

# DNREC's Shoreline and Waterway Management Beach Regulatory Program

Municipal Workshop

January 25, 2022



DELAWARE DEPARTMENT OF  
NATURAL RESOURCES AND  
ENVIRONMENTAL CONTROL

# Our Goal Today

- Introduce the Beach Regulatory program to those who are not familiar
- Refresh/Update those who already are familiar with our program
- Explain our approval process
- Answer questions that you may have



# Beach Preservation Act of 1972

## Title 7, Chapter 68

- General Assembly recognized that Delaware's beaches were rapidly deteriorating due to a combination of both natural processes and continual encroachment of man.
- Declared the beaches to be "valuable natural features which provides recreational opportunities and storm protection for persons and property"...
- "Development and habitation of the beaches must be done with due consideration given to the natural forces impacting upon them and the dynamic nature of those natural features"



<http://delcode.delaware.gov/title7/c068/index.html>





# Regulations Governing Beach Protection and the Use of Beaches

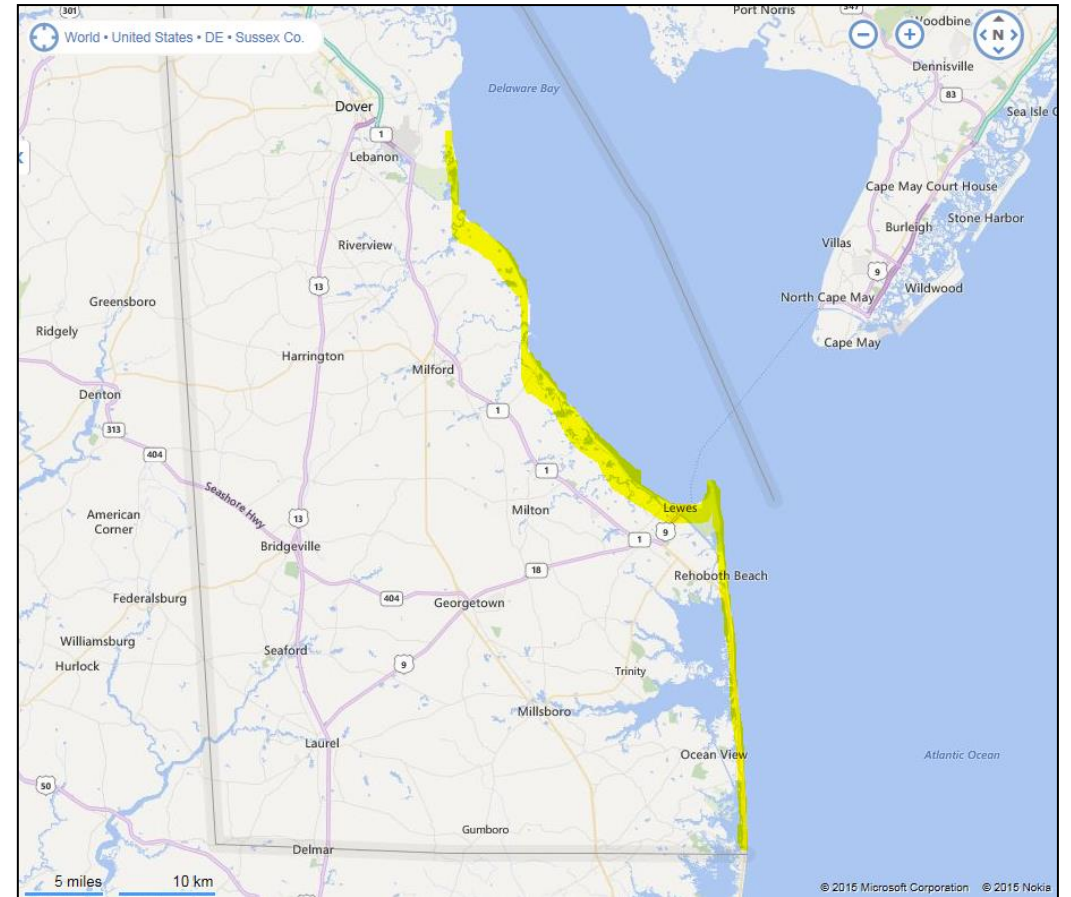
- To enhance, preserve and protect the public and private beaches of the State.
- To mitigate beach erosion and minimize storm damage

<https://regulations.delaware.gov/AdminCode/title7/5000/5102.shtml>



# Where We Regulate

“**Beach**” means that area from the Delaware/Maryland line at Fenwick Island to the Old Marina Canal immediately north of Pickering Beach, which extends from the mean high water line of the Atlantic Ocean and Delaware Bay landward 1,000 feet and seaward 2,500 feet, respectively.





