

STAFF REPORT

HEARING DATE: February 13, 2019

STAFF REPORT DATE: February 6, 2019

TO: Planning Commission

STAFF: Brianna Addotta, Assistant Planner

PROPOSAL: **CU2018-0015 Castaway Extended Hours of Operation**

LOCATION: 10655 SW Beaverton-Hillsdale Hwy
Washington County Tax Assessor's Map 1S105BA, Tax Lot 01500

SUMMARY: The applicant, Me Three LLC, requests approval for extended hours of operation for their Service Business, Castaway, and their Minor Animal Care Service, Sniff Dog. The applicant is requesting 24 hour operation of both businesses. A Conditional Use is required to extend operations beyond 7:00am to 10:00pm in the CS zone when there is residentially zoned property less than 500 feet away from the business operation. There are residentially zoned properties to the west and northeast of the business.

APPLICANT/
PROPERTY OWNER: Me Three LLC
15900 SW Regatta Lane
Beaverton, OR 97006

APPLICANTS
REPRESENTATIVE: Scott Edwards Architecture, Attn: Eric Wenzel
2525 E Burnside St
Portland, OR 97214

DECISION CRITERIA: Development Code Sections 40.03 *Facilities Review*, 40.15.15.3.C *New Conditional Use*, Comprehensive Plan Policies 8.4.1.a. *Noise Impacts* and Comprehensive Plan Policy 3.7.3.d *Community Commercial*

RECOMMENDATION: Staff recommends **Approval** of **CU2018-0015 – Castaway Extended Hours**, subject to the Conditions of Approval found in Attachment C.

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Exhibit 1: <u>Exhibits by City Staff:</u>	
Exhibit 1.1 Zoning and Aerial Maps	SR4
Exhibit 2: <u>Applicant Materials</u>	Combined materials package

BACKGROUND FACTS

Key Application Dates

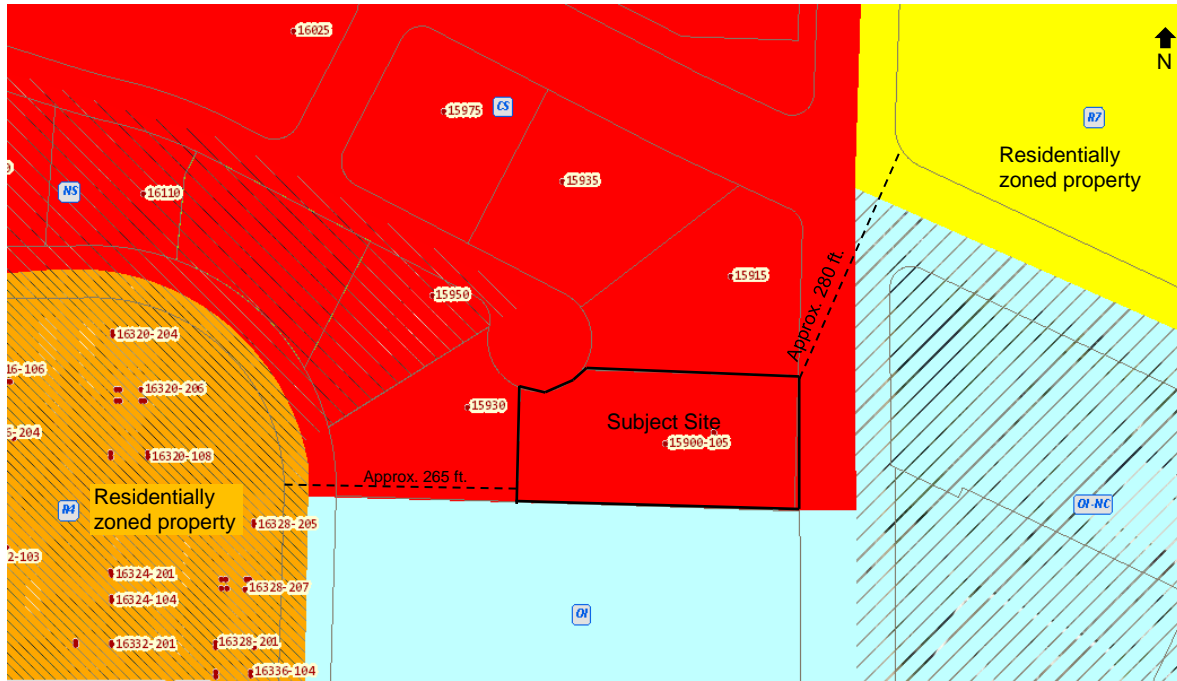
Application	Submittal Date	Deemed Complete	120-Day	365-Day*
CU2018-0015	July 2, 2018	December 26, 2018	April 25, 2019	July 2, 2019

*Pursuant to Section 50.25.9 of the Development Code this is the latest date, with a continuance, by which a final written decision on the proposal can be made.

