

**Sussex County Land Use Reform Working Group
Draft Recommendations (Revisions Dated August 1)**

- 1. Align Future Land Use Map:** As part of the 2028 Comprehensive Plan Update, revise the Future Land Use Map (FLUM) within it, using the State Strategies for Spending as a guide, where appropriate, to designate the boundaries of the Growth Areas and the Rural Areas.
- 2. Comprehensive Rezoning:** As part of the 2028 Comprehensive Plan Update, undertake a phased, countywide rezoning effort beginning with AR-1 Zoning District to align zoning regulations with current land use goals, infrastructure, and growth policies. The process should prioritize enabling housing diversity and affordability, distinguish between growth and preservation areas, and be supported by public engagement and implementation guidance.
- 3. Establish Clear Standards for Rezoning:** Adopt codified criteria to evaluate rezoning applications in a transparent and consistent manner. These standards should be applied to map amendments and should support legally defensible, policy-aligned decisions. Criteria may include:
 - A. Consistency with the Comprehensive Plan, including alignment with the Future Land Use Map and adopted policy objectives;
 - B. Compatibility with Zoning District Intent;
 - C. Environmental suitability of the site, including the presence of sensitive or protected natural resources that cannot be mitigated;
 - D. Proximity of existing and planned supportive infrastructure.
- 4. Define Missing Middle Housing Types:** Amend the Zoning Code to establish clear definitions for Missing Middle Housing types, including duplexes, triplexes, stacked flats, and cottage courts, as distinct from the current overly broad term “multifamily dwelling” in the Zoning Code. Definitions should allow flexible configurations (side-by-side or stacked) and support modular construction as needed. Revise the existing definition of “multifamily” to reflect these changes. These definitions lay the groundwork for expanded housing options in strategic areas.
- 5. Permit Missing Middle Housing in Strategic Areas:** Update Zoning Code Sections 115-37 (GR), 115-29 (MR), and 115-45 (HR) of the County Code to permit a broader range of housing types, such as duplexes, triplexes, townhomes, cottage courts, stacked flats, and multifamily buildings, within designated growth areas.
- 6. Establish Bulk and Setback Standards for Missing Middle Housing and adjust height, building length and separation caps in growth areas:**

- A. Revise minimum lot sizes, widths, setbacks, and separation distances within growth areas to enable compact housing types in Zoning Code Sections 115-37 (GR), 115-29 (MR), and 115-45 (HR), 115-85 (M) 115-77 (C-1) and 115-83.2 (CR-1).
- B. Increase maximum building height for mixed-use and multifamily to 60 ft. in GR, MR, HR, CR-1, C1, C2, C3, and C4 zoning districts within growth areas to facilitate walkable, mixed-use, and multifamily development. Tailor height increases to context through use of design standards (e.g., stepbacks adjacent to low-density zones).
- C. Eliminate or reduce current building length caps for townhomes and multifamily structures in growth areas to allow for more flexible site planning and cost-effective housing types. Modify townhouse standards to allow up to eight attached units per building. Adjust required separation distances between buildings where appropriate to maintain access and setbacks while improving layout flexibility.

7. Modernize Commercial Zoning Districts to Support Mixed-Use Residential Corridors: Update commercial zoning districts (CR1 and C1–C4) to allow walkable mixed-use redevelopment in designated growth areas/corridors with multimodal opportunities. Permit mixed-use structures and increase residential allowances to enable up to 60% residential use.

8. Establish a Process for Phasing Coordination of Transportation Improvements: For major developments in designated growth areas, establish a formal process, coordinated with DelDOT and codified in the County code, to phase and sequence transportation improvements associated with the project alongside construction milestones. Phasing schedules should be submitted with final site plans and tied to building occupancy. This process should be aligned with adopted infrastructure standards.

9. Refine Growth Area Prioritization: As part of the next Comprehensive Plan update, establish priority areas and potential sub-categories within the Future Land Use Map (FLUM) based on infrastructure access and development suitability. Criteria should include but not be limited to:

- A. Location near municipalities, employment centers, and community services
- B. Proximity to public sewer and water (existing or planned)
- C. Access to transportation infrastructure and areas with coordinated planning (e.g., TIDs or transit routes)
- D. Capacity to extend or connect with compact and mixed-use development patterns
- E. Avoiding fragmentation of working lands, preserved lands and environmentally sensitive areas, where feasible

These priorities should inform future rezonings, infrastructure investments, and coordination with state and local partners, strengthening the role of the FLUM as the County's core land use tool.

10. Strategic Density Adjustments: Revisit zoning district standards and incentives to support targeted growth and infrastructure alignment. Specifically:

- A. Increase base densities in designated growth areas by updating GR, MR and HR and appropriate commercial zoning districts (e.g., allow 8–24 units per acre), with revised dimensional standards to support compact residential and mixed-use development patterns.
- B. Authorize additional density above the base level only through an expanded Density for Bonus program (115-22), which will:
 - 1. Be available permitted in growth areas;
 - 2. Replace the current flat per-unit fee with a percentage-based contribution tied to total construction costs;
 - 3. Direct proceeds to a dedicated land preservation fund that prioritizes protection of farmland, forests, and high-value conservation areas located outside of conservation areas, when possible in the same HUC-10 watershed as the receiving site.
- C. Revise bulk standards and/or reduce density in AR-1 outside growth areas to discourage sprawl, reduce the strain on the transportation network, and better preserve agricultural and natural lands.