# Where We Regulate

- **“Regulated Area”** means the specific area within the defined beach that the Department is directed to regulate construction to preserve dunes and to reduce property damage. The regulated area shall be from the seaward edge of the beach as defined above to the landward edge of the third buildable lot in from the mean high water line.



# What We Regulate

## Activities:

- New Construction
- Exterior Renovations
- Excavation
- Hauling in of Sand
- Removal of Sand
- Temporary Structures
- Installation of Pipes or Cables
- Septic Systems
- Harmful dune doings





# What We Do Not Regulate

## Activities:

- Replacement of siding, roofs, windows, deck boards, railings
- Painting
- Interior renovations





# How We Regulate

## Letter of Approval

- For construction activities landward of the DNREC Building Line
- Some activities can be approved by Letter of Approval seaward of the Building Line such as cantilevered decks, dune crossovers and temporary structures
- No application fee
- No public process

## Permit

- For construction activities seaward of the DNREC Building Line
- Application Fee
- Public process
  - Public Notice in newspapers and DNREC website
  - Direct notification to adjacent landowners
  - 15 day public comment period

Applications: <https://dnrec.alpha.delaware.gov/watershed-stewardship/beaches/coastal-construction/permits/>



# DNREC Building Line

- “**Building Line**” means a line generally paralleling the coast, seaward of which construction of any kind shall be ***prohibited*** without a permit or letter of approval from the Department.



# The Building Line

- Used topographic survey from 1979
- Maps were incorporated into Regulations in 1981
- The Building Line is shown on maps as straight lines connected together at points whose locations are identified by reference to the Delaware State Plane Coordinate System (NAD 27)
- Coordinates need to be converted to NAD 83 to find the line today
- In commercial areas in Rehoboth Beach and Bethany Beach where there are boardwalks and the dune is not natural, the Building Line is the westerly edge of the boardwalk





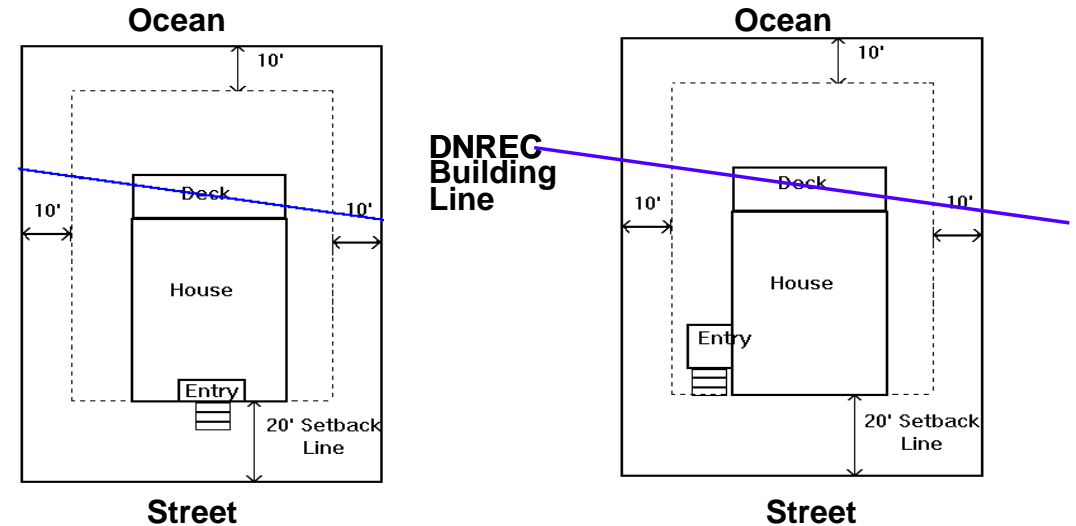
# Construction Seaward of the Line: 4-Step Process

- To “eliminate or diminish the amount of encroachment seaward of the Building Line” as required by Section 6805 (d) of the Beach Preservation Act