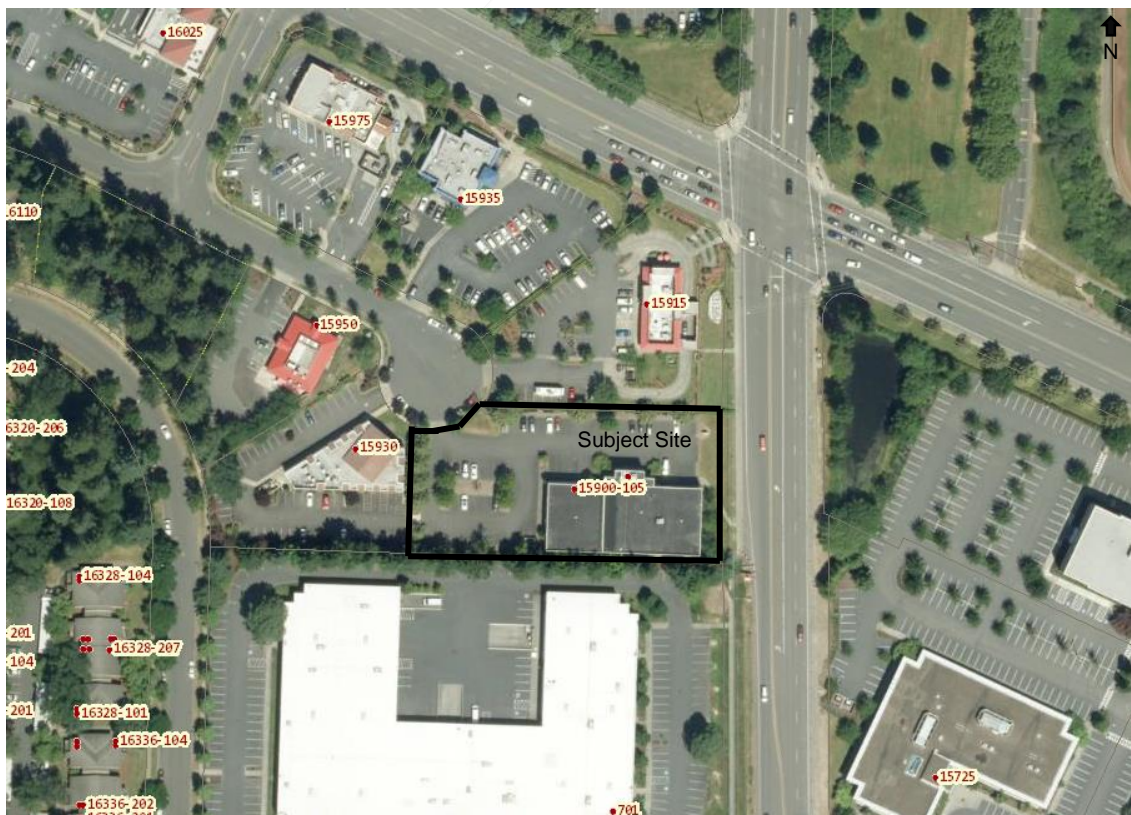
EXISTING SITE CONDITIONS

Zoning	CS (Community Service)	
Current Development	Existing Building (Former Church)	
Site Size	Approximately 1.11 Acres	
NAC	Five Oaks / Triple Creek	
Surrounding Uses	<p><u>Zoning:</u></p> <p>North: Community Service (CS)</p> <p>South: Office Industrial (OI)</p> <p>East: Office Industrial-Nike Campus (OI-NC)</p> <p>West: Community Service</p>	<p><u>Uses:</u></p> <p>North: Quick Service Restaurant</p> <p>South: Corporate Office</p> <p>East: Office Campus</p> <p>West: Quick Service Restaurant</p>

Zoning Map



Aerial Map



**FACILITIES REVIEW COMMITTEE
TECHNICAL REVIEW AND RECOMMENDATIONS
CU2018-0015 – CASTAWAY EXTENDED HOURS OF OPERATION**

Section 40.03 Facilities Review Committee:

The Facilities Review Committee has conducted a technical review of the application, in accordance with the criteria contained in Section 40.03 of the Development Code. The Committee's findings and recommended conditions of approval are provided to the decision-making authority. As they will appear in the Director's Decision, the Facilities Review Conditions may be re-numbered and placed in different order.

