

TO: Kenton County Planning Commission Members

FROM: Emi Randall, AICP, RLA 
Director of Planning and Zoning

RE: Staff Recommendations for the Public Hearing

DATE: January 31, 2019

PDS submits the attached report and recommendation for your review prior to the scheduled February 7, 2019 public hearing. This information relates to the following agenda item:

FILE: PC1901-0003

APPLICANT: The City of Crescent Springs per Michael Baker, City Attorney

REQUEST: Proposed text amendments to the Crescent Springs Zoning Ordinance: (1) adding drive-thrus and outdoor dining as accessory uses to eating and drinking places within the NC (Neighborhood Commercial Zone); and, (2) decreasing the number of off-street parking spaces required for combination restaurants (A restaurant which provides any combination of sit down, carry out, and/or drive in services).

Staff will be prepared to address your comments and/or questions regarding the project during the public hearing. If you need additional information or clarification prior to that time, don't hesitate to contact me.

cc: April Robinson, City Clerk



Staff Report January 31, 2019

Text Amendment

Case No: PC1901-0003
Jurisdiction: Crescent Springs
Applicant: The City of Crescent Springs per Michael Baker, City Attorney
Project Manager: Andy Videkovich, AICP, Current Planning Manager

GENERAL CASE INFORMATION

1. **Request:** Proposed text amendments to the Crescent Springs Zoning Ordinance: (1) adding drive-thrus and outdoor dining as accessory uses to eating and drinking places within the NC (Neighborhood Commercial Zone); and, (2) decreasing the number of off-street parking spaces required for combination restaurants (A restaurant which provides any combination of sit down, carry out, and/or drive in services).

There are several requests within the submitted application. These requests are reviewed separately within this document to provide the clearest comprehensive review.

REQUEST 1: Adding drive-thru's and outdoor dining as an accessory use to eating and drinking places within the NC (Neighborhood Commercial Zone) (See Attachment A)

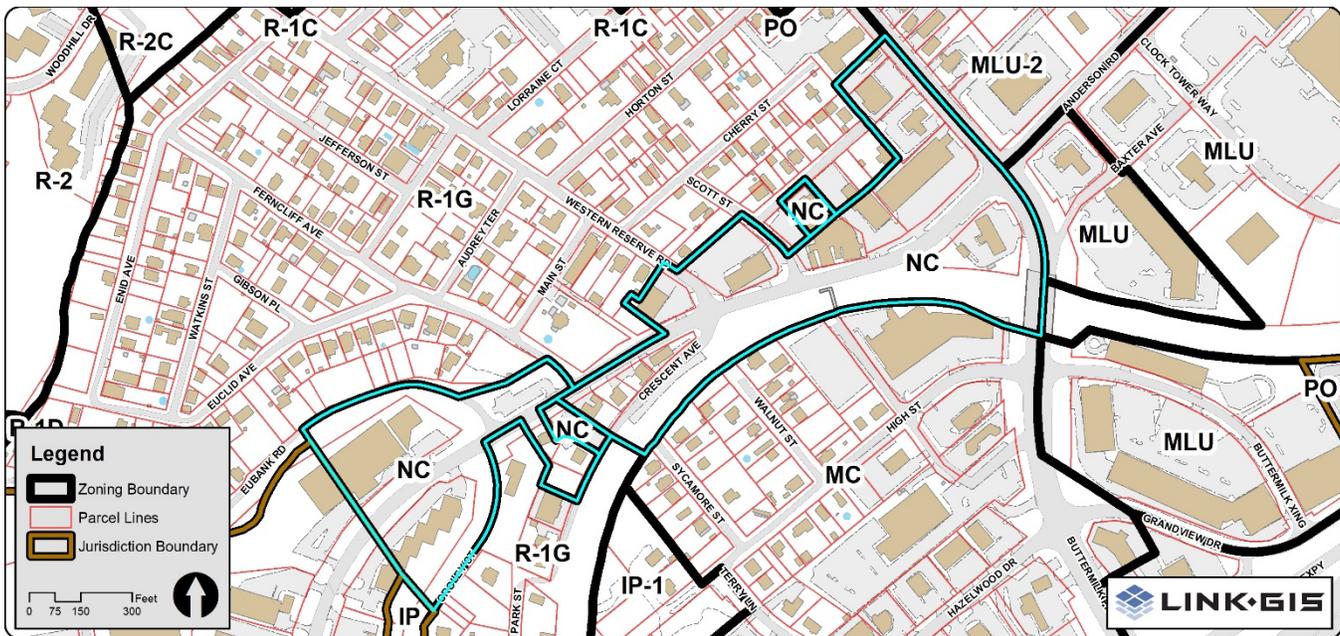
HISTORY & BACKGROUND

1. Since 1993, there have been numerous text amendments in several jurisdictions to add outdoor dining as a conditional use within the NC Zone. In all but two cases staff and the KCPC recommended favorable. In all cases the text amendments were adopted by the respective jurisdiction.