# Step 1 (3.1.1.2.1)

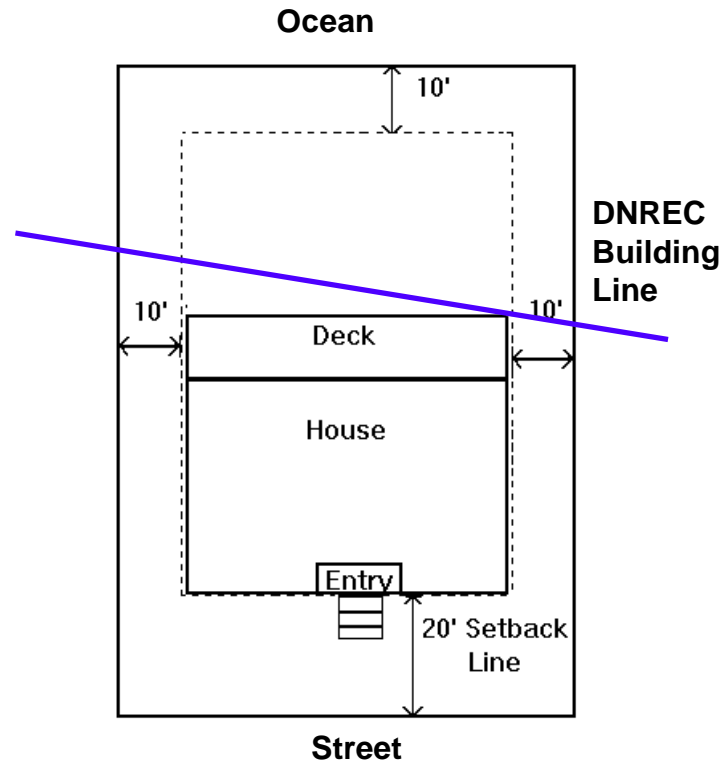
- All construction must begin at the setback line established for the landward property boundary by the county and/or local municipality in which the property is located. Porches, decks and entrance ways are not permitted along this wall of the building, except those which are recessed into the exterior wall of the structure or alongside the structure. Steps may extend into the setbacks as long as permissible by county and local regulations, and;



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## Step 2 (3.1.1.2.2)

- The structure must occupy all of the area available between the side yard setbacks, and;