The decision-making authority will determine whether the application as presented meets the Facilities Review approval criteria for the subject application and may choose to adopt, not adopt, or modify the Committee's findings, below.

The Facilities Review Committee Criteria for Approval (40.03 – A through L) will be reviewed for all criteria that are applicable to the submitted application as identified below:

- A. *All critical facilities and services related to the proposed development have, or can be improved to have, adequate capacity to serve the proposed development at the time of its completion.***

Findings: Chapter 90 of the Development Code defines "critical facilities" as services that include public water, public sanitary sewer, storm water drainage, treatment and detention, transportation and fire protection. The scope of this request is limited to hours of operation, no physical changes to the site are proposed. Design Review Compliance Letter for minor changes to the site and structure was approved under DR 2018-0112 on August 13, 2018. As the Conditional Use Application under review is limited to a request to extend hours of operation the existing critical facilities are not proposed to be modified and are sufficient to serve the existing development. As no changes which would impact critical facilities apply this criterion does not apply.

Therefore, the Committee finds this criterion does not apply.

- B. *Essential facilities and services related to the proposed development are available, or can be made available, with adequate capacity to serve the development prior to its occupancy. In lieu of providing essential facilities and services, a specific plan may be approved if it adequately demonstrates that essential facilities, services, or both will be provided to serve the proposed development within five (5) years of occupancy.***

Findings: Chapter 90 of the Development Code defines "essential facilities" to be services that include schools, transit improvements, police protection, and on-site pedestrian and bicycle facilities in the public right-of-way. As discussed above, all Essential Facilities are not proposed to be modified by this proposal for extended hours of operation, therefore

this criterion is not applicable.

Therefore, the Committee finds this criterion does not apply.

- C. *The proposed development is consistent with all applicable provisions of Chapter 20 (Land Uses) unless the applicable provisions are modified by means of one or more applications which shall be already approved or which shall be considered concurrently with the subject application; provided, however, if the approval of the proposed development is contingent upon one or more additional applications, and the same is not approved, then the proposed development must comply with all applicable provisions of Chapter 20 (Land Uses).***

Finding: Staff cites the findings in the Code Conformance Analysis chart at the end of the report, which evaluates the project as it relates to applicable Code requirements of Chapter 20 for the Community Service Commercial (CS) zone, in response to Criterion C. No physical changes are proposed with this Conditional Use Application.

Therefore, the Committee finds the proposal meets the criterion for approval.

- D. *The proposed development is consistent with all applicable provisions of Chapter 60 (Special Requirements) and all improvements, dedications, or both, as required by the applicable provisions of Chapter 60 (Special Requirements), are provided or can be provided in rough proportion to the identified impact(s) of the proposed development.***

Findings: The Committee cites the Code Conformance Analysis chart at the end of this report, which evaluates the proposal as it relates to the applicable Code requirements of Chapter 60, in response to the above mentioned criteria. Staff will provide findings for the Conditional Use within the applicable sections of the staff report.

Therefore, the Committee finds the proposal meets the criterion for approval.

- E. *Adequate means are provided or can be provided to ensure continued periodic maintenance and necessary normal replacement of the following private common facilities and areas, as applicable: drainage facilities, roads and other improved rights-of-way, structures, recreation facilities, landscaping, fill and excavation areas, screening and fencing, ground cover, garbage and recycling storage areas, and other facilities not subject to maintenance by the City or other public agency.***
- F. *There are safe and efficient vehicular and pedestrian circulation patterns within the boundaries of the development.***
- G. *The development's on-site vehicular and pedestrian circulation systems connect to the surrounding circulation systems in a safe, efficient, and direct***

manner.

