

Seven Falls Action Plan



Henderson County Planning Board

Thursday, October 18, 2012

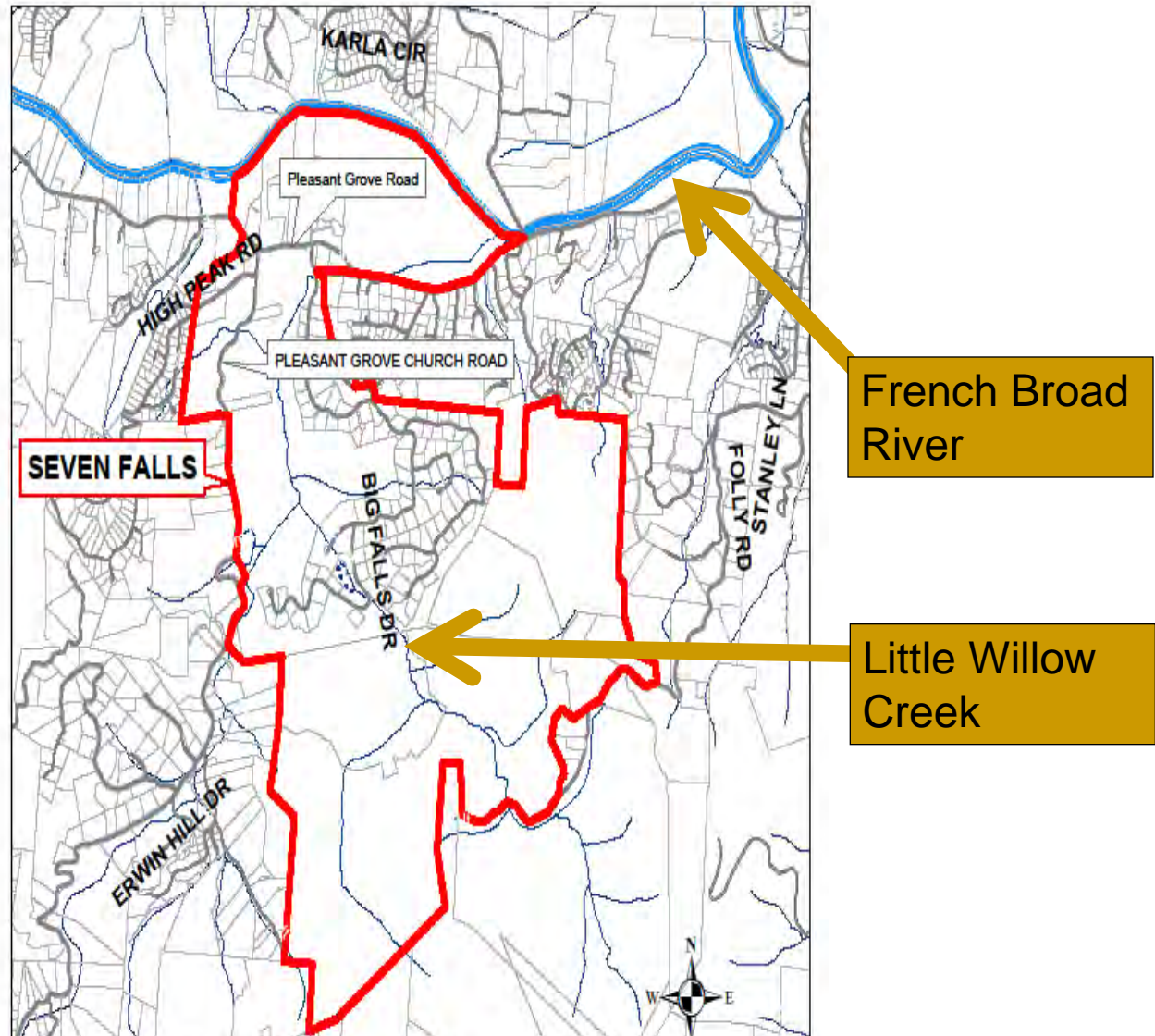
Presentation by: Anthony Starr, AICP, Planning Director

Henderson County Planning Department

Seven Falls History

- Subdivision master plan approved April 19, 2007
- Includes: 900 homes & golf course on 1,398 acres
- County approved improvement guarantee agreement (IGA) and performance bond on July 2, 2007 and developer promised to complete work by June 1, 2008
- 205 lots were platted and recorded with about 135 sold
- IGA & bond extended by 1 year to June 1, 2009 and then extended again to June 1, 2010
- Bonded infrastructure includes roads, water, & sewer with an estimated cost of \$4.8M and a \$6M bond is required (125% of engineer's estimate)