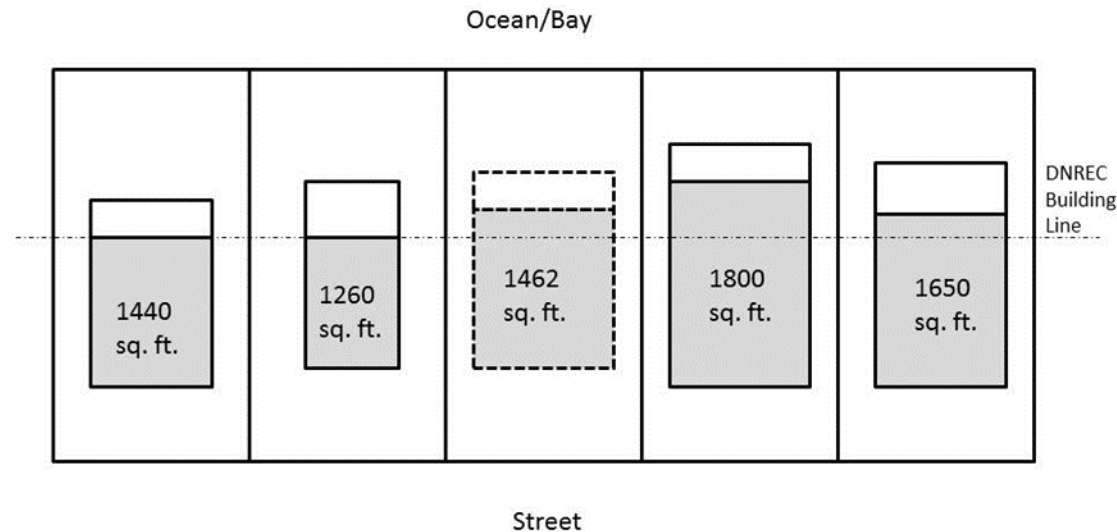


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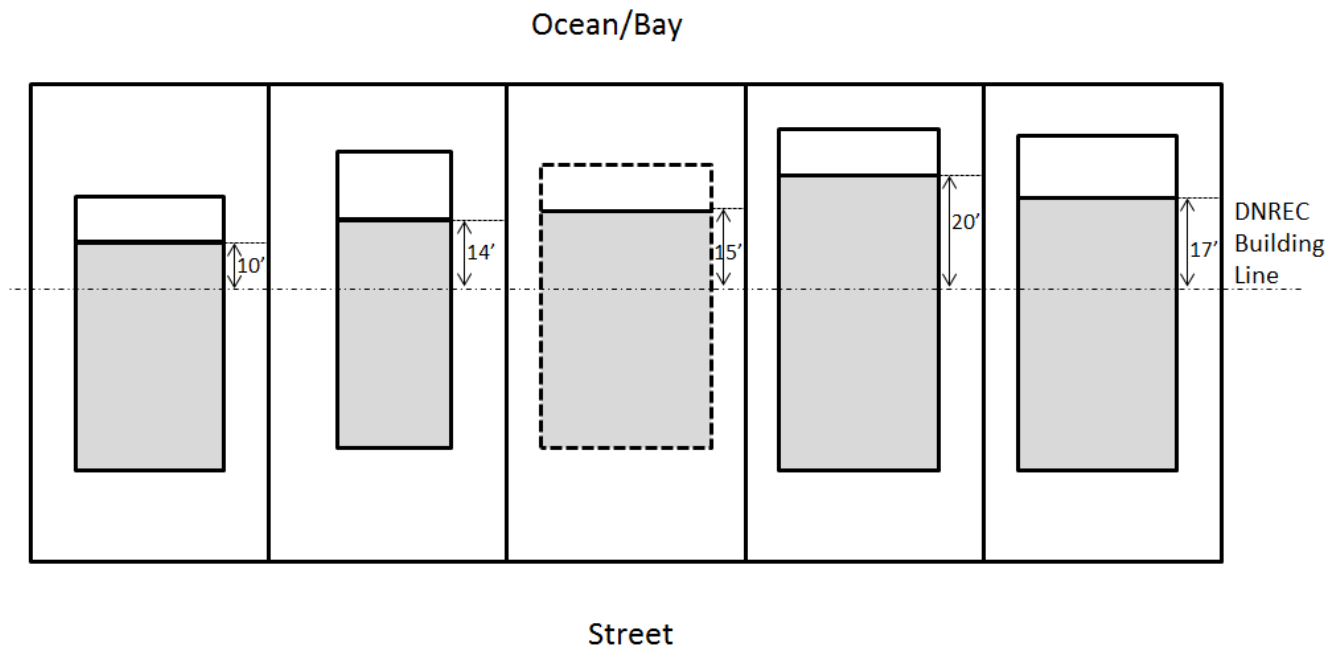
## Step 3 (3.1.1.2.3)

- The square footage of the footprint of the structure (living area only, not including porches or decks) shall not exceed the average square footage that exists among adjacent structures within the smallest subsets of lots, and;



## Step 4 (3.1.1.2.4)

- Seaward penetration over the Building Line shall not exceed the average encroachment that exists among adjacent structures within the smallest subset of lots. Any decks constructed along with the structure must meet the requirements of Section 3.1.1.3.



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# Construction Seaward of the Line: Dune Crossovers

Regulations allow for dune crossovers through a Letter of Approval Process

Number of Residences	Allowable Width
1-2	4'
3-9	5'
10 or more	6'
Special needs	Case by Case Basis





# Construction Seaward of the Line: Temporary Structures

- For structures that are placed on the beach for more than 72 hours, but not permanent
- Must be removable in the case of the threat of a storm



# Where Our Worlds May Collide

- Floodplain Regulations
- Local setback requirements
- Buildable lots
- Subdivision approvals
- Zoning of commercial areas adjacent to the boardwalks in Bethany and Rehoboth Beach



