

3. **ANDERSON ACQUISITION, LLC ZONING MAP AMENDMENT & LOCHMERE TRACT 4-8 (STONECASE VALLEY) ZONING DEVELOPMENT PLAN**

- a. **PLN-MAR-19-00004: ANDERSON ACQUISITION, LLC (6/2/19)\***- a petition for a zone map amendment from a Single Family Residential (R-1D) zone to a Townhouse Residential (R-1T) zone, for 4.937 net (5.052 gross) acres and to a Neighborhood Business (B-1) zone, for 1.652 net (2.002 gross) acres; and from an Agricultural Urban (A-U) zone to a Townhouse Residential (R-1T) zone, for 10.668 net (11.876 gross) acres and to a Neighborhood Business (B-1) zone, for 1.040 net and gross acres, for property located at 3450 & 3550 Todds Road.

**COMPREHENSIVE PLAN AND PROPOSED USE**

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The Plan's mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World. In addition, the Plan encourages a mix of uses, housing types and/or residential densities; providing safe, affordable and accessible housing to meet the needs of older and/or disadvantaged residents; development in a compatible, compact and contiguous manner; and provision of land for a diverse workforce. (Note: the application was filed prior to the adoption of the Complete 2018 Comprehensive Plan.)

The petitioner is seeking to rezone the subject property in order to develop a mixed residential and business development comprised of 88 townhomes and a publically accessible restaurant. The proposed residential development represents a density of 5.64 dwelling units per net acre.

**The Zoning Committee Recommended: Approval** to the full Commission.

**The Staff Recommends: Approval, for the following reasons:**

1. The requested Townhouse Residential (R-1T) and Neighborhood Business (B-1) zoning are in agreement with the 2013 Comprehensive Plan, and the adopted Goals and Objectives of the 2018 Comprehensive Plan for the following reasons:
  - a. The petitioner indicates that the rezoning of the site supports infill and redevelopment throughout the Urban Service Area (Theme A, Goal #1.b. and #2). The existing clubhouse has been vacant for several years, and the driving range is no longer necessary given that the site will not operate as a golf course in the future. The proposal also maximizes development on vacant land within the Urban Service Area and promote use of underutilized land in a way that enhances existing urban form (Theme E, Goal #1.a and 1.b; Theme E, Goal #3). The applicant proposes a density of 5.64 dwelling units per acre.
  - b. The proposed development respects the context and design features of the surrounding areas and is compatible with the existing urban form (Theme A, Goal #2.b). This is particularly true for the continuation of the pinwheel type townhomes that are proposed to extend from Country Club Way.
  - c. The surrounding open space and the continued use and expansion of the pedestrian and golf cart system within the proposed development provides added amenities that reduce dependency on vehicular modes of transportation and allows for multi-modal connectivity (Theme A, Goal #2.c, Theme B, Goal #2.d, and Theme D, Goal #1.b).
  - d. The reuse of the clubhouse as a restaurant can act as a neighborhood focal point (Theme A, Goal #2.d), while also adding quality of life opportunities that attract young and culturally diverse professionals to Lexington (Theme C, Goal #2.d).
2. The existing Agricultural Urban (A-U) zone is inappropriate, and the proposed R-1T and B-1 zones are appropriate at this location because the intent for the Agricultural Urban (A-U) zone is to manage the growth of the community so to avoid premature or improper development until public facilities and services are adequate to serve urban uses. The availability of these services at this time in this area indicate the inappropriateness of the current zoning.
3. This recommendation is made subject to approval and certification of the applicable portion of **PLN-MJDP-19-00012: Lochmere, Tract 4-B (Stonecase Valley)(Andover Club)(AMD)**, prior to being forwarded to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
4. **Under the provisions of Article 6-7 of the Zoning Ordinance, the property shall be subject to the following use and buffering restrictions via conditional zoning:**
  - a. Prohibited Uses:
    1. Drive-through Facilities.
    2. Automobile service stations.
    3. Establishments with the principal purpose of the sale of beer, liquor or wine.
    4. Outdoor live entertainment.

