

Sussex County Land Use Reform Working Group
Draft Recommendations (Revisions Dated August 20)

- 1. Align Future Land Use Map:** As part of the 2028 Comprehensive Plan Update, revise the Future Land Use Map (FLUM) using the State Strategies for Spending as a guide, where appropriate, to designate the boundaries of the Growth Areas and the Conservation Areas.
- 2. Establish Growth and Conservation Areas:**
 - A. As part of the next Comprehensive Plan update, establish areas intended for growth (“Growth Areas”) and conservation (“Conservation Areas”) to align growth with infrastructure access and land suitable for development.
 - B. Growth Areas to replace current comprehensive plan designations (Town Centers, Developing Areas, and Coastal Areas, etc.) and should be based on infrastructure access and development suitability, which consider the following criteria:
 1. Within 2 miles of Sanitary Sewer Pump Stations,
 2. Within 2 miles of public water,
 3. Within 1 mile of all municipalities,
 4. Along Arterial roadways and planned major capital projects,
 5. Within proximity of schools, fire, emergency medical services & healthcare services,
 6. Areas largely comprised of Commercial districts,
 7. Includes municipalities and future annexation areas,
 8. Include areas within 0.25 – 0.5 miles of a transit hub or bus routes,
 9. Location or proximity to Transportation Improvement Districts (TID).
 - C. Growth Areas should include transition zones at their edges to provide a step-down in density and intensity between Growth Areas and adjacent Conservation Areas.
 - D. Establish conservation areas (“Conservation Areas”) for all areas not included in Growth Areas. The purpose of Conservation Areas is to prevent uncoordinated sprawl by preserving farmland, protecting natural resources, and limiting development in areas not served by adequate infrastructure.
 - E. Permit only the following zoning designations in Growth Areas: GR, MR, HR, UR, M, CR-1, C-1, C-2, C-3, C-4, C-5, I-1, UB, B-1, B-2, B-3, RPC.
 - F. Permit only the following zoning districts in Conservation Areas: AR-1, B-1, I-1, LI-1, LI-2, HI-1
 - G. Adjust natural resource protection requirements within Conservation Areas. (See recommendation #15).
- 3. Comprehensive Rezoning:** As part of the 2028 Comprehensive Plan Update, undertake a countywide rezoning effort to realign zoning districts with growth and conservation areas established in recommendation #2. The process should prioritize enabling housing diversity and affordability and be supported by public engagement and implementation guidance.

- 4. 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.
- 5. 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.
- A. Amend the definition of “**Multifamily**” in §115-4 as follows:
 - 1. A residential building containing five (5) or more dwelling units, designed in a garden-style, mid-rise, or higher-density configuration, with units arranged either side-by-side or stacked vertically. Units may share common entrances, hallways, stairways, or amenities. This definition includes apartments, condominiums, and other similar multi-unit structures but excludes duplexes, triplexes, townhomes, cottage courts, and stacked flats.
 - B. Create a new definition of “**Duplex**” in §115-4 as follows:
 - 1. A building designed for or occupied exclusively by two (2) dwelling units, with the units arranged side-by-side with a separate entrance to each unit.
 - C. Create a new definition of “**Triplex**” in §115-4 as follows:
 - 1. A residential building containing three (3) dwelling units, which are arranged side by side, with a separate entrance to each unit.
 - D. Create a new definition of “**Stacked Flat**” in §115-4 as follows:
 - 1. A residential building containing two (2) to four (4) dwelling units, arranged in a stacked vertical configuration (e.g., one or more units located above or below others). Units may share a common entry or have individual exterior entrances.
 - 2. Individual Lots not required.
 - E. Create a new definition of “**Cottage Court**” in §115-4 as follows:
 - 1. A residential development typology consisting of four (4) to twelve (12) small detached or semi-detached dwelling units arranged around a shared central courtyard or open space.
 - 2. Individual lots are not required.

6. 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 as follows:

- A. Revise 115-37 of GR to add the following permitted uses:
 - 1. Duplex and Triplex
- B. Revise 115-29 of MR to add the following permitted uses:
 - 1. Uses permitted in GR
 - 2. Townhouse, Stacked Flat, and Cottage Court
- C. Revise 115-45 of HR to add the following permitted uses:
 - 1. Uses permitted in MR
 - 2. Multifamily

7. 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), §115-45 (HR), §115-85 (M), §115-77 (C-1), and §115-83.2 (CR-1) as outlined below:

Zone/Use	Min. Lot Size	Front Setback	Rear Setback	Side Setback	Lot Width
GR					
Single Family	5,000 sq. ft.	20'	25'	5'	50'
Duplex	2,000 sq. ft.	20'	25'	5'/0'*	20'
Triplex	1,600 sq. ft.	20'	25'		
MR					
Townhouse	1,600 sq. ft.	20'	25'	5'/0'*	18'
Stacked Flat	N/A				
Cottage Court	3,000 sq. ft.				
HR					
Multifamily	N/A				
*Side setbacks are not required with a shared party wall					

- 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.
- C. Eliminate 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 more than eight attached units per building. Reduce building separation to 20' between multifamily buildings.