# Floodplain Regulations

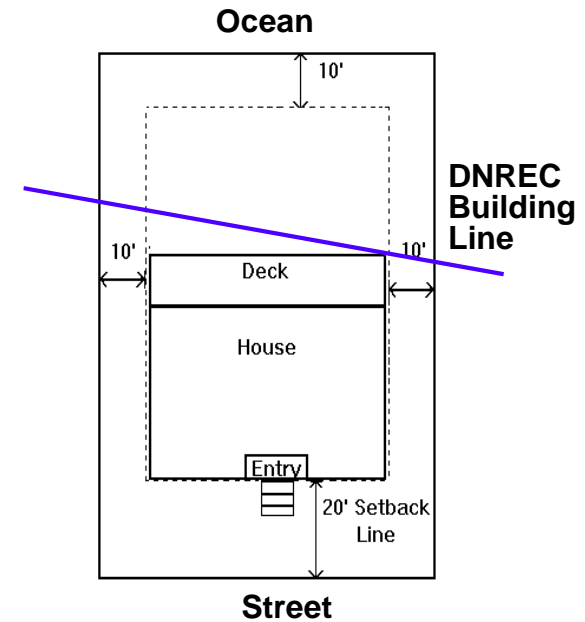
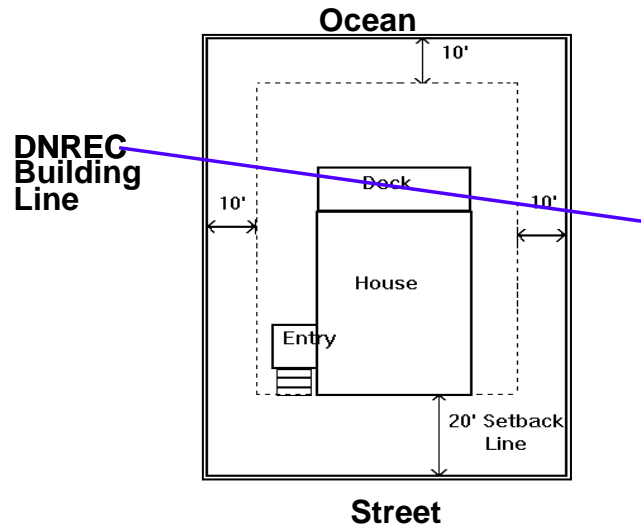
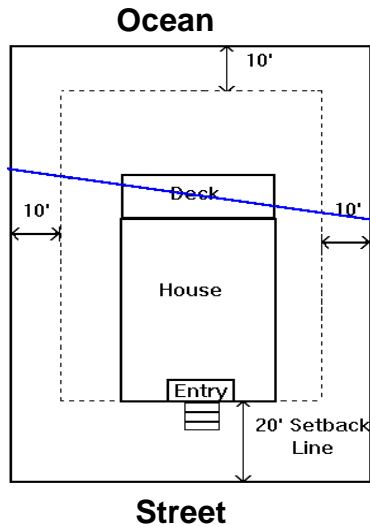
- Certified Floodplain Manager on staff
- Request floodplain information on applications
- High level review of floodplain regulation compliance and mark red flags
- Same definition of “Substantial Improvement”





# Local Setback Requirements

- Step 1 and Step 2 of the 4-step process require building out to the street side and side yard setbacks.



