (SPEDES) General Permit for Stormwater Discharges from Construction Activities will be obtained prior to construction activities and will have conditions and requirements requiring adherence by the Town of Islip, DASNY and its contractors which will ensure mitigation of any potential adverse impacts.

The Proposed Activity will result in approximately 1.4 acres of temporary impacts in the 100-year floodplain; and less than 0.01 acres of permanent impacts in wetlands where a new stormwater treatment device will be installed. There would be a negligible change in the existing impermeable surface, which would be the only long-term effect on the floodplain. The proposed impacts are solely associated with the installation of drainage improvements and elevating the existing roadway. The proposed action does not require an individual Section 404 permit under the Clean Water Act (see 55.20(a)(1)).

***Step 2. Initiate Public Notice for Early Review of Proposal.***

Because the proposed Project is located in floodplain, the Governor's Office of Storm Recovery (GOSR) published an early notice that allowed for public and public agency input on the decision to provide funding for reconstruction and development activities. The early public notice and 15-day comment period is complete. No public comments were received.

The early notice was published on December 19, 2019 and the corresponding 15-day public comment period started on December 20, 2019 with the "Early Notice of a Proposed Project in a 100-Year Floodplain and Wetlands" being published in the Islip Bulletin newspaper, with the 15-day period expiring on January 6, 2020. The notice targeted local residents, including those in the floodplain. The notice was also sent to the relevant state and federal agencies on December 26, 2018: Federal Emergency Management Agency (FEMA); U.S. Dep. of Housing and Urban Development; NYSDEC; NYS Historic Preservation Office; and New York State Office of Emergency Management. The notice was also sent to DASNY and the Town of Islip. See **Appendixes III and IV** of this Wetlands Protection and Floodplain Management Determination for the letter distributed to these agencies and the associated newspaper notice affidavit.

***Step 3. Identify and Evaluate Practicable Alternatives to Locating the Proposed Action in a 100-year Floodplain or Wetland.***

The New York State Rising Community Reconstruction Program is structured to provide eligible communities resources and expertise to build communities resilient to future flooding events. This community was impacted by Superstorm Sandy, which brought rain, wind, and record-high storm surge that flooded much of the Community. In addition to flooding, trees were downed, power was lost, and homes were damaged.

Two potential alternatives that could potentially achieve the objective of mitigating future flooding of the area are relocating residents and/or the existing roadway out of the floodplain; however, these alternatives are not practicable. The primary alternative for the current proposed action is the "no action" alternative. This alternative means that there would be no roadway or drainage improvements to the existing Project area and no work would be undertaken to alleviate the flooding problem. This would leave the surrounding community vulnerable to future flood damage. The "no action" alternative would provide no protection to the residential neighborhoods and greater community from future flood events, as mitigation would be compromised due to lack of financial support. Thus, the "no action" alternative is not feasible in relation to the desired objective of creating area resiliency to future flooding events and the prohibition of the proposed stormwater drainage repairs and road raising within floodplain is not practicable. The above identified alternative will be re-evaluated in response to public comments received.

**Step 4. Identify & Evaluate Potential Direct & Indirect Impacts Associated with Occupancy or Modification of 100-year Floodplain and Potential Direct & Indirect Support of Floodplain and Wetland Development that Could Result from Proposed Action.**

The focus of floodplain evaluation should be on adverse impacts to lives and property, and on natural and beneficial floodplain values. Natural and beneficial values include consideration of potential for adverse impacts on water resources such as natural moderation of floods, water quality maintenance, and groundwater recharge.

According to the FEMA Report - A Unified National Program for Floodplain Management, two definitions commonly used in evaluating actions in a floodplain are “structural” and “non-structural” activities. Per the report, structural activity is usually intended to mean adjustments that modify the behavior of floodwaters through the use of measures such as public works dams, levees and channel work. Non-structural is usually intended to include all other adjustments (e.g., regulations, insurance, etc.) in the way society acts when occupying or modifying a floodplain. These definitions are used in describing impacts that may arise in association with potential advancement of this case.

*Natural moderation of floods*

During Superstorm Sandy, much of Oakdale was inundated, with widespread damage to local properties and coastal infrastructure due to stormwater runoff and backup of seawater into the stormwater drainage systems. A number of the neighborhoods experienced roadway flooding during the storm that extended onto private properties. Some of the areas continue to flood at higher high tides and during heavy rainfalls. The replacement and installation of stormwater drainage infrastructure is anticipated to alleviate future flooding events by preventing water from backing up behind the existing drainage, allowing water to more efficiently be conveyed to outfall locations. The Project proposes to raise the road elevation and improve stormwater infrastructure along approximately 1,000 of roadway, which will decrease future flooding.