8. Strategic Density Adjustments: Adjust the permitted densities in “Growth Areas” and “Conservation Areas” to promote growth in strategic areas where infrastructure is supported and discourage growth in areas where conservation should be promoted.

- A. Establish a maximum base density of four (4) units per acre within the GR zoning district.
- B. Establish a maximum base density of six (6) units per acre within the MR zoning district.
- C. Establish a maximum base density of eighteen (18) units per acre within the HR zoning district.
- D. Establish a maximum base density of one (1) unit per acre within the AR-1 zoning district.

9. Develop Strategic Density Bonus Program: Create incentive programs to preserve open space, farmland, natural resources, and/or affordable housing units.

- A. Sussex County Preservation Program: Authorize additional density above the base level only through an expanded Density Bonus program (§115-22), which will:
 - 1. Increase density in GR, MR, or HR by 1/3;
 - 2. Only be permitted in Growth Areas;
 - 3. Replace the current flat per-unit fee with a tiered fee based on unit type (e.g., single family home, townhouse, triplex, duplex, multifamily);
 - 4. Direct proceeds to a dedicated land preservation fund that prioritizes protection of farmland, forests, and high-value natural resources located within Conservation Areas, when possible in the same HUC-10 watershed as the receiving site.
- B. Sussex County Purchase Program: Authorize additional density above the base level only through an expanded Density for Bonus for Workforce program (§115-22), which will:
 - 1. Increase density in GR, MR, or HR by 1/3;
 - 2. Only be available in Growth Areas;
 - 3. Require 10% of units are priced for sale to achieve an affordability target of 120% AMI.

10. Amend the Sussex County Rental Program (SCRP) Program: Revise the Sussex County Rental Program (SCRP) 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. Revise the AMI target from 50% to 80% AMI.
- B. 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 limits with (a) HUD established rents based on applicable household income, or (b) other rent limits explicitly required by state or federal housing financing programs applicable to the project.

11. Create Transportation Improvement Districts for all Growth Areas and Develop a Transportation Impact Fee for Development in Conservation Areas.

12. 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.

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

Revise 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 six-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 excluding invasive species.”

- A. 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
- B. Forest Mitigation: Forests may be cut or cleared over a greater area than permitted only if mitigation is provided.
 1. Forest area shall be mitigated at a rate of 1.5 to 1 within the growth zone, and 2 to 1 outside the growth area.
 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.

- C. Develop landscape and tree planting requirements for development projects:
 - 1. Landscape requirements should be based on the net developed area as follows:
 - i. Inside Growth Areas: One (1) tree per 10,000 sq. ft. for residential development and one (1) tree per 5,000 sq. ft. for non-residential development.
 - ii. Outside the Growth Areas: One (1) tree per 5,000 sq. ft. for residential and one (1) tree per 3,000 sq. ft. for non-residential.
 - iii. Retained forest in excess of minimum protection requirements may be utilized to achieve aforementioned planting requirements.
 - 2. Develop requirements which set standards for unauthorized clearing beyond allowable limits.

14. Encourage Naturalized Landscaping in Passive Open Space: Encourage naturalized landscaping and native vegetation located within passive 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 preserved open space. This recommendation is intended to support existing trends and complement state standards, not override technical requirements or design constraints.

15. Focus Subdivision Design in Conservation Areas around Conservation Priorities:

- A. Require all major subdivisions in AR-1 zoning within conservation areas to preserve the maximum lot size for any major subdivision. Valuable natural resources must be preserved to the maximum extent possible, but in all instances, the major subdivision shall be permitted to attain a density of one (1) unit/acre at a maximum of one half (½) acre lot size. The foregoing shall not prohibit larger than one half (½) acre lots provided all valuable natural resources are protected.
- B. Increase the minimum open space requirement to 35-50%.
- C. Require resource protection mapping to include delineation and mapping of resources, including: forests, wildlife habitat corridors, wetlands, waterways, and historic or scenic viewsheds. Prioritize protection of resources as follows:
 - 1. Waterways;
 - 2. Wetlands;
 - 3. Forests;
 - 4. Wildlife Habitat Corridors;

16. 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.

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 and are located in Growth Areas. This process would not waive public hearing requirements but would place qualifying projects higher in the queue for scheduling.

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.