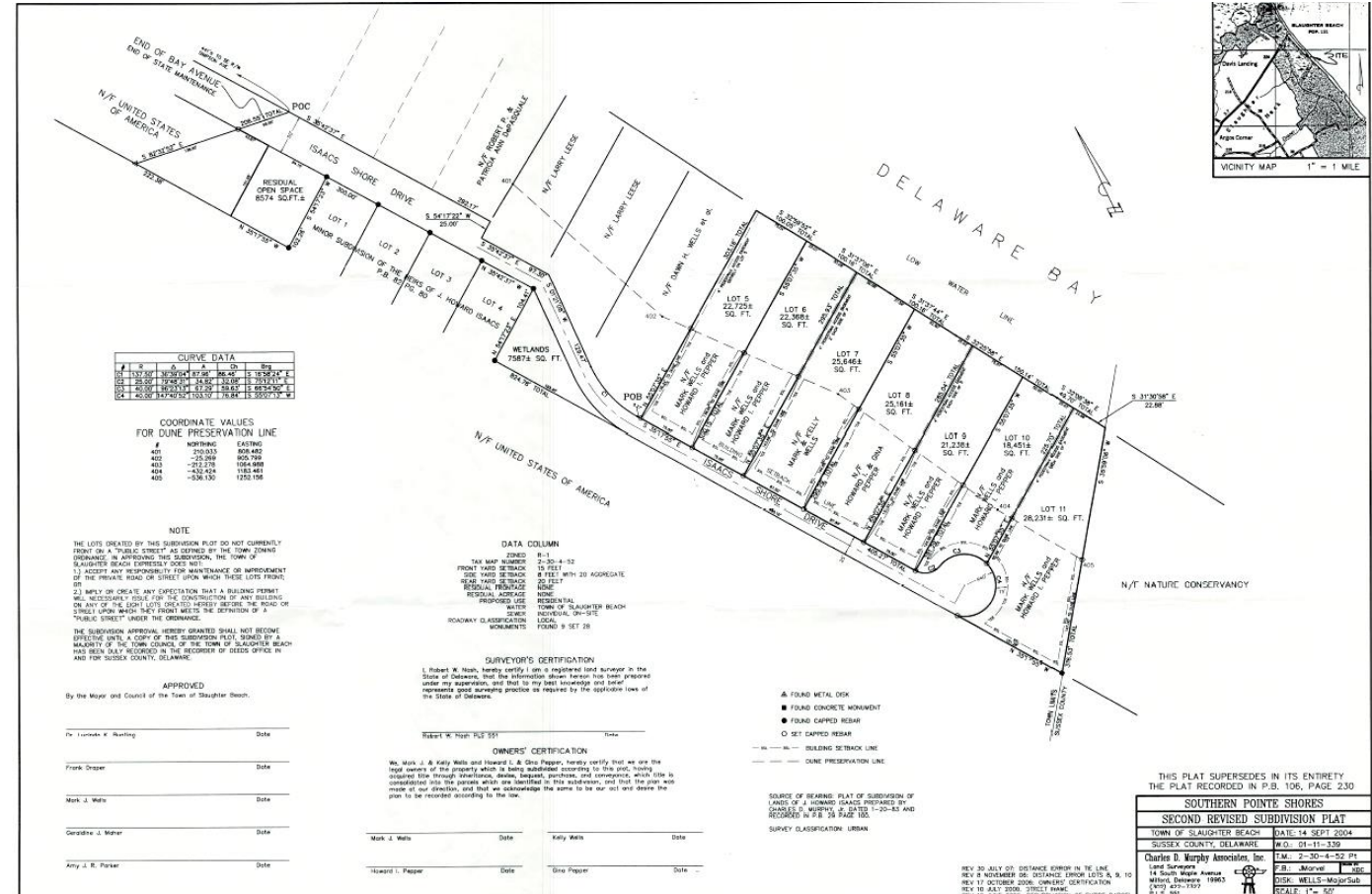
# Buildable Lots

- Regulated area is held to the 3 buildable lots from the mean high waterline



# Subdivision Approvals








- Making sure subdivision allows for construction landward of the DNREC Building Line
- Determining proper number of beach access points





# Zoning of Commercial Areas

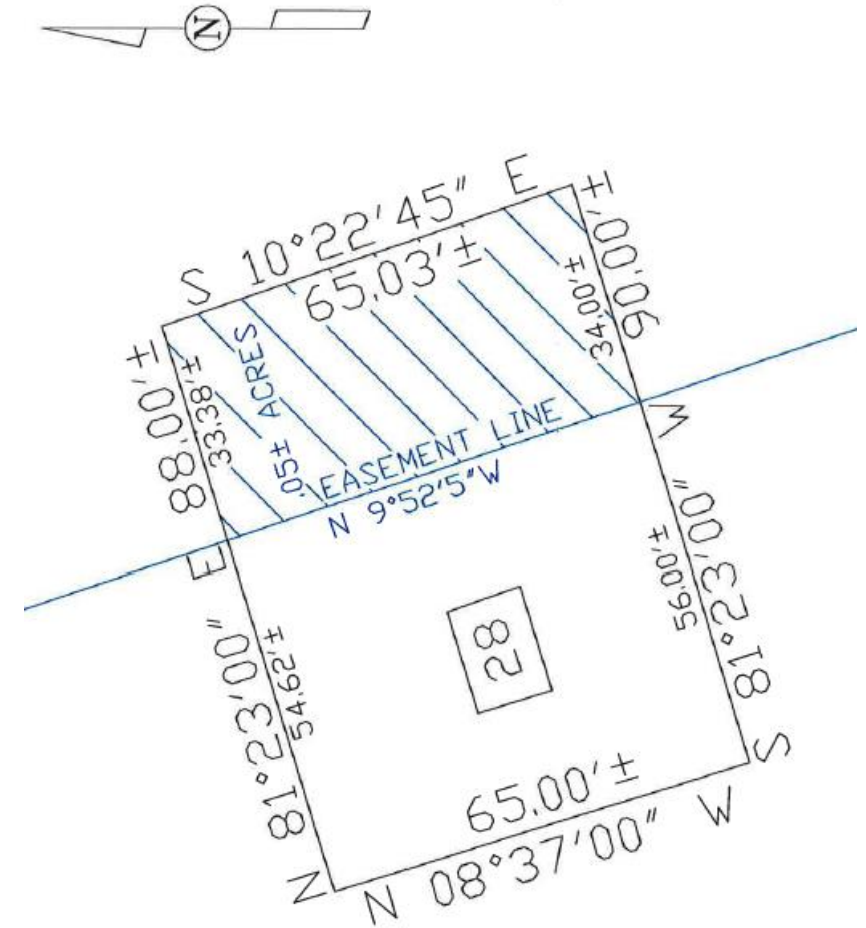
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ZONING			
	R-1		R-2
	R-1A		CL-1
	R-1B		C-1
			C-2
			MORE