ANALYSIS

1. **Petition Review:**
 - a. The purpose of the NC Zone is primarily to provide for individual retail, service, and other uses which are oriented towards serving the daily needs of area residents.
 - b. The first part of the request will add drive-thru's as an accessory use to eating and drinking places within the NC Zone.
 - i. Under the current regulations, drive-thru restaurants are permitted in the NC Zone, but not drive-in restaurants. The current regulations allow a restaurant that does only drive-thru business.
 - ii. The proposed text amendment will only allow drive-thru restaurants if they are accessory to the restaurant operation. A restaurant must contain a sit-down or carry-out component in order to have a drive-thru.
 - iii. The NC Zone in Crescent Springs currently permits other uses with drive-ins or drive-thrus:
 - 1) Banks and other financial institutions;
 - 2) Candy stores, soda fountains, ice cream stores;
 - 3) Package Liquor and wine stores.
 - iv. Ten jurisdictions in Kenton County allow eating and drinking places with drive-thrus within the NC Zone: Bromley, Edgewood, Erlanger, Fort Mitchell, Fort Wright, Independence, Unincorporated Kenton County, Park Hills, Ludlow, and Taylor Mill.

- c. The second part of the request will add outdoor dining as an accessory use to eating and drinking places within the NC Zone.
 - i. The proposed text will include area, time, and noise restrictions on outdoor dining areas:
 - 1) The outdoor dining area must meet the required building setbacks along lot lines adjacent to residential zones or uses, and set back at least ten feet from all other lot lines;
 - 2) The outdoor dining area shall not exceed 25 percent of the indoor seating capacity;
 - 3) Live entertainment and unamplified music is permitted between 6:00 pm and 11:30 pm. Background music through the restaurant’s sound system is permitted during business hours;
 - 4) The outdoor dining shall not be operated later than midnight from Sunday through Thursday, and 2:30 am on Friday and Saturday.
 - ii. Under the current regulations, outdoor dining is allowed in Crescent Springs within:
 - 1) Permitted use: MLU-2 Zone
 - 2) Conditional use: MLU Zone
 - 3) Accessory use: MC Zone
 - iii. One jurisdiction (Park Hills) within Kenton County allows outdoor dining as a permitted use within the NC Zone.
 - iv. Six jurisdictions allow outdoor dining as conditional uses within the NC Zone: Elsmere, Erlanger, Fort Mitchell, Fort Wright, Independence, and Taylor Mill
- d. There is one area within Crescent Springs that is currently zoned NC. It is an area of approximately 20 acres located on the north and south sides of Anderson/Crescent Springs Road west of Buttermilk Pike.



STATE STATUTE

- 1. Kentucky Revised Statute (KRS) 100.203 (1) states the allowable content of zoning regulations which cities and counties may enact.

STAFF RECOMMENDATION: Favorable recommendation on the proposed text amendments adding drive-thru’s and outdoor dining as an accessory use to eating and drinking places within the NC (Neighborhood Commercial Zone).

SUPPORTING INFORMATION/BASES FOR STAFF RECOMMENDATION

1. Limiting drive-thru's to an accessory use to an eating and drinking place is reasonable. The NC Zone, as noted above, currently permits drive-thru's for other uses within the NC Zone. The proposed text amendment will allow a use similar in intensity as the existing uses within the NC Zone.
2. Adding outdoor dining as an accessory use to restaurants within the NC Zone is reasonable and appropriate. Outdoor dining adds a benefit to the community by offering a commercial amenity for residents residing in or moving through the area. The proposed text amendment also has reasonable limitations on the area, time limits, and outdoor entertainment.
3. The proposed text amendment will not be detrimental to the public health, safety, or welfare. While the proposed text amendment may increase outdoor and vehicular use activity within the NC Zone, there are buffer yard requirements between any use in the NC Zone and adjacent residential areas. There are also reasonable area, time, and noise restrictions on the outdoor dining use which will limit its impact.