- H. Structures and public facilities serving the development site are designed in accordance with adopted City codes and standards and provide adequate fire protection, including, but not limited to, fire flow.**
- I. Structures and public facilities serving the development site are designed in accordance with adopted City codes and standards and provide adequate protection from crime and accident, as well as protection from hazardous conditions due to inadequate, substandard or ill-designed development.**
- J. Grading and contouring of the development site is designed to accommodate the proposed use and to mitigate adverse effect(s) on neighboring properties, public right-of-way, surface drainage, water storage facilities, and the public storm drainage system.**
- K. Access and facilities for physically handicapped people are incorporated into the development site and building design, with particular attention to providing continuous, uninterrupted access routes.**

Findings: In response to criteria E-K above, all critical facilities, circulation, grading or services are not proposed to be modified by this request for extended hours of operation, as such these criterion are not applicable.

Therefore, the Committee finds the criteria do not apply.

- L. The application includes all required submittal materials as specified in Section 50.25.1 of the Development Code.**

Findings: The applicant submitted the land use application on July 2, 2018 and was deemed complete on December 26, 2018. In the review of the materials submitted to date, the Committee finds that all application submittal requirements as required form Section 50.25.1 have been submitted.

Therefore, the Committee finds the proposal meets the criterion for approval.

**Code Conformance Analysis
Chapter 20 Use and Site Development Requirements
Community Service (CS) District**

CODE STANDARD	CODE REQUIREMENT	PROJECT PROPOSAL	MEETS CODE?
Development Code Section 20.10.20			
Uses	Service Business	A service business with 24 hour operation is a Conditional Use when located less than 500' from residentially zoned property.	Yes with CU approval
Development Code Section 20.10.15			
Minimum Lot Area	None	Lot size is not being modified with this proposal and is approximately 1.1 acres.	N/A
Yard Setbacks Minimums: Front Side Rear	10-feet (w/o ground floor residential) None None	Pre-existing structure meets setbacks, no new structures proposed.	N/A
Maximum Building Height	60 feet	No new structure is proposed.	N/A

Chapter 60 Special Requirements

CODE STANDARD	CODE REQUIREMENT	PROJECT PROPOSAL	MEETS CODE?
Development Code Section 60.05.15 Design Review Standards			
Design Review Standards	Standards pertaining to Design Review	No physical changes are proposed	N/A

**ANALYSIS AND FINDINGS FOR
CONDITIONAL USE APPROVAL
Castaway Extended Hours of Operation
CU2018-0015**

Section 40.15.15.3.C. Approval Criteria:

In order to approve a New Conditional Use application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

- 1. *The proposal satisfies the threshold requirements for a Conditional Use application.***

Findings:

Development Code, Section 40.15.15.3.A, Threshold #1 states:

- 1. The proposed use is conditionally permitted in the underlying zoning district and a prior conditional use approval for the proposed use is not already in effect.*

Uses in the Community Service (CS) zoning district which are located within 500 feet of a residential use in a residential zone, operating between 10:00 p.m. and 7:00 a.m. require a Conditional Use permit. The assembly space (Castaway) and the minor animal care business (Sniff Dog) are requesting 24 hour operation and are located approximately 265 feet away from a property zoned R4 and developed with attached housing, and approximately 280 feet away from property zoned R7 and developed as an outdoor recreation complex.

The applicant has provided a schedule of typical operations for the site:

The minor animal care facility (Sniff Dog) will be open to the public from 7am to 10pm on week days, 9am to 5pm on Saturdays and 10am to 6pm on Sundays. Up to two employees will remain inside the space overnight to watch the animals and perform janitorial and office work. There is no outdoor operation or impact to the site from the hours of 10pm and 7am.

Castaway will be open by reservation from 7 am to 1 am. They have requested additional hours of operation for load in and load out of equipment and materials; specifically from 4am to 7am preceding morning use and 1 am to 3 am following evening use. From 3 am to 4 pm use will be limited to interior cleaning. Load in and load out will require five to ten employees who will use non mechanized means to transport equipment between the space and vehicles.

The applicant notes “these types of extreme hours will rarely be needed, but will allow us to set up and install complex, high end equipment that many of the large companies in our area request [for their gatherings].”

Therefore, staff find the criterion is met.

- 2. All City application fees related to the application under consideration by the decision making authority have been submitted.***

Findings:

The applicant has paid the required fees for a Conditional Use application on July 2, 2018.

Therefore, staff finds that the criterion is met.

- 3. The proposal will comply with the applicable policies of the Comprehensive Plan.***

Facts and Findings:

Staff cites the following comprehensive plan policies and associated findings as applicable to this criterion:

Goal 3.7.3 Community Commercial: Provide for commercial services that serve the surrounding community, with limited auto-oriented uses.