**These conditional zoning restrictions are appropriate and necessary to minimizing the impacts of new development on the existing neighborhoods and reducing the potential for high traffic flow in and out of the proposed site.**

\* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.

- B. PLN-MJDP-19-00012: LOCHMERE TRACT 4-8 (STONECASE VALLEY) (ANDOVER CLUB) (AMD) (6/2/19)\* - located at 3375 AND 3450 TODDS ROAD.  
Project Contact: Barrett Partners

Note: The purpose of this amendment is to propose a rezoning of the property.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Provided the Urban County Council rezones the property B-1 and R-1T; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Discuss proposed duplexes in the R-1T zone.
8. Discuss vehicular cross access.

Staff Zoning Presentation – Mr. Baillie presented the staff report and recommendations for the zone change. He displayed photographs of the subject properties and aerial photographs of the general area. He said the subject property is comprised of two parcels, which are located on the south side of Todds Road, where the former Andover Country Club clubhouse and driving range were previously located. The subject property is situated between the Andover Club Villas, located to the northwest of the subject properties, and a large green space buffer owned by the Golf Townhomes of Andover Estate, located to the southeast of the subject properties. The majority of the southern portion of the site is comprised of a large greenway that was established following the purchase of the former golf course by six neighborhood associations located in the area. A portion of the Andover Hills subdivision borders the site along its southwestern edge. Across Todds Road, north and east of the subject properties, is the Andover Forest Neighborhood, which is comprised of single family detached housing.

Mr. Baillie said there are numerous established developments surrounding the subject property including the Andover Woods, Brighton East, Autumn Ridge, Andover Hills, and Andover Forest subdivisions. While there are various types of zoning surrounding the property, including the Agricultural Urban (A-U), High Density Apartment (R-4), Planned Neighborhood Residential (R-3), Single Family Residential (R-1D), and Townhouse Residential (R-1T) zones, all areas are comprised of single family residential development. The application proposes to introduce business zoning and include a potential neighborhood amenity, which will be a restaurant. The surrounding neighborhoods are mostly low density residential (0-5 dwelling units per acre), and were developed in the late 1980s and early 1990s.

Mr. Baillie said that there is a single access point into the site from Todds Road. The southeast bound portion of Todds Road has a dedicated right turn lane to allow for safe ingress into the site. The northwest bound portion of Todds Road also has a dedicated left turn lane, to allow for safe ingress into the site. Despite the safe ingress into the site via Todds Road, the widening and straightening of the roadway by KYTC has resulted in increased speeds and traffic flow. As future development continues along Todds Road, a greater focus on connectivity between local and collector streets should be sought, and new access points to arterials, like Todds Road, should be limited. Future connections should be made to collector streets that are appropriately spaced. Along Todds Road there are adequate pedestrian facilities and delineated bicycle lanes on the roadway. There is currently a shared pedestrian and golf cart pathway that connects the subject property with the surrounding neighborhoods. Additionally, there is a tunnel extending from the northwest corner of the subject property, underneath Todds Road, that connects to the pedestrian and golf cart system throughout the green space. He displayed photographs of the subject property and aerial photographs of the general area, depicting the access points and proposed location of the building.

Mr. Baillie said that the petitioner proposes to develop a mixed residential and business development comprised of 88 townhomes and a publicly accessible restaurant. He said that the proposed residential development represents a density of 5.64 dwelling per net acre. The corollary development plan filed in conjunction with this zone change depicts the development of the townhomes in two sections divided by the proposed restaurant. The townhouse development along the northwest portion of the site will connect to and mimic the architectural styles and construction methods of the Andover Club Villas. The current proposal is that they access the site off of Champions Way through Country Club Drive. There will be several structures located on this portion of the site. The 18 townhomes will be situated along an extension of Country Club Way and will loop to the south. The 70 townhomes proposed for the southeastern portion of the site will access the proposed development from the current access point along Todds Road and feed into a private road system. The applicant has indicated that they will maintain the current pedestrian and golf cart pathways and add to them, where available. The proposed restaurant will reuse and occupy the former clubhouse, with associated parking primarily located in the front of the building, with a smaller quantity of parking located in the rear. The reuse of the structure represents a non-conformity with the Zoning Ordinance in terms of a front yard setback. If, or when, an expansion of the existing structure is sought, a variance may be necessary to establish a front yard setback that aligns with the structure.

