

**N.J.A.C. 7:13**  
**Flood Hazard Area Control Act**  
**“Endeavor AC, LLC”**  
**6-3-15**  
**POLICY COMPLIANCE REPORT**



**ARTHUR W. PONZIO CO. & ASSOCIATES, INC.**  
CIVIL ENGINEERS-LAND SURVEYORS-PLANNERS  
400 N. DOVER AVENUE, ATLANTIC CITY, NJ 08401  
PHONE: (609) 344-8194; FAX: (609) 344-1594

Prepared By:

A handwritten signature in black ink, appearing to read "Jon J. Barnhart", is written over a horizontal line.

Jon J. Barnhart, PE, PP

New Jersey License #GE43483

The following report has been prepared in response to the policy compliance of the proposed project as it relates to N.J.A.C. 7:13 – Flood Hazard Area Control Act. All items in this report are keyed to the sections within N.J.A.C. 7:13.

## **SUBCHAPTER 9: INDIVIDUAL PERMITS**

### **7:13-9.1 General Provisions for Individual Permits**

The proposed project requires a CAFRA Individual Permit, and is also subject to the Individual Permit requirements of this chapter.

### **7:13-9.2 Application Requirements for an individual permit**

- (a) All planned activities are shown on the submitted design plans for the project
- (b) All application submittal requirements are met as follows:
  1. The required checklist has been submitted with the CAFRA application.
  2. The application report was submitted as part of the CAFRA Individual Permit Application.
  3. The submitted Policy compliance statement coupled with this correspondence addresses the requirements in 7:13-15.4.
  4. The submitted Policy compliance statement coupled with this correspondence addresses the requirements in 7:13-15.5.
  5. Public notice requirements have been met as part of the CAFRA permit application.
  6. The required fee has been submitted.
  7. The required application drawings have been submitted.
- (c) The proposed is not known to be located in an area which contains acid producing soil, therefore, this requirement is not applicable.
- (d) The use of fill credits is not part of the proposed project and this requirement is not applicable.
- (e) The proposed structure is not intended to meet dry flood-proofed requirements and this section is not applicable.
- (f) The proposed project does not adversely impact any property not owned by the applicant and this section is not applicable.
- (g) The proposed application is consistent with the Water Quality Management Plan
- (h) The proposed project is not located within a Pinelands Area and this section is not applicable.

**7:13-9.3 Application review procedures for a verification or an individual permit**

No action required by the applicant to comply with this section.

**7:13-9.4 Duration of an individual permit**

No action required by the applicant to comply with this section

**7:13-9.5 Individual Permit Conditions**

No action required by the applicant to comply with this section

**7:13-9.6 Cases where a verification is required prior to obtaining an individual permit**

The proposed project is located within the City of Atlantic City, and within a FEMA flood hazard Zone, AE10, as shown on the Preliminary Firm mapping for the community. The base flood elevation for this location is 10.0 (NAVD 88)

**7:13-9.7 Cases where an individual permit can be issued in an approximated flood hazard area**

This section is not applicable to this project.

**7:13-9.8 Hardship Exceptions for an Individual Permit**

(a) The applicant requests a hardship exception from the following requirements:

7:13 11.5 (i)

The existing commercial building and parking garage, formerly known as the Atlantic Club Casino Hotel, as shown on the design plans, contains floor areas which are below the base flood elevation plus one foot of freeboard. The existing building will be renovated and will qualify as a substantial improvement to the structure; therefore, a hardship exception is required in order to allow the floor to remain at its existing elevation.

7:13 11.5 (o)

Two water park facilities are proposed to be built upon the subject site, as shown on the design plans. One building will contain approximately 70,000 SF of space, which will be located upon Block 183. The second building will contain approximately 22,000 SF of spaces, along the Atlantic City Boardwalk. Both locations will comply with the required minimum floor elevation. However, the proposed structures are intended to contain numerous pools, which will require an enclosure below exterior grade in order to allow pumping of water for the proposed water attractions. The structures will also contain pool areas which will extend below the proposed finished floor elevation. Since the enclosures will be below exterior grade on all

sides and below the proposed finished floor, the requirements of this section cannot be met and a hardship exception is required.

The requirements of this section are met since the proposed project satisfies item 1 of this policy, which states:

“The department determines that there is no feasible and prudent alternative to the proposed project, including not pursuing the project, which would avoid or substantially reduce the anticipated adverse effects of the project, and that granting the hardship exception would not compromise the reasonable requirements of public health, safety, and welfare, or the environment”.