Findings:

Policy 3.7.3.d reads:

Use development standards and/or conditional use review to address potential issues related to compatibility of commercial uses with adjacent housing, including noise, access and parking.

Castaway Beaverton's location at the corner of SW Walker and SW 158th, two distinctly major roads, helps give the business visibility and accessibility in order to help serve a variety of surrounding neighborhoods, which is intended in section 3.7 *Commercial Centers and Corridors* of the City of Beaverton Comprehensive Plan:

BCP 3.7: Commercial Centers and Corridors generally have an emphasis on commercial and service uses and access to major roads...The city's commercial centers and corridors provide for a wide range of businesses that meet the needs of Beaverton residents as well as visitors from around the region.

The cul-de-sac that the service business and animal care uses reside in, is shared with a number of similar service businesses and restaurants, providing a wide range of businesses to serve the community. Vehicle access will take place from SW Regatta Lane, which is a commercial cul-de-sac. There is no access from SW Estuary Drive, where the R-4 residential development takes access, so

no traffic is assumed along the adjacent street to the R-4 zone. Parking for Castaway is provided on site and the parking requirements have been addressed and approved under PD2018-0003. The site has a natural buffer of trees and shrubs along the property line's perimeter, facing the R-4 zone, which helps provide natural buffering from the commercial zone. In addition the subject site is separated from the R-4 residential properties by a restaurant as well as SW Estuary Drive.

Goal 8.4.1 Create and protect a healthy acoustical environment within the City.

Facts and Findings:

Policy 8.4.1.a reads:

Noise impacts shall be considered during development review processes.

The proposal is to extend the hours of operation for a service business which will be located on the subject property, zoned Community Service (CS) and 260' from a R4 zone (King's Court Apartments) and 280' from a R7 zone (THPRD Baseball field). The service business will be open the public from 7:00am to 1:00am. All doors and windows will be kept closed from 10am to 1am, except for normal entering and exiting of the building, to mitigate noise impact.

All equipment load in and load out between the hours of 10pm and 7am will abide by the following rules and restrictions:

- All vehicles must turn of headlights when parked.
- Vehicles will not be allowed to idle.
- Any equipment trucks with backing beepers will be turned off while maneuvering.
- Entry and exiting will only take place from Regatta lane.
- All equipment loading and unloading will take place immediately adjacent to the service business.
- Employees will only park on site.

In order to protect a healthy acoustical environment, Castaway will also follow these additional procedures, which are recommended as conditions of approval:

- The service business shall close to the public no later than 1am.
- Limiting noise amplification during the hours of 1am to 7a
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- Equipment load in and load out shall occur between 4am and 3am (23 hours a day). Activities related to this function include five to ten employees cleaning the space and the loading and unloading of equipment and furniture.
- From 3am to 4am, only activities wholly enclosed to the building shall be allowed, which will be primarily be cleaning activities.
- The adjacent minor animal care business, which is under the same ownership, shall not be open to the public between 10pm and 7am. Up to two overnight employees are allowed to occupy the space during those hours to tend to animals and perform janitorial services within the building only.

Staff finds the applicant is in compliance with the applicable policies of the Comprehensive Plan as stated above.

Therefore, staff finds by meeting the conditions of approval, that the criterion is met.

- 4. The size, dimensions, configuration, and topography of the site and natural and man-made features on the site can reasonably accommodate the proposal.***

Findings:

The Conditional Use is requested for extended hours of operation for the proposed service business and minor animal care business. The site is currently being utilized by both Castaway and Sniff Dog, this request is limited to an extension of operation. No physical changes are proposed. As the site currently accommodates the uses, staff finds that the site can adequately accommodate the proposal which is limited to extended hours of operation only.

Therefore, staff finds that the criterion is met.

- 5. The location, size, and functional characteristics of the proposal are such that it can be made reasonably compatible with and have a minimal impact on livability and appropriate development of properties in the surrounding area of the subject site.***

Findings:

The request is for extended hours of operation for a previously approved service business (assembly space) and minor animal care service business, located in separate tenant spaces in the same building, both owned and operated by the applicant. The subject property is within the Community Service zoning district and is located one property south of the south east corner of SW Walker Road and SW 185th Avenue. The property has vehicle access at the western terminus of a local street, SW Regatta Lane.

