

RESOLUTION 2023-097

A resolution conditionally approving Boulder County Community Planning & Permitting Docket SU-18-0011: Mackintosh Academy

Recitals

A. Katie Christensen, on behalf of Mackintosh Academy (the “Applicant”), requested Special Review approval under Article 4-600 of the Boulder County Land Use Code (the “Code”), and Site-Specific Development Plan approval to amend SU-06-0015 for an Educational Facility.

B. The subject property is located at 6717 S. Boulder Road, on the northwest corner of its intersection with Ed’s Way, in Section 2, Township 1 South, Range 70 West, in an Estate Residential zoning district of unincorporated Boulder County (the “Property”).

C. In 1995, the Sacred Heart of Mary Parish and The Abbey of St. Walburga applied to have their 154-acre property divided into 4 parcels, to expand the church, and to establish an Educational Facility (the Bridge School). This application was approved in 1997, and one of the parcels created (Parcel 4) was purchased for open space by the City of Boulder. The City of Boulder also obtained a conservation easement over the north portions of Parcel 2 and Parcel 3. Parcel 1 remains in the ownership of the Archdiocese of Denver. The conditions of approval of the Bridge School included the establishment of a “no build” area on Parcel 2 as well as other conditions related to necessary facilities and improvements, and a student limit of 75 students. The Bridge School approval was amended various times prior to the Applicant purchasing the Property.

D. The Applicant began operating on the Property in 2010. In 2018, the Applicant sought to modify the previous approvals to allow construction of a 9,109-square-foot building resulting in 30,000 square feet of Floor Area on the site, increase the pre-K to 8th grade student numbers to 190, increase staff numbers, and eliminate the 9-12 High School grades. The application was considered by agencies and staff multiple times (June of 2018, September of 2019, June of 2021) but was not presented to Planning Commission.

E. The Applicant now proposes the construction of a new 4,355-square-foot and 30-foot high multipurpose building and the removal of existing Floor Area to ensure the overall maximum is maintained, the reduction of the “no-build” area put in place by previous approvals to allow the construction of the new building, an increase in student numbers to 190, the removal of the limitation on staff numbers, elimination of the High School element, a revised building plan, site improvements including updated site access, parking lot configuration, and circulation plan, a transportation demand management plan, site

landscaping, new drainage plan and new water and sewer connections to existing updated systems.

F. The Boulder County Planning Commission (the “Planning Commission”) considered the application at a public hearing on April 19, 2023. The Planning Commission unanimously recommended approval subject to the conditions of approval listed in the staff recommendation along with amending conditions 17 and 18. The Planning Commission certified the docket for action to the Board.

G. The above-described request was processed and reviewed as Boulder County Community Planning & Permitting Docket SU-18-0011 (the “Docket”), as further described in the memorandum and written recommendation to the Board by Boulder County Community Planning & Permitting Department planning staff dated July 13, 2023, together with its attachments (the “Staff Recommendation”). The Staff Recommendation found that the Docket could meet the criteria for approval, and therefore, recommended that the Board conditionally approve the Docket.

H. At a public hearing on the Docket held on July 13, 2023 (the “July 13 Public Hearing”), as further reflected in the official record of the July 13 Public Hearing, the Board considered the Staff Recommendation as well as the documents and testimony presented by Community Planning & Permitting Department staff. The Board also heard testimony from Lyn Eller, Katie Christensen, and Danica Powell on behalf of the Applicant. Three members of the public spoke at the July 13 Public Hearing. Commissioner Marta Loachamin was excused from the July 13 Public Hearing.

I. The July 13 Public Hearing was tabled for deliberations to October 17, 2023 (the “October 17 Public Meeting”), as further reflected in the official record of the July 13 Public Hearing and the October 17 Public Meeting, the Board considered the Staff Recommendation as well as the documents and testimony presented by Community Planning & Permitting Department staff. The Board also heard testimony from Katie Christensen and Danica Powell behalf of the Applicant. Public testimony was not taken at the October 17 Public Meeting.

J. Based on the July 13 Public Hearing and the October 17 Public Meeting, the Board finds that the Docket meets the criteria for special use approval, as set forth in Articles 4-601 of the Code, subject to the conditions stated below.