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The petitioner opines that the zone changes to the Townhouse Residential (R-1T) and Neighborhood Business (B-1) zones are consistent with the 2013 Comprehensive Plan and the adopted Goals and Objectives of the 2018 Comprehensive Plan by maintaining the Urban Service Boundary, while increasing the density of housing. The petitioner indicates that the rezoning of the site supports infill and redevelopment throughout the Urban Service Area. Additionally, the applicant opines that this proposal maximizes development on vacant land within the Urban Service Area and promotes use of underutilized land in a way that enhances existing urban form. The petitioner states that the proposed development respects the context and design features of the surrounding areas and is compatible with the existing urban form. This is particularly important for the connection with the existing construction and adding a little more density, as well as amenities that will be available to the entire neighborhood. The surrounding open space and the continued use and expansion of the pedestrian and golf cart system within the proposed development also provides the added amenities that reduce dependency on vehicular modes of transportation and allows for multi-modal connectivity, which will reduce the need for vehicles. The petitioner also opines that the reuse of the clubhouse as a restaurant can act as a neighborhood focal point, while adding quality of life opportunities that attract young and culturally diverse professionals to Lexington.

Staff is in agreement with the applicant's justification. Furthermore, while not discussed by the applicant, since the availability of services, including water, sanitary sewer and electric are available to the properties, the portions of the properties zoned A-U are currently inappropriate. The intent of the A-U zone is to manage the growth of the community to avoid premature or improper development until public facilities and services are adequate to serve urban uses. In this case, the infrastructure available to this property results in the Agricultural Urban (A-U) zoning being inappropriate at this time. The proposed rezoning of the properties to the R-1T and B-1 zones is appropriate at this time due to the established and suitable ingress and egress points available to the properties, and the compatibility with the surrounding land uses.

With the introduction of a new business zone into the area and the need to avoid those uses that can adversely impact the health, safety, and welfare of the community, staff recommends the use of conditional zoning restrictions. The B-1 zone allows for a large amount of amenities and services for neighborhoods. However, some land uses permitted in the B-1 can be high traffic generators and could result in potentially dangerous interactions at the access point on Todds Road. As such, staff recommends prohibiting drive-through facilities and automobile service stations. Additionally, the location of the proposed rezoning is located in an area surrounded by established residential development. To best protect these established neighborhoods, staff also recommends prohibiting those uses that typically result in the greatest amount of nuisance claims, including establishments with the principal purpose of the sale of beer, liquor or wine, and outdoor live entertainment.

Mr. Baillie said that the staff is recommending approval, as did the Zoning Committee for this zone change.

Commission Question – Mr. Berkley asked for verification of the establishments for principal purposes of sale of beer, liquor or wine and primarily outdoor live entertainment. Mr. Baillie said that it would just be the principal purpose of the sale of beer, liquor or wine, and outdoor live entertainment. Mr. Berkley asked if a restaurant with live entertainment on their patio will be prohibited. Mr. Baillie said that it will be, because it will be located on the back side of the zone facing neighborhoods. He added that it becomes a noise nuisance.