*Living resources such as flora and fauna*

A potential impact that may arise is that during construction there could be disturbance in the waterbody and the associated wetlands during the drainage replacement. However, a qualitative evaluation suggests the potential would be relatively minor, and if such releases do occur, it would likely be part of an area wide impact. Given the nature of the Project, the potential for an acute or chronic level of water quality impact from the proposed Project is low. Best management practices will be implemented to protect flora and fauna adjacent to the Project area and disturbed areas will be restored to previously existing conditions.

According to a New York Natural Heritage Program (NYNHP) records request response, there is a documented location of nesting bald eagles (New York State – threatened) within 0.5 mile of the Project area. According to the NYSDEC Conservation Plan for Bald Eagles in New York State, for new building, roadway, or utility construction, the Project is located further away than the recommended buffer to prevent disturbance from bald eagle nests with (660 feet) or without visual buffers (0.25 mile). Therefore, the Project is anticipated to have no effect on the bald eagle or any NYSDEC regulated threatened or endangered plants or animals.

The U.S. Fish and Wildlife Service (USFWS) lists the northern long-eared bat (threatened), piping plover (threatened), red knot (threatened), seabeach amaranth (threatened), roseate tern (endangered), and sandplain gerardia (endangered) as the only federally endangered or threatened species under USFWS jurisdiction that may occur within the boundaries of the proposed Project. A NYNHP records request response indicated that the NYNHP has no records of the above federally listed species at or in the vicinity of the Project area. The Project is unlikely to involve tree removal and there is no contiguous forested habitat in the vicinity of the Project area. There is no suitable habitat in the Project area for the USFWS

threatened and endangered species listed above. GOSR determined that the proposed Project would have “no effect” on species under the jurisdiction of the USFWS. The “no effect” determination was sent to the USFWS Long Island field office on December 17, 2019. The Project does not involve any activities that would introduce stressors to listed species or their designated critical habitats under the jurisdiction of National Oceanic and Atmospheric Administration’s (NOAA) National Marine Fisheries Service (NMFS) pursuant to the ESA. Therefore, GOSR has determined that the proposed Project would have “no effect” on species under the jurisdiction of the NMFS.

#### *Impacts to Property & Lives*

The highest priority of this review is to prevent the loss of life. The Project involves improvements to an existing roadway and drainage infrastructure in an existing developed residential community in the 100-year floodplain. The Project will protect the surrounding community and municipal infrastructure from future storm and flood events. The Project will provide funding to address flooding through the upgrading of drainage infrastructure and raising the road elevation, which will decrease flooding on an existing road and allow stormwater to efficiently convey to downstream outfall locations. The raising of road elevations will benefit public health and safety by enabling better access to the Community during storm events. This will allow for improved emergency response and evacuation. In addition, it will also enable better access for public service agencies (e.g., public works, fire and rescue departments) and utility providers. Improved access will also enable a faster recovery following a storm since road blockages due to flooding will be reduced. Increased access to sites within the community will help to ensure that locations remain available for evacuation and emergency, and that Shore Drive is able to be used for food and supply distribution purposes. The proposed improvements will help to prevent the loss of human life and decrease impacts to property from flood events.

#### *Cultural resources such as archaeological, historic & recreational aspects*

The New York State Historic Preservation Office confirmed on December 3, 2019 that there continue to be ‘no historic properties, including archaeological and /or historic resources, affected’ by the Project, as documented in **Attachment 10** of the Shore Drive Drainage Improvement / Road Raising Project Environmental Review Record Report.