(b) The requirements of this section are met for both hardship exception request as follows:

**NJAC 7:13 11.5 (i):**

The subject site was constructed during the 1980's, and originally opened as the Golden Nugget Casino Hotel. The site has existed as a casino hotel since that time, until its recent closing due to the downturn in economic conditions and other factors. The existing building contains a porte-cochere area for vehicle drop-off and pick up, which leads into a hotel lobby area and other commercial spaces. This building floor lies at approximate elevation 8.0 (NAVD 88), which is two feet below the base flood elevation for this location, and three feet below the required minimum floor elevation per NJDEP rules.

The proposed development can be granted a hardship exception from NJAC 7:13 11.5 (i) based on the following criteria:

1. Due to the existing site conditions, compliance with this chapter would result in an exceptional hardship for the applicant. The existing ground floor area is approximately 130,000 square feet in area and is topped by multiple floors of commercial space as well as two hotel towers above the commercial space. There is no reasonable or practical way to comply with the requirements of this section based upon the building existing conditions without extreme hardship to the applicant.
2. The proposed project will not cause an adverse impact on adjacent properties. The proposed renovations will, in fact, improve upon the value and function of adjacent lands. The floor elevation of the structure has existed for over 30 years at this location.
3. The existing floor elevation will not harm the environment, and will not pose a threat to public health, safety, or welfare. The only uses on the floor below the required minimum floor elevation are commercial in nature. All residential (hotel) floor elevations far exceed the minimum floor requirement. All proposed new structures to be built as part of this project will comply with the minimum floor elevation requirements of this chapter.
4. The hardship was not created by the applicant, in that the building has existed for over 30 years at this location. The applicant only intends to improve on the development of the existing condition of the site. The non-compliant

areas of the building will not be expanded. In fact a portion of the existing non compliant building floor along the Boardwalk will be demolished and a new building will be constructed in its place which will comply with the minimum floor elevation requirements of this chapter.

**7:13 11.5 (o):**

Three new structures are proposed to be built as part of the project. The property known as Block 184, will be developed with a new water park facility which contains approximately 70,000 SF of building area. The second structure will be located upon Block 25/26 and will replace an existing theater building along the Atlantic City Boardwalk. This building will contain approximately 22,000 SF of building area and will connect to the existing building on the subject property. The third structure will be built on the oceanward side of the Boardwalk. Both water park areas will be constructed so that the finished floor elevation of the structures is 12.0 (NAVD 88). The proposed restaurant along the boardwalk will be constructed at elevation 16.0 (NAVD 88). These elevation exceeds the requirements of the NJDEP and meet the requirements of local ordinance, based on the existing flood zone designation shown on the Preliminary Firm mapping for the area, which is AE 10 (NAVD 88).

Both waterpark structures identified here will contain two elements that do not meet the requirements of this section of the regulations. First, each of the buildings will contain a pump room which will be below exterior grade, in order to house the required pump and filtration facilities for the water park attractions. Second, each of the structures will contain pool areas which drop below the proposed finished floor at varying depths and will fall below the required minimum floor elevation. The proposed beach area restaurant will fully comply with the requirements of this section.

(c) The requirements of this section are met for both hardship exception request as follows:

**NJAC 7:13 11.5 (i):**

1. No additional impacts to the environment will occur as a result of this project. The structure has been in place for over 30 years and all proposed new construction will comply with this chapter.
2. A portion of this hardship exception pertains to 7:13-11.6, in that the existing parking garage ground floor area will fall below the required base flood elevation plus one foot. Routes to and from the existing garage structure are also not intended to be modified as part of this application. The routes include the adjacent public rights-of-way.
3. The sites location alone proves that the project will not generate a threat to adjacent properties upstream or downstream from this site with regard to increased flooding. Flood waters coming from the Atlantic Ocean will remain free to flow around this structure as they currently do during flood conditions.
4. The hardship is not based on economic grounds and this section is not applicable.
5. The surrounding areas are as follows:

- a. Public bathing beach to the southeast
- b. Surface Parking Facility to the east
- c. Various commercial and residential uses to the North and west

No impacts will occur to any adjacent parcels since the requested hardship exception is for the existing structure to remain in its current location, elevation, and dimension.