K. Therefore, the Docket can be approved subject to the conditions stated below.

Therefore, the Board resolves:

Docket SU-18-0011 is approved on the basis and terms set forth in this Resolution, above, and subject to the following conditions:

1. Within one year of approval, the Applicant shall provide a Development Agreement to the Community Planning & Permitting Department for review and approval prior to the issuance of a license or any permits and prior to the recordation of said agreement.
2. Prior to the issuance of any building or grading permit related to the parking lot expansion, the Applicant shall provide the details regarding the required EV charging station installation. The installation of the EV charging facilities shall occur as part of the parking lot expansion.
3. Prior to the issuance of any building or grading permit associated with the parking lot expansion or construction of the new building, the Applicant shall provide a site lighting plan for review and approval which demonstrates that all proposed exterior site lighting meets the requirements found in Article 7.
4. Prior to issuance of any permit for the new building the Applicant shall demonstrate compliance with applicable Public Health regulations including but not limited to those associated with childcare and the use of the kitchen in the new building.
5. Prior to the issuance of any building or grading permit, the Applicant shall submit a revegetation plan for review and approval.
6. At the time of building or grading permit, the Applicant must work with the Public Works Department to obtain a Stormwater Quality Permit.
7. Prior to the issuance of a building permit for the new structure the Applicant must provide a letter from the City of Lafayette indicating that adequate water service and facilities are provided to the site and that the building permit may be issued.
8. The Educational Facility will serve pre K-8th grade students and shall not include students beyond 8th grade.
9. The “no-build” area may be reduced to allow for the construction of the new building. The revised “no-build” area must be documented in the Development Agreement as an exhibit.

10. The maximum allowed Floor Area on the site is 25,000 square feet. The Applicant must obtain building permits for the deconstruction of all Floor Area so that the overall Floor Area on the Property can be tracked over time. A building permit for the new structure shall not be issued until there is a sufficient reduction in existing Floor Area so that the 25,000-square-foot limit is observed.

11. Prior to the issuance of a building permit the exterior color of the new building must be reviewed and approved by Staff. Colors must be medium to dark earth tone colors to mitigate the visual impact of the building.

12. Prior to any application for any building or grading permits, the Applicant must develop a wildfire mitigation plan for the site, and the plan must be reviewed and approved by a county wildfire mitigation specialist.

13. The full implementation of the proposed Transportation Demand Management Plan is required. This plan must be included in the Development Agreement.

14. The Applicant must install a crosswalk at Ed's Way and develop a signing plan for the crosswalk. Prior to execution of the Development Agreement, the signing plan must be approved by county staff. The plan must be implemented prior to increases in student population or within a timeframe agreed to within the Development Agreement.

15. The Applicant must develop mitigation measures to facilitate a safe crossing of South Boulder Road from the bus stop on the south side of the road. Prior to execution of the Development Agreement, the mitigation plan must be approved by the Public Works Department and included in the Development Agreement. The plan must be implemented prior to any increase in student population or within a timeframe agreed to within the Development Agreement.

16. Prior to execution of the Development Agreement, a dimensioned parking plan that demonstrates compliance with the Boulder County Multimodal Transportation Standards including but not limited to the provision of sufficient bicycle parking and ADA compliant spaces must be provided.

17. With the exception of the 25 annual school events, this approval allows a 240-person typical daily occupancy of the site which permits the requested 190 students and 50 staff members. This approval recognizes that occupancy during periods of the day may fluctuate upwards to accommodate visitors to the site.

18. Twenty-five annual school related events are permitted under this approval. No other events are authorized except as expressly provided herein.

19. Outdoor amplification will be allowed on the new building facing campus inward only between the hours of 8 AM and 5 PM, with occasional performances/gatherings that must end by 9 PM.

20. The Applicants shall be subject to the terms, conditions, and commitments of record and in the file for Docket SU-18-0011: Mackintosh Academy.

[Signature Page to Follow]

A motion to approve the Docket was made by Commissioner Marta Loachamin, seconded by Commissioner Ashley Stolzmann, and passed by a 2-1 vote. Commissioners Marta Loachamin and Ashley Stolzmann voted in favor, and Commissioner Claire Levy voted opposed.

ADOPTED as a final decision of the Board on this _____ day of December 2023.

**BOARD OF COUNTY COMMISSIONERS
OF BOULDER COUNTY:**

Claire Levy, Chair

Ashley Stolzmann, Vice Chair

Marta Loachamin, Commissioner

ATTEST:

Clerk to the Board