



**ROSEBURG CITY COUNCIL
SPECIAL MEETING AGENDA
JUNE 21, 2021**

**Electronic Meeting
Public Access:**

City website at <https://www.cityofroseburg.org/your-government/mayor-council/council-videos>

Facebook Live at www.Facebook.com/CityofRoseburg

LA
6-17-2021

6:00 p.m.

CALL TO ORDER – Mayor Larry Rich

City Councilors

Beverly Cole

Bob Cotterell

Alison Eggers

Sheri Moothart

Brian Prawitz

Patrice Sipos

Andrea Zielinski

COUNCIL MATTERS

- A. Review by City Council of the Planning Commission Decision - SR-21-027
Site Plan Review for WinCo Foods

For those who would like to review or obtain a copy of the record of appeal, please contact the Community Development Department at 541-492-6750 or email at cdd@cityofroseburg.org.

ADJOURNMENT

***** AMERICANS WITH DISABILITIES ACT NOTICE *****

Please contact the City Recorder's Office, Roseburg City Hall, 900 SE Douglas, Roseburg, OR 97470-3397 (Phone 541-492-6866) at least 48 hours prior to the scheduled meeting time if you need an accommodation. TDD users please call Oregon Telecommunications Relay Service at 1-800-735-2900.

ROSEBURG CITY COUNCIL AGENDA ITEM SUMMARY



AN APPEAL OF A PLANNING COMMISSION DECISION REGARDING THE APPROVAL OF A SITE PLAN REVIEW FOR WINCO FOODS FILE NO. SR-21-027

Meeting Date: June 21, 2021
Department: Community Development
www.cityofroseburg.org

Agenda Section: Council Matters
Staff Contact: Stuart Cowie
Contact Telephone Number: 541-492-6750

ISSUE STATEMENT AND SUMMARY

Safe Streets Roseburg represented by Sean Malone, Attorney at Law, has submitted an appeal of the Planning Commission's May 17th decision approving the Site Plan Review application for WinCo Foods at 2757 NW Stewart Parkway.

A Site Plan Review application is required when new development is proposed. Site Plan Review enables the City to ensure an applicant's proposal will satisfy specific zoning requirements, safety standards, and public works requirements. See Roseburg Municipal Code 12.06.010(A) for more information surrounding the purpose of Site Plan Review. Upon approval of a Site Plan Review application, a Building Permit is then applied for and obtained through the Douglas County Building Department, which the City contracts with to provide building permit and inspection services.

BACKGROUND

A. Council Action History.

None.

B. Analysis.

On February 26, 2021, Dan Zimmerman (Tait & Associates), authorized agent of the property owner and working on behalf of WinCo Foods, submitted an application for a site plan review to demolish the existing 88,000 square foot former Kmart building and construct a new 72,971 square foot WinCo Foods grocery store. The development includes demolition of the existing building, reconfiguration of the parking lot, installation of new landscaping and other related site improvements. The site is an approximately 9.45 acre property zoned General Commercial (C3) that is located to the south of the intersection of Stewart Parkway and NW Mercy Drive. The property is described as Township 27 South, Range 06 West, Willamette Meridian, Section 12B, Tax Lot 1502, R62345 & Township 27 South, Range 06 West, Willamette Meridian, Section 11A, Tax

Lot 0501, R62282; 2757 NW Stewart Pkwy. The property also contains the Big 5 Sporting Goods building at 2655 NW Stewart Pkwy.

At the request of the applicant, the application was referred to the Planning Commission and a public hearing was held at their April 5, 2021 meeting. During the hearing three parties were qualified for party status, which included: 1) The applicant, WinCo Foods; 2) an opponent, Safe Streets Roseburg being represented by Sean Malone, Attorney at Law; and 3) an opponent, Robert and Susan Smith of Roseburg. After parties were qualified, City staff gave a presentation regarding the staff report, which included a summary of the request and review of the applicable criteria. Public testimony was provided by both the applicant, WinCo Foods and Sean Malone, Safe Streets Roseburg, regarding the application. Prior to the meeting Mr. Malone submitted a letter on behalf of Safe Streets Roseburg, which was included within the record. During the public hearing Mr. Malone provided a summary of the letter and requested that the record remain open subject to the procedures outlined within Roseburg Municipal Code (RMC) Section 12.10.010(T)(7). All parties present at the hearing agreed to leave the record open and the applicant added that they would commit to submitting final arguments on April 22, 2021.