6. No action required by the applicant at this time.

(d) No action required by the applicant

(e) No action required by the applicant

**NJAC 7:13 11.5 (o):**

- 1. No additional impacts to the environment will occur as a result of this project. The proposed building finished floor elevations will comply with the regulation. All enclosed areas below the base flood elevation will be dry-flood proofed. The portion of the basement areas will also be dry flood-proofed.
- 2. This hardship exception request does not pertain 7:13-11.6.
- 3. The sites location alone proves that the project will not generate a threat to adjacent properties upstream or downstream from this site with regard to increased flooding. Flood waters coming from the Atlantic Ocean will remain free to flow around this structure as they currently do during flood conditions.
- 4. The hardship is not based on economic grounds and this section is not applicable.
- 5. The surrounding areas are as follows:
  - a. Public bathing beach to the southeast
  - b. Surface Parking Facility to the east
  - c. Various commercial and residential uses to the North and west

No impacts will occur to any adjacent parcels since the requested hardship exception is only for portions of the two proposed structures that will contain enclosed space below the proposed finished floor and below exterior grade. These spaces will only contain pump equipment and pool structure. There is no feasible way to construct this type of building without sufficient enclosed space beneath the finished floor of the building. All areas of the building below the finished floor will comply with dry flood proofing requirements.

6. No action required by the applicant at this time.

(f) No action required by the applicant

(g) No action required by the applicant

## **SUBCHAPTER 10: INDIVIDUAL PERMIT REQUIREMENTS WITHIN VARIOUS REGULATED AREAS**

### **7:13-10.1 Requirements for a regulated activity in a channel**

This section is not applicable to this project since no activity is proposed within a channel

### **7:13-10.2 Requirements for a regulated activity in a riparian zone**

This section is not applicable to this project since no activity is proposed within a riparian zone

### **7:13-10.3 Requirements for a regulated activity in a floodway**

- (a) The project falls partially within a floodway
- (b) See item C below
- (c) The project to be developed will fall within Item 2 and 3, the reconstruction and addition of a lawfully existing building, in accordance with NJAC 7:13-11.5(e) and (f)

### **7:13-10.4 Requirements for a regulated activity in a flood fringe**

- (a) The project site falls within a flood fringe area
- (b) No action required by the applicant
- (c) No action required by the applicant
- (d) The project is not subject to the flood storage volume displacement limits of this section since the project falls within a tidal flood hazard area
- (e) Not applicable to this project

### **7:13-10.5 Requirements for a regulated activity in or along a water with fishery resources**

This section is not applicable to this project since no activity is proposed in or along a water with fishery resources.

### **7:13-10.6 Requirements for a regulated activity in a habitat for threatened or endangered species**

This section is not applicable to this project since no activity is proposed in an area documented with habitat for threatened or endangered species.

### **7:13-10.7 Requirements for a regulated activity in an area with acid producing soils**

This section is not applicable to this project since no activity is proposed in an area which contains acid producing soils

## **SUBCHAPTER 11: INDIVIDUAL PERMIT REQUIREMENTS FOR VARIOUS REGULATED ACTIVITIES**

### **7:13-11.1 Requirements that apply to all regulated activities**

- (a) No action required by the applicant
- (b) No action required by the applicant, minor nature of the project does not cause any significant and adverse impacts on any of the listed items in this section.
- (c) The application is regulated by Cape Atlantic Soil Conservation District and the required permit will be obtained prior to construction
- (d) No action required by the applicant
- (e) Not applicable.
- (f) The project does not adversely affect property not owned by the applicant as follows:
  - 1. All proposed development falls within property owned by the applicant.
  - 2. All stormwater discharge is directed away from adjacent properties and into the Atlantic Ocean.
  - 3. The proposed project will not cause increased flood frequency for buildings situated on properties not owned by the applicant.
  - 4. This item not applicable to this project.
  - 5. This item not applicable to this project.
- (g) The project does not change the cross-sectional area or hydraulic capacity of a channel or floodway.

### **7:13-11.2 Requirements for storm water management**

- (a) The project meets all NJDEP storm water requirements as indicated in the policy compliance statement.
- (b) All requirements of the storm water policies are met.
- (c) Not applicable to this project.

### **7:13-11.3 Requirements for excavation, fill and grading activities**

- (a) Grading activities will take place as part of this project.
- (b) The requirements of this section are satisfied as follows:
  - 1. The overland flow characteristics of the property will not be changed. Water can enter and exit freely from the development area.
  - 2. There are no slopes greater than 50 percent within the project area.
  - 3. Excavation, fill and grading will not endanger the integrity of any existing structures.
  - 4. All excavated material will be disposed of lawfully.