Seven Falls Development Site



Seven Falls History

- Seven Falls declares bankruptcy October 26, 2009
- Infrastructure not completed by June 1, 2010 per IGA deadline
- County declares default by the developer and calls the bond requiring payment on June 2, 2010
- Litigation with the bond company (Lexon) begins
- Superior court grants summary judgment in favor of Henderson County on August 19, 2010
- Lexon appeals to NC Court of Appeals and that court rules in favor of Henderson County on August 7, 2012
- Lexon & County settle litigation - \$6M paid to County

Seven Falls Project

- Planning Department will lead the project with a team effort including the county manager, Engineering Dept., county attorney, and private engineering firm
- Most of the engineering design has been completed by William G. Lapsley & Associates
- Some permits have not been secured or have expired
- Assuming that permits are obtained, project could be released for bid in Spring or Summer of 2013

Seven Falls Project

- Staff requested Board of Commissioners direction & guidance on several issues:
 - Engineering Services
 - Soil Erosion On-Site
 - Method of Wastewater Treatment
 - Segmentation of Bidding
 - Budget

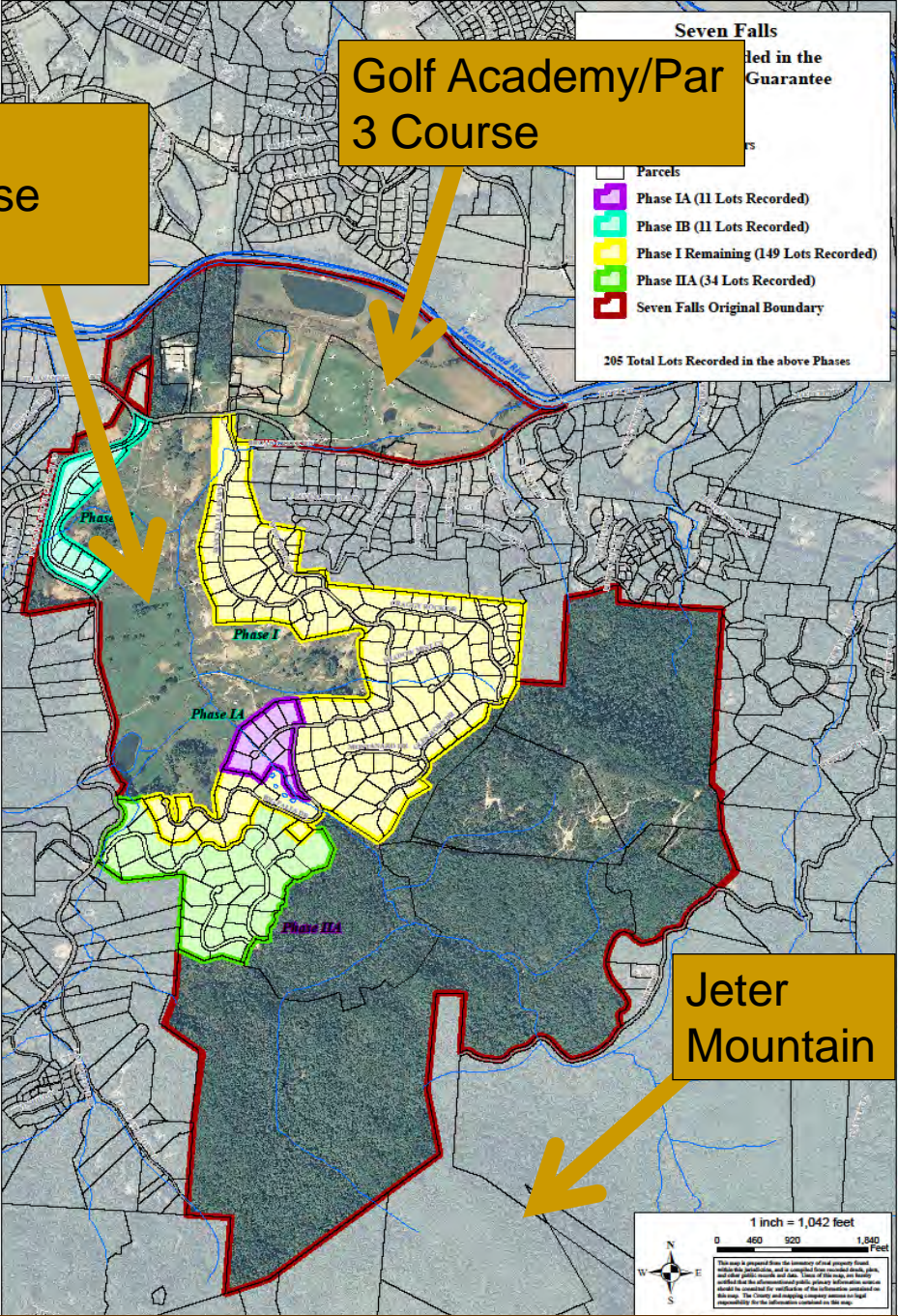
Golf Course Area

Golf Academy/Par 3 Course

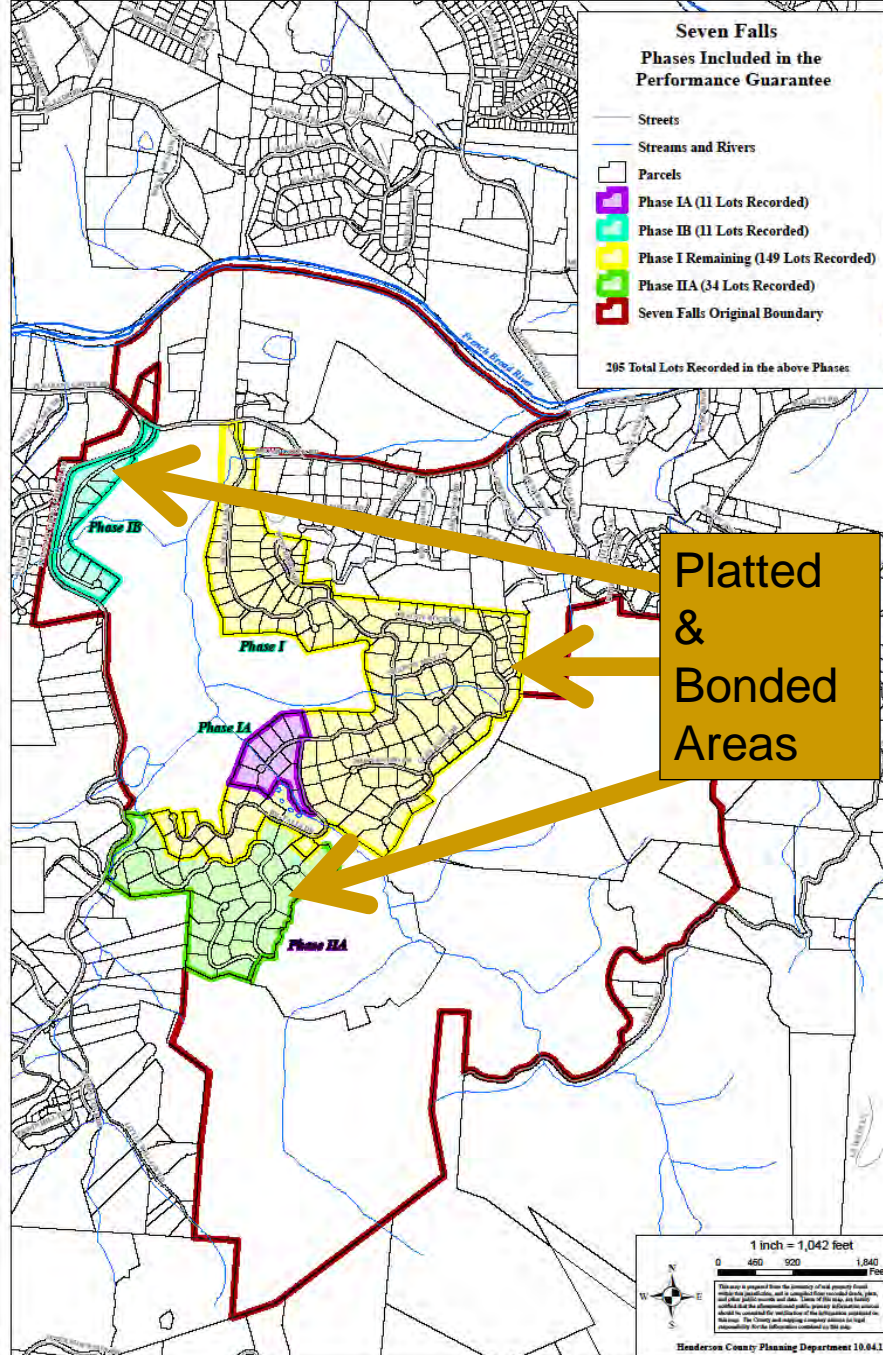
Seven Falls
...ed in the
Guarantee

- Parcels
- Phase IA (11 Lots Recorded)
- Phase IB (11 Lots Recorded)
- Phase I Remaining (149 Lots Recorded)
- Phase IIA (34 Lots Recorded)
- Seven Falls Original Boundary