# Beach Preservation Easements

- DNREC has obtained Beach Preservation Easements along many of Delaware's Public Beaches.
- Easements allow DNREC and/or the US Army Corps of Engineers to conduct beach nourishment and dune enhancement activities
- Easements allow the public to use the beach
- Easements are not regulatory, but construction of permanent structures within the easement is not allowed



# What We Can Make Available to You

- Digital DNREC Building Line available in Firstmap
- Pdf form applications
- Floodplain maps from Delaware Flood Planning Tool with the Building Line as a layer

Coming soon:

- Regulated area maps
- Online permit and letter of approval applications
- Possibly an updated Building Line

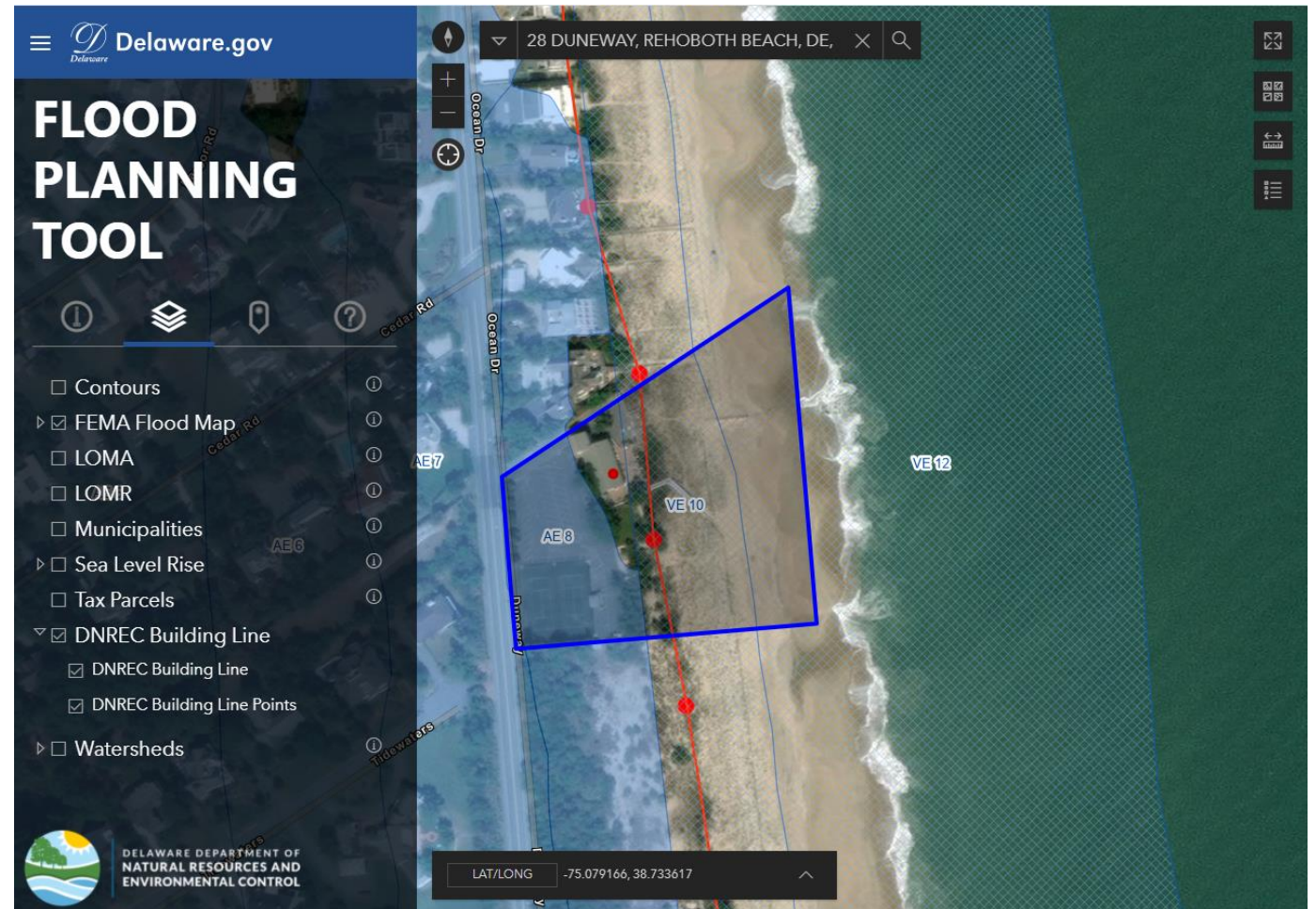




# Delaware Flood Planning Tool

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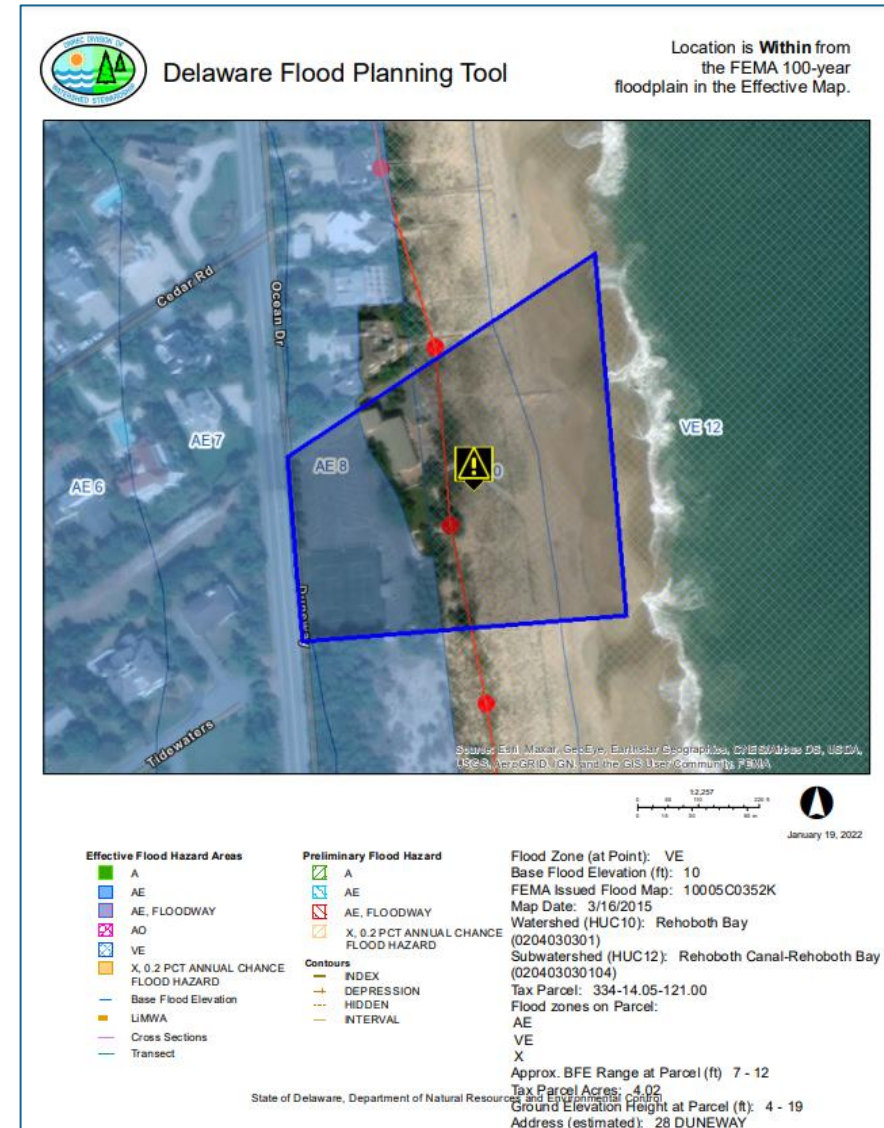
<https://floodplanning.dnrec.delaware.gov/>



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# Delaware Flood Planning Tool

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# Questions?



# Thank you!

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