Properties to the north and west are zoned Community Service, property to the east is zoned Office Industrial- Nike Campus, and property to the south is zoned Office Industrial. These surrounding uses (quick service restaurants and office space) are compatible with the assembly space and minor animal care uses.

There is a multi-family attached housing complex zoned R4 located approximately 265 feet to the west of the property, and a Tualatin Hills Parking and Recreation Center zoned R7 approximately 280 feet to the northeast of the property, across the intersection of SW Walker Road and SW 185th Avenue.

Because the recreation center will be closed and uninhabited during the hours of 10pm to 7am, coupled with the fact that it is across a large intersection from the subject site,

impacts to the residentially zoned property to the northeast are expected to be minimal.

The applicant has provided several considerations to mitigate any impact on the multifamily development to the west. First, the applicant acknowledges there is a private lot with a quick service restaurant and a local street (SW Estuary Drive) in between their site and the residential property. There is a landscape buffer of trees between the local street and the quick service restaurant which will help buffer visual and aural impacts.

No loading berths are required for a service business of this size (4,000 square feet). For equipment loading and unloading, the applicant anticipates a flexible loading plan utilizing existing parking spaces and accesses into the building. Because the delivery trucks will not be on site at the same time as customers, parking conflicts are not expected. The applicant has agreed to a Condition of Approval prohibiting any vehicles from idling while loading or unloading and a requirement that headlights be shut off once the vehicle is in position.

Impacts from the minor animal care business from the hours of 10pm to 7am are anticipated to be negligible, as all activity will take place indoors and the business will not be open to the public at this time. There will be two employees inside the space overnight, and they will be required to park on site.

The potential impacts related to the request for extended hours of operation of the service business and minor animal care business will be minimal and will mostly take place inside the building, other than load in and load out. Staff finds that the proposal will have minimal impact on livability to nearby residences, in addition to finding that the use is compatible with the surrounding area, and is an appropriate use.

Therefore, staff finds by meeting the conditions of approval, that the criterion is met.

6. *Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.*

Findings:

The applicant has submitted the required application materials for the review of a Conditional Use application. This review process is a required step to receive City approval for the development's proposal. No additional land use applications are required concurrent with this review.

Therefore, staff finds that the criterion is met.

RECOMMENDATION

Based on the facts and findings presented, staff recommends **APPROVAL** of **CU2018-0015 (Castaway Extended Hours)** subject to the Conditions of Approval in Attachment

C.



**RECOMMENDATION AND CONDITIONS OF APPROVAL
BY THE FACILITIES REVIEW COMMITTEE:
Castaway Extended Hours of Operation
CU2018-0015**

The Facilities Review Committee finds that the proposal complies with all the technical criteria. The Committee recommends that the decision-making authority in APPROVING the proposal, adopt the following conditions of approval:

Conditional Use (CU2018-0015)

1. The Conditional Use permit shall run with the land and shall continue to be valid upon a change of ownership of the site, unless otherwise specified in conditions attached to the permit. (Planning/BA)
2. Final decision shall expire automatically two (2) years from the effective date of decision unless the approval is enacted either through construction or establishment of use within the two (2) year time period. (Planning/BA)
3. The minor animal care business shall be closed to the public from 10pm to 7am. Up to two overnight employees are allowed to occupy the space during the hours of 10pm to 7am to tend to animals and perform janitorial and security duties within the building only. (Planning/BA)
4. The service business shall close to the public no later than 1am. (Planning/BA)
5. Equipment loading and unloading shall occur between 4am and 3am (23 hours a day). (Planning/BA)
6. All vehicles shall be shut off once in place for loading and unloading- vehicle idling of any kind is not allowed between 10pm and 7am. Headlights shall be shut off once the vehicle is in place for load in and load out. (Planning/BA)
7. From 3am to 4am, only activities wholly enclosed to the building shall be allowed. (Planning/BA)
8. No sound amplification of any kind shall occur from 1am to 7am, outdoor sound amplification shall not occur between the hours of 10pm and 7am. (Planning/BA)
9. All doors and windows shall be kept closed from 10pm to 7am, except to allow for normal entering and exiting of the building. (Planning/BA)
10. No outdoor areas shall be utilized between the hours of 10pm and 7am except for the proposed loading and unloading uses.
11. All equipment loading and unloading will take place immediately adjacent to the service business. (Planning/BA)
12. Employees will only park on site. (Planning/BA)