With all parties present in agreement, the Planning Commission closed the public hearing and voted to leave the record open, subject to the aforementioned provisions. Therefore, following the April 5th hearing the record was left open as follows:

1. First Seven Days (April 6th – April 12th) – This time frame was for new evidence.
 - a. The City received two written submittals during this timeframe. One from WinCo Foods and one from Safe Streets Roseburg.
2. Second Seven Days (April 13th – April 19th) – This time frame was limited to rebuttal to existing evidence in the record.
 - a. The City received two written submittals during this timeframe. One from WinCo Foods and one from Safe Streets Roseburg.
3. Applicant's final written argument (April 20th – April 22nd) This time frame was limited to the applicant's final written argument.
 - a. The City received final written arguments from WinCo Foods on April 22, 2021.

All of the materials submitted prior to, during and following the public hearing, which constitutes the record of the proceedings, were provided to City Council for their review on June 8, 2021, within a binder entitled "City Council Special Meeting – June 21, 2021."

Since that time, a letter submitted by the applicant on June 15, 2021, addressed to the Mayor and City Council, was received and is included as Attachment #1, to this memo for your review. This letter addresses the primary reasons for which Safe Streets Roseburg has appealed the Planning Commission's decision to approve the WinCo Foods Site Plan Review. The letter indicates how both WinCo Foods, City staff, and ultimately the

Planning Commission disagree with Safe Streets Roseburg and have found that the application does satisfy the development codes, in which Safe Streets Roseburg contends it has not.

An in depth summary of the testimony submitted into the record can be found on pages 2-5 of the May 3rd, 2021 staff report, included within Attachment #4 of your City Council Special Meeting – June 21, 2021 binder.

The Planning Commission met on May 3rd, 2021 to deliberate over the materials submitted into the record and provide a motion regarding their decision. The Planning Commission unanimously moved to direct the applicant, WinCo Foods, to prepare findings of fact approving the application as presented within File SR-21-027. Those findings of fact were adopted by the Planning Commission on May 17th, 2021 and are attached as the Planning Commission's written decision approving the application of WinCo Foods. These findings of fact and order are included as Attachment #2 of your City Council Special Meeting – June 21, 2021 binder.

Pursuant to RMC Section 12.10.010(X), the City received a timely appeal from Safe Streets Roseburg, represented by Sean Malone, Attorney at Law. Therefore, the City Council shall review the decision of the Planning Commission and the review by the City Council shall be confined to the record of the proceedings from the Planning Commission's decision.

The appeal letter, dated June 1, 2021 (Attachment #1 within the City Council Special Meeting – June 21, 2021 binder), raises issues that reflect the concerns raised by Safe Streets Roseburg, as they are contained within the record. The issues consist of two main areas of concern:

1. The appellant contests that the applicant has failed to design a parking lot that provides safe pedestrian access throughout the site.
2. The appellant contests that the traffic impact study (TIS) submitted by the applicant is deficient and that it should include additional items within the scope of the study and should recommend additional physical construction improvements to Stewart Parkway.

Staff supports the Planning Commission's findings of fact (Attachment #2 within the City Council Special Meeting – June 21, 2021 binder), which provides adequate evidence of the application's compliance with the applicable sections of Chapter 12 of the Roseburg Municipal Code. Additionally, staff provided brief responses to the concerns raised, which are provided within pages 5-6 of the May 3rd, 2021 Planning Commission Staff Report, which can be found within Attachment #4 of the City Council Special Meeting – June 21, 2021 binder. Staff recommends that City Council affirm the May 17th, 2021 decision approving the applicant's request and adopt the Planning Commission's Findings of Fact and Order as their own.

C. Financial/Resource Considerations.

No direct financial impact to the City will occur as a result of the request.

D. Timing Considerations.

Pursuant to Oregon Revised Statute 227.178 ("120 rule"), the City is legally obligated to render a decision within 120 days of receiving a land use application and upon deeming said application complete. As it relates to the WinCo application, the 120 days elapsed on June 14th, 2021. However, the applicant has provided the City a waiver to the 120-day rule allowing the extension of the City's decision to June 21st, 2021. Therefore, the City is legally obligated to render a decision regarding the applicant's request, unless the applicant is willing to grant an additional extension to the 120-day rule.

COUNCIL OPTIONS

1. Affirm the Planning Commission's Decision and adopt the Planning Commission's Findings of Fact and Order for File No. SR-21- 027; or
2. Modify or overturn the Planning Commission's decision.

STAFF RECOMMENDATION

Staff recommends that City Council affirm the Planning Commission's decision and adopt the Planning Commission's Findings of Fact and Order, as contained within File No. SR-21-027, upholding the Planning Commission's May 17th decision and approving the site plan review application for WinCo Foods.

SUGGESTED MOTION

"I MOVE TO AFFIRM THE PLANNING COMMISSION'S DECISION AND ADOPT THE FINDINGS OF FACT AND ORDER APPROVED BY THE PLANNING COMMISSION FOR FILE NO. SR-21-027."