205 Total Lots Recorded in the above Phases



Jeter Mountain



Seven Falls Engineering

- Lapsley & Associates (L&A) completed most of the design and has been the project engineer since the beginning
- Far more cost effective to use L&A for the remaining engineering services and construction management
- Using L&A saves 2-3 months by avoiding typical RFQ process
- L&A is very familiar with the project and could get the project ready for bidding much sooner
- New engineer would take several months to design the work and get up to speed

Seven Falls Engineering

- Engineering agreement proposes a total cost of \$146,000 (2.4% of project cost)
- A new engineer would cost \$480,000 to \$600,000 (8-10%)
- Board action was required to select the engineer and authorize an agreement
- Board can waive the normal selection process under G.S. 143-64.32
- Action: The BOC selected L&A for engineering services and construction management and authorized the Planning Director to execute a contract with L&A

Seven Falls Soil Erosion

- Soil erosion on site continues and needs immediate attention to stop from incurring additional construction costs
- County has fined the developer
- State and federal violations related to water quality remain
- Completing the bonded infrastructure will eliminate much of the soil erosion
- Bond is limited to infrastructure and associated soil erosion measures to build that infrastructure (water, roads, sewer)
- Bond cannot be used for the golf course or environmental cleanup
- Much of the soil erosion comes from the areas where roads were started

Seven Falls Soil Erosion



Photo date:
10.4.2012

Seven Falls Soil Erosion

Road
above



Photo date:
5.16.2011

Seven Falls Soil Erosion



Seven Falls Soil Erosion



Photo date:
10.4.2012

Seven Falls Soil Erosion



Significant
Erosion Around
Bridge Support

Photo date:
5.16.2011

Seven Falls Soil Erosion



Photo date:
5.16.2011

Seven Falls Soil Erosion



Photo date:
5.16.2011

Seven Falls Soil Erosion



Seven Falls Parkway Once Was Nearly Ready for Paving

Photo date: 10.4.2012

Seven Falls Soil Erosion/Rough Grading

- Ongoing soil erosion increases the cost of completing bonded infrastructure & furthers environmental damage
- County is not responsible for the soil erosion and violations but we can help mitigate further erosion by completing the bonded infrastructure
- County could immediately bid out work to re-establish proper soil erosion measures and rough grading for the bonded project area
- Action: The Board authorized the Planning Director to secure bids and execute an agreement to re-establish the soil erosion measure and complete the rough grading for the bonded area

Seven Falls Wastewater

- Original plans by the developer included construction of a new wastewater treatment plant (WWTP) discharging to the French Broad
- Developer failed to obtain the state permit (NPDES)
- Permit process for a new WWTP is at least 15 months
- Could construct a lift station and pump waste to other nearby WWTP
- Cost would be similar but much quicker
- Permit for a lift station and connections is a few weeks vs. 15+ months and a public hearing by NC DENR

Seven Falls Wastewater

- A lift station would provide the same level of wastewater service to the homes
- Could negotiate terms with Etowah Sewer or other WWTP for connection but their plant capacity may be an issue
- Other WWTPs in the area that could be considered
- Could examine feasibility of extended County wastewater service from the Cane Creek District
- Action: The BOC directed staff and L&A to examine all the potential wastewater treatment options and return to the BOC with a report as soon as possible

Seven Falls Bidding

- With the substantial soil erosion on site, new fees imposed by Duke Power (\$400k+), the \$6M may not be enough to complete all of the roads, water and sewer infrastructure.
- It is possible scale back some of the improvements and staff recommends that the County structure the bids into various segments
- Segmenting the bids would provide the flexibility to adjust the work if the \$6M is insufficient
- Action: Once the wastewater treatment is addressed, the BOC authorize staff to proceed with bidding the remaining work

Seven Falls Budget

- The bond funds were not included in the FY12 budget because litigation was pending at the time of budget adoption
- A budget amendment is necessary to provide for receipt of the funds and authorize expenditures relating to the construction
- Action: The BOC approved the \$6M budget amendment as requested

Seven Falls Potential Schedule

Action	Target Date / Timeframe
Re-establish soil erosion measures & rough grading	November-January 2012
Study Wastewater Treatment Options	November-January 2012
Complete design work & obtain permits	Spring/Summer 2013
Release request for bids (depends on permits)	Spring/Summer 2013
Begin construction	Summer 2013
Complete bonded infrastructure	February 2015 to August 2015 (about 18-24 months)

Please note that this schedule is very tentative and is subject to considerable change.

Seven Falls Project County Website

- Planning Department created a webpage specifically for Seven Falls
- Can be accessed by County's home page or Planning Department home page
- Sent letter to all Seven Falls property owners about the website with instructions to check the webpage for updates
- Website includes a detailed history of events

Seven Falls

- Questions from the Planning Board?