REQUEST 2: Decreasing the number of off-street parking spaces required for combination restaurants (See Attachment B)

HISTORY & BACKGROUND

1. In 2007 the City of Independence requested a text amendment to decrease the number of off-street parking spaces required for all types of restaurants, including amending combination restaurants from 1 space per 40 square feet to 1 space per 100 square feet (Z-07-11-01/1898R). PDS staff and the KCPC gave this request a favorable recommendation. The City of Independence adopted Ordinance 2008-O-01, approving the proposed text amendment.
2. In 2017 the City of Taylor Mill requested a text amendment to decrease the number of off-street parking spaces required combination restaurants from 1 space per 40 square feet to 1 space per 100 square feet (PC1712-0003). PDS staff and the KCPC gave this request a favorable recommendation. The City of Taylor Mill adopted Ordinance 330, approving the proposed text amendment.

ANALYSIS

1. Petition Review:

- a. Section 11.2 SPECIFIC OFF-STREET PARKING REQUIREMENTS sets forth the required number of off-street parking spaces based upon the use of a property.
- b. Under the current regulations, establishments for sale and consumption on the premises of alcoholic beverages, food, refreshments, or for take home food service, are required to provide the following number of off-street parking spaces:
 - i. One (1) parking space for each two (2) employees on shift of largest employment plus one parking space for each:
 - 1) Thirty (30) square feet of gross floor area in a drive-in restaurant:
 - 2) One hundred forty (140) square feet of gross floor area in a carry-out restaurant:
 - 3) Sixty-five (65) square feet of gross floor area or two (2) seating accommodations, based on maximum capacity, whichever is greater, in a combination restaurant:
 - 4) Two and one-half (2½) seating accommodations, based on maximum seating capacity, in a sit-down restaurant.
 - ii. The proposed text amendment will decrease the required amount of off-street parking required for a combination restaurant to one space per 125 square feet of gross floor area or two seating accommodations, based on maximum capacity, whichever is greater.

- c. Within Kenton County, Independence and Taylor Mill require one space per 100 square feet of gross floor area. Covington requires one space per 400 square feet or one per 200 square feet, depending on the character designation of the zone. All other jurisdictions require one space per 40 square feet or one space per 65 square feet of gross floor area.

STATE STATUTE

1. Kentucky Revised Statute (KRS) 100.203 (1) states the allowable content of zoning regulations which cities and counties may enact.

STAFF RECOMMENDATION: Favorable recommendation on the proposed text amendment decreasing the number of off-street parking spaces required for combination restaurants.

SUPPORTING INFORMATION/BASES FOR STAFF RECOMMENDATION

1. The request is reasonable. It is consistent with previous cases in the City of Independence and Taylor Mill where PDS staff and the KCPC made a favorable recommendations.
2. The proposed text amendment will not be detrimental to the public health, safety, or welfare. Decreasing the required number of off-street parking spaces will reduce the amount of impervious surfaces required for development as well as increasing the amount of land available for development.

General Attachment Notice:

For ease of viewing, only those portions of the Zoning Ordinance pertaining to the requests within the submitted application have been included within these attachments. The complete zoning code can be viewed online at: www.pdskc.org

ATTACHMENT A

Proposed Text Amendments to the Crescent Springs Zoning Ordinance.
Words to be **deleted** are [~~lined through~~]. Words to be **added** are underlined.

ARTICLE X

ZONES

SECTION 10.15 NC (NEIGHBORHOOD COMMERCIAL) ZONE

A. PERMITTED USES

1. Apparel shop
2. Art supplies
3. Auto parts store
4. Bakery and bakery goods store, provided the products are sold exclusively on the premises
5. Banks and other financial institutions, including savings, loan, and finance companies with drive-in windows
6. Barber and beauty shops
7. Book, stationery, or gift shop
8. Camera and photographic supplies
9. Candy store, soda fountain, ice cream store, excluding drive-ins
10. Delicatessen
11. Drug store
12. Dry cleaning and laundry pick-up station
13. Eating and drinking places, including drive-thru's as an accessory use and excluding drive-ins
14. Electro-mechanical games center
15. Florist shop
16. Food store and supermarkets
17. Furniture store
18. Garden supplies
19. Glass, china, or pottery store
20. Haberdashery
21. Hardware store
22. Health spas
23. Hobby shop
24. Household and electrical appliance store, including incidental repair
25. Interior decorating studio
26. Jewelry store, including repair
27. Laundromats and self-service washing and drying

