

Western Big Branch Area Plan: Development Restriction Mechanisms & Considerations

Community Goal

The “Friendship and New Hill Community Land Use Map & Neighborhood Conservation Overlay District Proposal” from members of the community shown in Figure 1, proposed a zoning overlay district “...intended to preserve and enhance the general quality and appearance of established neighborhoods by regulating built environmental characteristics such as lot size and frontage, building setback, and building height.”. The purpose of Table 1, below, is to present and outline the considerations of three different mechanisms that could meet this goal, along with draft staff recommendations. For reference, an exhibit showing properties who supported the proposal along with whether they are within Wake County or Apex Extraterritorial Jurisdiction (ETJ), is provided as Figure 1.

Table 1. Development Restriction Mechanisms and Considerations

Development Restrictions Mechanism	Overlay District	Neighborhood Covenant/Deed Restriction	Zoning Condition (responses are for rezonings heard by Town of Apex)
Geographic Applicability	<ul style="list-style-type: none">• A Town of Apex Overlay District could only apply to properties located within the Apex corporate limits and ETJ. It would not be applicable to most of the property owners who supported the overlay request.• A Wake County Overlay District could apply to the remaining properties.	<ul style="list-style-type: none">• All signatories.• Can apply to a single property or neighborhood.	<ul style="list-style-type: none">• Individual parcel or assembly of parcels within the Apex corporate limits or ETJ, or petitioned by the property owner to have parcel(s) voluntarily annexed into Apex’s corporate limits.
Initiated By	<ul style="list-style-type: none">• Town of Apex.• Potentially Wake County, if proposed in their jurisdiction.	<ul style="list-style-type: none">• Property owners.	<ul style="list-style-type: none">• Rezoning applicant.• The property owner or an agent authorized by the property owner.
Implementation Timeline	<ul style="list-style-type: none">• Multi-year process to develop and implement.	<ul style="list-style-type: none">• Varies, completed by property owners.	<ul style="list-style-type: none">• At the time of rezoning.• Typically, a 3-5-month process from the date of application submittal.
Longevity	<ul style="list-style-type: none">• Until modified or rescinded.• Wholesale changes can be made at once.	<ul style="list-style-type: none">• Maximum of 20 years.• Some covenants automatically renew.	<ul style="list-style-type: none">• In perpetuity (or until another rezoning is approved).

Development Restrictions Mechanism	Overlay District	Neighborhood Covenant/Deed Restriction	Zoning Condition (responses are for rezonings heard by Town of Apex)
Enacted, Modified, or Rescinded By	<ul style="list-style-type: none"> • Apex Town Council for portion in Apex corporate limits and ETJ. • Wake County Board of Commissioners for remaining portion. • General Assembly can pass a law that rescinds or modifies the terms. 	<ul style="list-style-type: none"> • Property owner(s). 	<ul style="list-style-type: none"> • Apex Town Council.
Draft Staff Recommendation	Not recommended given limited applicability, implementation timeline, and ability of General Assembly or future Council to modify. As an example, the General Assembly removed Apex's authority to have architectural requirements for one- and two-family homes, including within in the Small Town Character Overlay District (STCOD). These are now provided as zoning conditions.	Recommended for property owners who desire provisions of the proposal on their land. The process is controlled by the property owners and cannot be modified by others.	Town staff are in the early stages of developing a standard list of zoning conditions for properties designated as Rural Density Residential, Rural Transition Density Residential, and Low Density Residential on the 2045 Land Use Map that would be provided to developers to consider proffering. The types of development provisions that were included in the community's proposal could be included in this standard list of zoning conditions.

Proposed Neighborhood Conservation Overlay District Properties

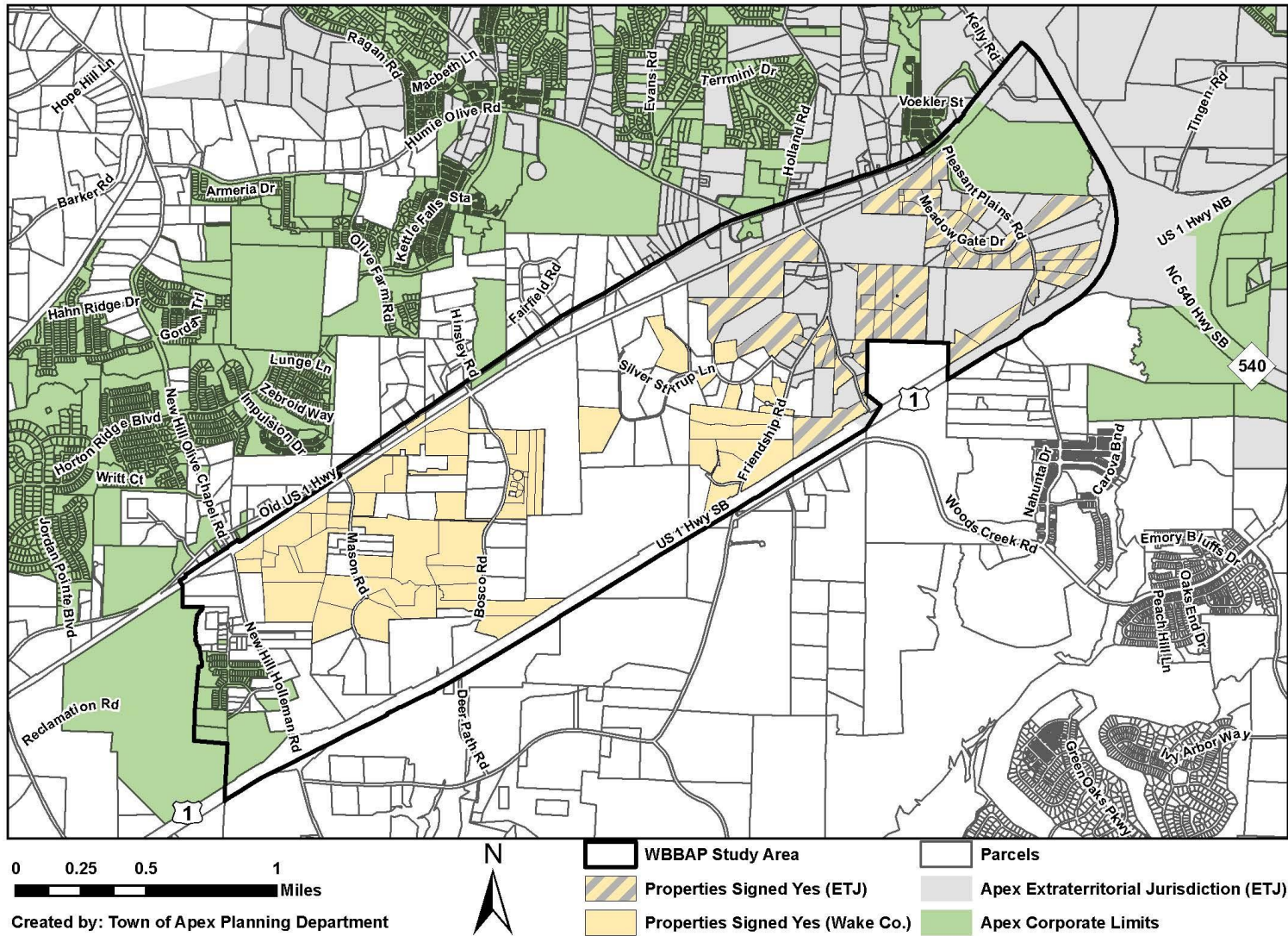


Figure 1. Properties Included in the Proposed Neighborhood Conservation Overlay District