#### *Agricultural, aquacultural, & forestry resources*

The Suffolk County area has several agricultural sites located in the flood zone, as well as undeveloped woodlands. In December 2013, the Suffolk County Department of Economic Development & Planning released a report entitled, “[The State of the Suffolk County Agriculture Industry](#)” states that Suffolk County is the top region in New York State for the sale of nursery, greenhouse, floriculture and sod which accounts for half of all statewide sales in these products. There is substantial agriculture and fishing industry in Nassau and Suffolk Counties on Long Island, including aquaculture in the form of oyster farming. While there appears to be a higher concentration of aquaculture on Eastern Long Island, per the 2012 State Comptrollers Report Agriculture in Long Island and Agricultural Production by Commodity Group in Long Island (2007), aquaculture represents 2.9% of the economy at a \$7.5 million sales revenue. It is possible that if there is a materials release from the Project, it could contribute to an undefined cumulative influence on degradation of water quality, which in-turn could influence natural resources including agriculture and forestry. It is possible during the short-term construction activities, the disturbance could impact local water quality and this economic sector, although the impact attributable to this use could not be quantitatively derived. However, a qualitative analysis suggests that the impact would be very small as mitigative measures and best management practices will be utilized during construction. Project activities will be completed in accordance with all applicable federal, state and local permit requirements and conditions. Therefore, no quantifiable impacts from proposed Project activities are anticipated.

***Step 5. Where Practicable, Design or Modify the Proposed Action to Minimize the Potential Adverse Impacts To and From the 100-Year Floodplain and to Restore and Preserve its Natural and Beneficial Functions and Values.***

The objective of the Project is raise road elevations and perform drainage improvements to reduce flooding of Shore Drive, which would benefit public health and safety by enabling better access to the Community during storm events. The Project would mitigate future flood risk and minimize potential impacts to the surrounding community located within the 100-year floodplain. Impacts to the floodplain and wetlands will also be limited, as construction will only occur within previously disturbed areas, and the majority of Project activities will occur within an existing paved roadway. Applicable permits from the NYSDEC, USACE, and Town of Islip will be obtained prior to the commencement of Project activities, and all permit conditions will be followed. Best management practices will be employed to preserve natural values, lives, and living resources. However, it is still reasonable to promote awareness of future risks of natural hazards, including flooding, plus the physical, social and economic impacts that potential storm events could convey, including the potential for future physical damage to the surrounding property.

***Step 6. Reevaluate the Alternatives and Proposed Action.***

The proposed Project involves drainage improvements and the elevation of approximately 1,000 linear feet of roadway in an existing suburban area. Two potential alternatives that could potentially achieve the objective of mitigating future flooding of the area are relocating residents and/or the existing roadway out of the floodplain; however, these alternatives are not practicable. The “no action” alternative for not funding this project would not address the purpose and need of the proposed action. Without the proposed action, the impacted community would be left more susceptible to future flooding events in this area than it would after the implementation of the proposed action. Therefore, the “no action” alternative examined is not considered desirable and the proposed action is still practicable in light of exposure to flood hazards in floodplain, possible adverse impacts on floodplain, the extent to which it may aggravate current hazards to other floodplains, and the potential to disrupt natural and beneficial functions and values of floodplains. Additionally, implementation of the proposed action will abide by all applicable state and local codes for floodplain development. As such, the impact of the proposed action on a floodplain would be less than the “no action” alternative.

***Step 7. Issue Findings and Public Explanation.***

A final notice, formally known as “Final Notice and Public Review of a Proposed Activity in a 100-Year Floodplain and Wetlands” (FN), was published in accordance with 24 CFR 55. This public notice was combined with the “Notice of Intent to Request Release of Funds (NOIRROF).” The final notice requires a 7-day comment period after publication and the NOIRROF requires a 7-day comment period as well. As such, a 7-day comment period was used for this Final Notice. The FN/NOIRROF was published in the Islip Bulletin on January 16, 2020. The 7-day comment period started on January 17, 2020 and the 7-day comment period expires at 5pm on January 24, 2020. The combined notice describes the reasons why the Project must be located in the floodplain and wetlands, alternatives considered, and all mitigation measures to be taken to minimize adverse impacts and preserve natural and beneficial floodplain and wetland values. Project activities will be completed in accordance with all applicable federal, state and local regulations.

***Step 8. The Proposed Action Can Be Implemented After the Above Steps Have Been Completed.***

GOSR, operating under the auspices of the New York State Homes and Community Renewal's (NYSHCR) Housing Trust Fund Corporation as the responsible entity, will ensure that the Proposed Action, as described above, is executed and necessary language will be included in all agreements with participating parties. Implementation of the proposed action may require additional local and state permits, which could place additional design modifications or mitigation requirements on the Project. It is acknowledged there is a continuing responsibility by the responsible entity to ensure, to the extent feasible and necessary, compliance with the steps herein.