#### **7:13-11.4 Requirements for a structure**

- (a) Structures will be constructed as part of this project.
- (b) The requirements of this section are satisfied as follows:
  - 1. The structure will be designed to resist impact from debris and water during the flood hazard area design flood.
  - 2. The structure will be designed to resist uplift, flotation, collapse, and displacement due to hydrostatic and hydrodynamic forces resulting from the flood hazard design flood.
  - 3. The structure will be designed to resist overturning pressure, as well as pressure from the freeze/thaw cycle of the soils.
  - 4. The structure will be designed to resist undermining by adjacent channel erosion.

#### **7:13-11.5 Requirements for a building**

- (a) Buildings will be constructed as part of this project.
- (b) The proposed buildings will be constructed within a flood hazard area.
- (c) The standards in this section are satisfied as follows:
  - 1. All new and existing structures are located greater than 25 ft from any top of bank or water's edge.
  - 2. Not applicable to this project.
  - 3. Not applicable to this project.
  - 4. All exterior walls will be designed to resist hydrostatic and hydrodynamic pressure caused by flooding up to the flood hazard area design flood elevation.
- (d) The project is not a reconstruction and addition within a floodway, not applicable.
- (e) This requirement is not applicable to the project, the site is not within a floodway.
- (f) This requirement is not applicable to the project, the site is not within a floodway.
- (g) Not applicable to this project.
- (h) Not applicable to this project.
- (i) This requirement will be met as follows:

The proposed structures will be constructed with finished floor elevations of 12.0, which is 2 ft above the base flood elevation for this location. Portions of the two proposed structures will fall below the design elevations, and will be dry flood proofed to a point which is 2 ft above the base flood elevation. Finally, a hardship exception has been requested for those portions of the building that fall below existing grade.
- (j) Not applicable to this project.
- (k) These standards are being met for the proposed project through meeting the required design elevation of the finished floor as well as dry flood-proofing measures for those areas that fall below the finished floor.
- (l) The proposed areas that fall below the required design elevation are pools and a pump room. All other portions of the proposed building will comply with this requirement.
- (m) Not applicable to this project.
- (n) Not applicable to this project.

- (o) A hardship waiver is requested from this requirement as indicated in prior sections of this report. The proposed enclosed areas below the design elevation and below the exterior grade can not comply with the requirements of this section.

**7:13-11.6 Requirements for a railroad, roadway or parking area**

No new parking areas are proposed as part of this project. The existing parking garage ground floor elevation does not comply with the requirements of this section. It is not feasible to elevate the existing garage floor due to the elevation of the adjacent public rights-of-way which serve as access to the garage structure.

**7:13-11.7 Requirements for a bridge or culvert**

This section is not applicable to this project.

**7:13-11.8 Requirements for a footbridge**

This section is not applicable to this project.

**7:13-11.9 Requirements for a utility line**

This section is not applicable to this project.

**7:13-11.10 Requirements for a stormwater outfall structure**

This section is not applicable to this project.

**7:13-11.11 Requirements for a dam or a low dam**

This section is not applicable to this project.

**7:13-11.12 Requirements for a flood control project**

This section is not applicable to this project.

**7:13-11.13 Requirements for a retaining wall or bulkhead**

This section is not applicable to this project.

**7:13-11.14 Requirements for a bank stabilization and channel restoration**

This section is not applicable to this project.

**7:13-11.15 Requirements for sediment and debris removal from a water.**

This section is not applicable to this project.

**7:13-11.16 Requirements for the storage of unsecure material**

This section is not applicable to this project.

**7:13-11.17 Requirements for the placement, storage, or processing of hazardous substances**

This section is not applicable to this project.

**7:13-11.18 Requirements for the placement, storage, or processing of solid waste**

This section is not applicable to this project.

**7:13-11.19 Requirements for the removal of existing fill or an existing structure**

- (a) An existing structure will be removed as part of this project.
- (b) This section is not applicable to this project.
- (c) The existing structure will be removed from the project site and will comply with the standards in this section as follows:
  - 1. All disturbed areas will be properly stabilized
  - 2. The site does not lie within a floodway.
  - 3. No fill will be removed from the project site.
  - 4. The removed structure will be disposed of outside of any regulated area in accordance with applicable Federal, State and Local laws
  - 5. The site does not fall within a riparian zone and this section is not applicable.