ATTACHMENTS:

Attachment #1 – WinCo Foods Letter to Mayor and Council regarding Safe Streets Roseburg appeal of the Planning Commission's Decision – June 1, 2021



Kelly S. Hossaini
kelly.hossaini@millernash.com
503.205.2332 (direct)

June 15, 2021

VIA EMAIL
RHOFFMAN@CITYOFROSEBURG.ORG

Mayor Larry Rich and
Roseburg City Council
900 SE Douglas Ave
Roseburg, OR 97470

Subject: File No. SR-21-027; Appeal of Site Plan Review Approval for WinCo Foods

Dear Mayor Rich and Councilors:

We represent WinCo Foods with respect to the above-referenced Site Plan Review application. WinCo is excited to be coming to Roseburg. For many years, Roseburg residents have been communicating with WinCo about their desire for a store in your community. A quick search of social media sites, such as Facebook, show Roseburg residents are very excited about this project. As such, WinCo has been looking for a suitable location in your community for a long time. Repurposing the old Kmart property for a new WinCo provides an additional value grocery shopping option for the citizens of Roseburg, and puts a vacant site back into productive use. Currently, the site of the proposed WinCo site contains an old store shell that will be torn down and replaced with a new structure. The parking lot, which is currently a bare asphalt field, will get a new surface, new landscaping, and new pedestrian facilities laid out consistent with WinCo's commitment to safety. WinCo worked carefully with its development team and your City's planning staff to ensure that the new WinCo will be an attractive and safe contribution to your community. We believe that the development approved by the Planning Commission decision achieves that goal. The Planning Commission heard all of the testimony during its hearing, and read all of the written submittals. Its decision reflects its correct understanding of the Roseburg Municipal Code ("RMC" or the "Code"), the relevant law, and WinCo's proposed development.

Safe Streets Roseburg ("SSR") appealed the Planning Commission's decision on a number of bases. First, SSR contends that the WinCo parking lot does not meet the requirements of the

4812-4127-2813.2

Code. Both staff and the Planning Commission disagreed and have found that it does. In fact, staff specifically noted in the May 3, 2021, staff report:

The applicant has submitted a pedestrian circulation plan within their proposed parking lot that provides more pedestrian walkways and access points than what has been required of other large retail stores constructed within the City such as Safeway, Albertsons, Wal-Mart, Home Depot, Lowes and Costco. Page 5.

WinCo's development team has ensured that there are the appropriate pedestrian walkways and improvements throughout the site, including concrete sidewalks, speed bumps, crosswalk striping, and "safety yellow" striping when pedestrian paths cross vehicular traffic. WinCo has also designed the parking lot so that shoppers pushing grocery carts can maneuver safely and efficiently through the lot, without having to push heavy carts full of groceries between vehicles. WinCo also expanded the drive aisles by two feet over the Code requirement to provide additional spacing for both pedestrians and vehicles. WinCo's architect has over 15 years of experience designing grocery store shopping centers, and has used that knowledge and experience to prepare this new store design.

SSR also contends that WinCo's TIS does not meet the Code requirements. Both staff and the Planning Commission disagreed and have found that it does. WinCo's transportation engineer worked closely with staff prior to submitting the application for the new store in order to prepare a scope of work and an analysis methodology for the transportation impact study ("TIS"). That scope of work and methodology were approved by staff and the TIS conforms to it. SSR disagrees with several methodological aspects of the TIS, but SSR's disagreement is simply that. At its core, the Code requires that an applicant "[u]tilize a Scope of Work and an Analysis Methodology approved or accepted by the Community Development Director."

RMC 12.06.020.C.2.a. That is what WinCo did.

The results of the TIS dictated the need for site design changes, which WinCo has incorporated, such as a relocated east access to Stewart Parkway that is restricted to right-in/right-out movements, a median in Stewart Parkway, and a restricted right turn at the Mercy Drive/Stewart Parkway intersection. Using the approved scope of work and methodology, the TIS did not show a need for improvements to offsite intersections, as all but one functioned

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consistently with City standards both with and without the WinCo in 2022, which is the year in which the store will open. With respect to the one intersection that did not meet the City's mobility standard in 2022, the Stewart Parkway/Edenbower Boulevard intersection, that intersection does not currently meet the standard and the new WinCo store will have only a slight impact on it. According to SSR, however, the City should require WinCo to improve every intersection that may experience mobility or capacity issues over the next 20 years even if WinCo is demonstrably not the cause of those issues. That request is not reasonable, and would also not be constitutional.

WinCo takes its commitment to community and shopper safety seriously and believes that it has proposed a development that supports that commitment. Both staff and the Planning Commission have found that the proposed development meets all requirements of the Code and exceeds those requirements in some cases. Therefore, WinCo respectfully requests that you deny SSR's appeal and uphold the Planning Commission's decision approving WinCo's site plan review application.

Very truly yours,



Kelly S. Hossaini