Development Plan Presentation – Mr. Martin presented a revised rendering of the preliminary development plan associated with this zone change. He indicated that revised conditions were distributed to the Planning Commission, as follows:

1. Provided the Urban County Council rezones the property B-1 and R-1T: otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of the treatment of greenway and greenspace.
6. Department of environmental Quality's approval of environmentally sensitive areas.
7. Discuss proposed duplexes in the R-1T zone. Replace duplexes with townhouse units prior to certification.
8. Discuss Resolve vehicular cross access at time of final development plan.
9. Revise plan to meet required 25' setback adjacent to A-U zone.
10. Provided the Planning Commission approves the waiver to Article 6-4© and 6-8(m) of the Land Subdivision Regulations.

Mr. Martin depicted on the map that the proposed dwelling units will front on Todds Road. He also pointed to the existing access to the clubhouse, which will be repurposed for this development. He said that the applicant is proposing 70 townhouses and to construct an easement access, which will mimic a street system. He also said that there is centralized greenspace. There will be an additional 18 townhomes, which will have their own separate access. He said that the golf course will be repurposed for recreational activities, and that the applicant will be utilizing the existing golf course trails for pedestrian trails.

Mr. Martin said that the applicant has submitted a waiver request for the requirement for frontage along a public street, and that the Planning Commission make a finding to approve access easements, which is common with townhouse developments. He added that by proposing a private access circulation system to access the homes, it requires a finding that it is acceptable that an access easement is being adequate in lieu of a public or private street. As part of the waiver review, the staff recommended the cul-de-sac be public, which the applicant has agreed to. The 18 townhouses that front onto Todds Road are not subject to the waiver; however, they will only have pedestrian access on the right-of-way. He said that their principal vehicular service access will be in the rear of the dwelling units.

Mr. Martin said that the staff is recommending approval of this development plan subject to the conditions listed on the report. He said that the access easements shall be constructed to the appropriate public standards. He said that the staff, the Division of Traffic Engineering and the Division of Engineering were all concerned that the depth of the pavement needs to be constructed to handle the traffic over time. He said that curb and gutter are not necessary, but will be decided in the improvement plan process, since streets are also part of the stormwater control system. He said that the staff is aware of flooding in the area and at the time that the final development plan and preliminary subdivision plan are submitted for review, the applicant will then prepare detailed infrastructure plans that will address those concerns.

Mr. Martin said that the applicant submitted a color plan, they didn't submit a revised plan to the staff on time, and therefore the revised report has some additional conditions. He said that regarding condition #7, four townhouses are actually duplexes, which are not permitted in the R-1T zone. He said that the applicant is changing those to be townhouses. He said that condition #9 requires the plan to be revised to meet the setback requirements in the A-U zone. He said that with condition #8, the staff is concerned with the vehicular movement between the two sets of townhouses, which will be resolved at the time of the final development plan.

Mr. Baillie said that Mr. Martin referenced some documentation of potential flooding, he circulated that letter and photos to the Planning Commission members.

Applicant Presentation – Mr. Dick Murphy, attorney representing the petitioner, gave a brief history of the property and said that the owner is Andover Common Property NFP, which is a not for profit comprised of six neighborhood associations. He said that Mr. Anderson and the property owner have been negotiating for the last six months, which has concluded with this plan. The Andover Common Property NFP purchased the golf course, the clubhouse, the driving range, and the swimming pool. The applicant is only purchasing the clubhouse, driving range, the swimming pool and the parking area from the property owner. He said that Andover Common Property NFP is keeping the golf course, which will become shared green-space and the paths will become pedestrian trails.

Mr. Murphy displayed a presentation to the Planning Commission and said that they are proposing 88 townhouses on the property. He displayed a color plan that has been revised, which no longer depicts the duplexes, they are now 4 units connected together. They have also made modifications to the setbacks. He said that the clubhouse will remain as it is, and is requesting to be rezoned to the B-1 zone to allow for a commercial restaurant. He said that they will utilize the entrance off of Todds Road, but reconfigure the entrance. He said that the townhouses are in a layout with the front of townhomes facing out towards Todds Road. He displayed photographs of the existing clubhouse, the entrance to the development, and the parking area. He also displayed renderings of the units, and stated that Jimmy Nash will be the builder.