11. Expand Sussex County Rental Program (SCRIP) Program: Revise the Sussex County Rental Program (SCRIP) to improve effectiveness and increase developer participation through a data-informed, phased approach:

- A. Amend the program structure to:
 - 1. Reduce the affordable unit set-aside from 25% to 15%
 - 2. Distribute units across three AMI tiers: 5% at 60% AMI, 5% at 80% AMI, 5% at 100% AMI
- B. Consider additional adjustments:
 - 1. Reduce open space requirements (e.g., from 50% to 30%)
 - 2. Offer impact fee reductions proportionate to the share of affordable units (e.g., for TID fees, sewer connections)
 - 3. Align rent calculation methodology with DSHA's Mixed Income Market Fund
- C. Potential next step to include exploring opportunities to pilot homeownership incentives, such as allowing density bonuses tied to sale price caps (e.g., 10% of units affordable to 120% AMI buyers)

12. Tree Preservation: Promote the retention of existing trees by enacting value-based tree preservation requirements including mitigation options and incentives to promote preservation.

- A. Utilize the existing "Forest" definition:

"For the purposes of this subsection, Forest shall mean: A vegetative community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater. Forest includes: (1) areas that have at least 100 trees per acre with at least 50% of those having a two-inch or greater diameter at 4.5 feet above the ground and

larger, and (2) forest areas that have been cut but neither stumps were removed nor the land regraded.”

- B. Provide minimum standards for retention based on the forest location.
 - 1. Inside growth area: Forest shall be protected at a minimum percentage of 30%
 - 2. Outside growth zone: Forest shall be protected at a minimum percentage of 50%
 - 3. Retention requirements do not apply to lands actively managed for the cultivation and harvest of trees as a crop
- C. Tree Mitigation: Forests may be cut or cleared over a greater area than permitted only if mitigation is provided.
 - 1. Trees shall be mitigated at a rate of 1.5 replacements for every 1 removal within the growth zone, and 2 replacements for every 1 removal outside the growth zone
 - 2. Mitigation is encouraged to be contiguous to existing forest stands to promote the existing ecology and habit value of existing forest stands.
 - 3. No mitigation is required for the removal of trees that are not contiguous to a defined forest and are under 6” in diameter, or any other non-native or invasive species.

13. Encourage Naturalized Stormwater Basins in Preserved Open Space: Encourage naturalized landscaping and native vegetation in stormwater basins located within preserved open space, where site conditions and regulatory standards permit. The County should coordinate with the Sussex Conservation District to identify opportunities to support habitat-friendly design features, such as native plantings, pollinator zones, and low-mow areas, in basins that serve dual roles as stormwater management infrastructure and passive open space. This recommendation is intended to support existing trends and complement state standards, not override technical requirements or design constraints.

14. Refocus Subdivision Design Around Conservation Priorities: Require clustering for all major subdivisions in AR-1 zoning outside designated growth areas and increase the minimum open space requirement to 50% and reduce minimum lot size requirements to 5,000 sq. ft. for single-family homes, to support reduced land consumption and promote more flexible, conservation-first development.

Enhance the existing 4-step subdivision design process by defining priority natural resources (e.g., mature forests, habitat corridors, historic/scenic views), requiring early coordination with either Sussex County Land Trust or planning staff, and clarifying expectations for identifying and preserving contiguous, ecologically valuable open space. Lot placement should reflect clear avoidance of sensitive features, and preserved areas should be integrated into subdivision layouts to support long-term ecological function and, where appropriate, passive community use.

- 15. Support Working Farms Through Permitted Agricultural Support Uses:** Support the viability of working farms in AR-1 zoning outside designated growth areas by permitting commercial agricultural support uses, such as processing facilities and equipment repair, subject to performance standards. Review and revise outdated zoning procedures (e.g., Board of Adjustment requirements) that may duplicate state oversight.
- 16. Complete adoption of a Master Plan Zoning Ordinance for Large-Scale Development:** Complete adoption of the drafted Master Plan Zone ordinance to enable coordinated, mixed-use, and infrastructure-supported developments that align with County goals. This zoning tool can help guide large-scale development through a phased, Comprehensive Plan-aligned process.
- 17. Explore a Transfer of Development Rights (TDR) Program:** Review TDR programs to enable voluntary transfer of development rights from conservation-priority areas to designated growth zones with sending/receiving areas.
- 18. Improve Clarity and Consistency of Subdivision Code Section §99-9(C) Standards:** Revise §99-9(C) of the Subdivision Code to reduce subjectivity and improve clarity for applicants, reviewers, and the public. While maintaining the intent of the existing criteria, the County should:
- A. Introduce objective, predictable, and measurable criteria to guide decision-making;
 - B. Eliminate terms such as “minimization,” “preservation,” and “effect on area property values” to support consistent interpretation and application;
 - C. Where applicable, reference specific County code requirements, such as Chapter 89 (Water Source Protection) and Chapter 90 (Sediment and Stormwater Control), as well as relevant guidance materials.
- 19. Prioritize Hearing Scheduling for Projects That Advance County Land Use Goals:** Establish a formal process to prioritize scheduling for public hearings for residential subdivision and land development projects that advance the County’s land use goals. This process would *not* waive public hearing requirements but would place qualifying projects higher in the queue for scheduling. Criteria can include items such as:
- A. Sites located within designated growth areas.
 - B. Sites with both central water and central sewer currently available.
 - C. Projects that include multifamily or at least three housing types, with no single type comprising more than 80% of the total units.
 - D. Sites located in a Transportation Improvement District, or sites where development facilitates the implementation of Capital Transportation Program (“CTP”) projects.

This recommendation aims to reward proposals that align with County objectives around growth management, housing diversity, and infrastructure coordination, helping to reduce delays for priority projects and encourage higher-quality development outcomes.