28. Leather goods and luggage store
29. Library
30. Locksmith shop
31. Music, musical instruments, and records, including incidental repair
32. Off-street parking lots and/or garages
33. Offices
34. Opticians and optical goods
35. Package liquor and wine store, excluding drive-ins
36. Paint and wallpaper store
37. Pet shop, excluding boarding and outside runs
38. Police and fire stations
39. Post office
40. Radio and television store, including repair
41. Service station
42. Shoe store and shoe repair
43. Sporting goods
44. Studios for professional work or teaching of any form of fine arts, photography, music, drama, or dance
45. Tailor shop
46. Toy store
47. Variety store, including notions and "five and ten" stores

B. ACCESSORY USES

1. Customary accessory uses
2. Fences and walls, as regulated by Article XIII of this ordinance
3. Signs, as regulated by Article XIV of this ordinance
4. Outdoor dining, used in connection with a restaurant, provided that such area meets the following requirements:
 - a. Such area shall be designated to clearly identify the limits of the outdoor dining area, which shall not include any drive-thru facility and shall not remove or otherwise preclude use of required parking spaces.
 - b. Such area shall meet the building setback requirements for the district along a property line adjacent to a residential use or zone, and shall be set back a minimum of 10 feet from any other property line.
 - c. Such area shall not exceed twenty five percent of the maximum seating capacity of the indoor dining area.
 - d. Live entertainment and unamplified music shall be permitted between the hours of 6:00 pm and 11:30 pm. Background music provided through the restaurant's sound system is permitted during business hours.
 - e. Outdoor dining areas shall be operated no later than Midnight, Sunday through Thursday, and 2:30 am on Friday and Saturday

C. AREA AND HEIGHT REGULATIONS: No building shall be erected or structurally altered hereafter except in accordance with the following regulations:

1. Minimum lot area - Ten thousand (10,000) square feet
2. Minimum lot width at building setback line - Seventy (70) feet
3. Minimum front yard depth - Fifty (50) feet
4. Minimum side yard width - No restrictions, except when adjacent to a street, road, highway, or other right-of-way, when the required width shall be the same as required for a minimum front yard depth in this zone. When buildings abut each other, firewall construction, as required by the building code, shall be required. In the event a side yard is provided, it shall never be less than fifteen (15) feet
5. Minimum rear yard depth - Fifteen (15) feet
6. Maximum building height - Forty (40) feet or three (3) stories
7. In the case of this zone, more than one principal building, as defined herein, may be constructed on one lot

D. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading shall be provided in accordance with Articles XI and XII of this ordinance.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers.
3. No private lighting shall be permitted which would glare from this zone onto any street, or into any residential zone.
4. Screening and landscaping shall be provided, as regulated by Section 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established for this zone.
5. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.
6. All business activities permitted within this zone shall be conducted within a completely enclosed building with the exception of off-street parking and loading and/or unloading areas, and outdoor dining areas.
7. A site plan, as regulated by Section 9.19 of this ordinance, shall be required for any use permitted in this zone.

ATTACHMENT B

Proposed Text Amendments to the Crescent Springs Zoning Ordinance.
Words to be **deleted** are [~~lined through~~]. Words to be **added** are underlined.

ARTICLE XI

OFF-STREET PARKING AND ACCESS CONTROL REGULATIONS

SECTION 11.2 SPECIFIC OFF-STREET PARKING REQUIREMENTS: The amount of off-street parking space required for uses, buildings, or additions, and changes in intensity of uses thereto, shall be determined according to the following requirements, and the space, so required, shall be stated in the application for a zoning and building permit and shall be reserved for such use. Where more than one use is located in the same building, each individual use shall be in accordance with the off-street parking requirements of this section of the ordinance.

TYPES OF USES	REQUIRED NUMBER OF SPACES
M. Establishments for sale and consumption on the premises of alcoholic beverages, food, refreshments, or for take home food service	One (1) parking space for each two (2) employees on shift of largest employment plus one (1) parking space for each: <ul style="list-style-type: none">A. Thirty (30) square feet of gross floor area in a drive-in restaurant;B. One hundred forty (140) square feet of gross floor area in a carry-out restaurant;C. [Sixty-five (65)] <u>One hundred twenty-five (125)</u> square feet of gross floor area or two (2) seating accommodations, based on maximum capacity, whichever is greater, in a combination restaurant;D. Two and one-half (2-1/2) seating accommodations, based on maximum seating capacity, in a sit-down restaurant.