Mr. Murphy said that they have received some questions of the distance between the existing Andover development and the proposed development. Mr. Barrett measured 171 feet from house to house at the closet point. He displayed a photograph of the clubhouse patio, and described it as a very attractive, brick patio with a canopy. He asked the Planning Commission to remove conditional zoning restriction #4, which prohibits outdoor live entertainment. He added that they would need to ask the BOA for approval because it's a conditional use in the B-1 zone. He said that they are in agreement with the staff recommendations, with the exception of the conditional zoning restrictions. He also asked for approval of the waiver request for the requirements of lot frontage and access easements.

Commission Questions – Mr. Owens asked how close the nearest resident will be to the restaurant. Mr. Murphy said that he doesn't have that measurement at this time. He said that the Board of Adjustment would have to review the spacing requirement in the Zoning Ordinance.

Citizen Comments – Nathan Billings, representing Andover Common Property NFP, the owner of this parcel. He said that the Andover Common Property NFP is an association of associations, with six board members that represent approximately 1,400 homeowners. The board and Mr. Anderson have met many times to agree on this plan. They are in agreement with this zone change and development plan. He said that the city has a live music ordinance for noise that crosses a residential boundary line, and therefore does not believe live music should be prohibited.

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Mr. Clyde Honaker, 3505 Doral Place, played some short video of a previous meeting with the different homeowner associations and said that as a result of these presentation, the majority of members voted to purchase this property. He said that when they voted to purchase this property they were advised that they would have 36 townhomes constructed on this property. He said that they were deceived by the Andover Common Property NFP. He also played a video of rainfall and water ponding along the rear of property and said that he is concerned with stormwater runoff. He recommended that the Planning Commission should require an environmental impact study for this area.

Rick Towner, 3529 Doral Place, said that he is not opposed to the zone change, but also has concerns with runoff stormwater. He is concerned that he can't receive a copy of the sales agreement and believes that something is being kept from them. He stated that he is not the public, he is one of the owners of this property. He said that he would like a traffic study completed in this area. He said that Crossroads Church is asking to subdivide their property and that he is concerned about the traffic increase from that development, as well. Traffic is currently high during the peak hours. He is also concerned with the reciprocal agreement to allow these new residents to use their property. He said that it's not a park, it's their private properties. He is also concerned with the building material being proposed. He distributed photographs of their houses made of brick to the Planning Commission. He asked the Planning Commission to keep the conditional zoning restriction of live entertainment. He also questioned how the cost of this property diminished over the last five years. He is also concerned of the cost of these new townhomes and that they will end up being rental units. He also requested the Planning Commission to postpone this zone change until more concerns can be resolved.

Miriam Sekhon, 620 Andover Village Place and developer of Andover Village Place, owner of Amick Homes, LLC. She is not opposed to this zone change, but is concerned with two particular units backing up to their homes. She requested that if any variances for setbacks are filed, that they be given notice. She is also concerned with the drainage and flooding in the area. She also said that their association has an 80% brick requirement for their development and stated that the proposed townhomes do not meet that standard.

Ms. Sekhon also read a letter on behalf of her neighbor, Ron Blair, 628 Andover Village Place, who was unable to attend this hearing. She read that he is also concerned about flooding on Todds Road and the increased stormwater runoff. She read that the number of units being proposed was different than promised in the past and the zone change could result in a litigation in the future. She read that the neighborhood, which is intended to be a community of a majority of single family homes with low density.

Jas Sekhon, 620 Andover Village Place, said that he is not opposed to this zone change, but is concerned with the Commission setting bad precedent by proposing B-1 in the middle of a single family residential neighborhood, which is a classic case of "spot zoning." He believes that the clubhouse should only be approved to be used as a restaurant with the conditional zoning restrictions to restrict live entertainment.

Applicant Rebuttal – Mr. Murphy emphasized that Mr. Anderson has worked with six neighborhood associations and had sent out over 300 letters of notification to the citizens, which indicates a wide agreement with and acceptance of the plan that has been presented to them. He depicted on the development plan the 200-foot buffer from the southeastern side of the property line, between the two townhome lots. That buffer area is being kept by the owners association. He also said that the existing golf course will be the greenspace for the proposed development. He said that stormwater runoff will be reviewed as it is a requirement and will be seen on the final development plan as well as on the construction plans. In regards to the traffic, he said that they were below the threshold to conduct a traffic impact study. He said that Todds Road was recently improved in this area. He said that this is the same density as the surrounding uses and the cost will be comparable, if not higher. He asked that this zone change request be approved for the staff reasons with the exception of the one conditional zoning restriction.

Citizen Rebuttal - Mr. Billings said that the Andover Common Property NFP (ACP) was represented by the six homeowners associations, and each of them had a representative on the board. Each of those representatives went back to the individual homeowners associations and received their approvals as well.

Citizen Rebuttal – Mr. Honaker said Mr. Anderson said that he wanted to work with neighborhood, and if that was the case he should be thinking about what they had voted for originally, which was 36 townhomes not 70.

Mr. Towner said that the proposed townhouses don't resemble the surrounding area. He said that restaurants come and go and his concern is what will happen in the future if it goes out of business. If it were a community center, then it could be considered a neighborhood focal point. He also believes that removing the live music restriction will be a mistake.

*Note: Planning Commission took a recess to relocate to the 7<sup>th</sup> floor conference room in the Phoenix Building at 4:57 p.m. until 5:17 p.m.*

*Note Mr. Wilson and Mr. Forester left the meeting at 5:00 p.m.  
Mr. Penn resumed as meeting Chair.*

Staff Rebuttal – Mr. Baillie clarified the measurement from the restaurant patio to the nearest residential property is approximately 320 feet.

Commission Questions – Mr. Berkley asked if the applicant will lose any units if they are required to meet the 25-foot setback. Mr. Baillie replied negatively. Ms. Wade clarified that this setback is a zoning requirement.

Ms. Plumlee said that she believes that the conditional zoning restriction for outdoor live entertainment should remain.

Mr. Nicol said that he believes that the zoning restriction for outdoor live entertainment should be removed because Mr. Murphy articulated that the Planning Commission is giving them the opportunity to ask the Board of Adjustment for a conditional use, it would not be a principal use.

Mr. Owens asked the staff for the minimal requirement for outdoor live entertainment. Mr. Baillie said that it is typically 100-foot distance from the nearest structure.

Mr. Bell asked if they have ever tested the decibel levels of the noise from outdoor live entertainment. Ms. Wade said that may be a concern of the Board of Adjustment. Mr. Murphy replied that the BOA will discuss the hours and days of the week that they are allowed, as well as the number of musicians.

Zoning Action – A motion was made by Mr. Berkley, seconded by Ms. Mundy, and carried 7-0 (Brewer, Forester, Pohl, and Wilson absent) to approve PLN-MAR-19-00004: ANDERSON ACQUISITION, LLC, for the reasons provided by the staff, removing conditional zoning restriction #4, as follows:

- a. Prohibited Uses:
  1. Drive-through Facilities.
  2. Automobile service stations.
  3. Establishments with the principal purpose of the sale of beer, liquor or wine.
  4. ~~Outdoor live entertainment.~~

Development Plan Action and Waiver Request – A motion was made by Mr. Berkley, seconded by Ms. Mundy, and carried 7-0 (Brewer, Forester, Pohl, and Wilson absent) to approve PLN- MJDP-19-00012: LOCHMERE TRACT 4-8 (STONECASE VALLEY) (ANDOVER CLUB) (AMD) AND PETITION FOR WAIVER OF LAND SUBDIVISION REGULATIONS, with the revised conditions presented by staff.