

RESOLUTION OF THE BOARD OF EDUCATION
OF
DOUGLAS COUNTY SCHOOL DISTRICT RE-1

Whereas on July 24, 2017, Milestone Academy Charter School came before the Douglas County Planning Commission to request approval of a Location and Extent application for a 700-student charter school serving Kindergarten through 10th grade;

Whereas the Douglas County Planning Commission declined to approve Milestone's Location and Extent Application, and requested a hearing before the Douglas County School Board (*see* Attachment 1);

Whereas on August 15, 2017, the Douglas County Planning Commission came before the Douglas County School District, in a hearing under Colo. Rev. Stats. § 22-32-124(1.5)(a);

Whereas Colo. Rev. Stats. § 22-32-124(1.5)(a) provides that a "charter school then may proceed with its site development plan unless prohibited from doing so by school board resolution";

Whereas on August 15, 2017, the Douglas County School Board, in a 4-3 vote, enacted a resolution stating that "the Board uphold[s] the Planning Commission's recommendation or ruling";

Whereas the Douglas County School District is now in possession of an opinion letter (*see* Attachment 2), drafted by counsel for Milestone Academy Charter School and dated August 22, 2017, stating that the Douglas County Planning Commission lacked any authority to deny the application, and thus that the Douglas County School Board could not technically "uphold" that ruling on August 15, 2017;

Whereas the opinion letter concludes by stating that "by operation of Colorado law ... Milestone Academy is free to proceed with the site development";

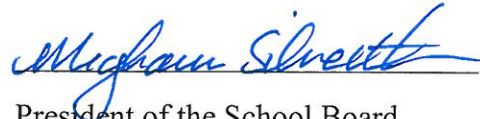
Whereas the Douglas County School District and its School Board are in disagreement with the conclusion of the opinion letter presented to Milestone Academy Charter School;

Now, therefore, be it resolved that there is no ambiguity in the Douglas County School Board's August 15, 2017 vote, and the School Board hereby clarifies that regardless of the Douglas County Planning Commission's authority, the School Board's vote on August 15, 2017, affirmatively prohibited Milestone Charter School from proceeding with the Location and Extent application previously presented to the Douglas County Planning Commission;

Be it further resolved that this resolution states that Milestone Charter School is prohibited from proceeding with the plans detailed in the Location and Extent application previously presented to the Douglas County Planning Commission;

Be it further resolved that to the extent permissible under Colorado law, this prohibition is effective *nunc pro tunc* or retroactive to August 15, 2017.

ADOPTED AND APPROVED this September 5, 2017

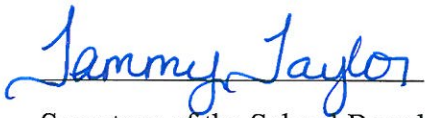
A handwritten signature in blue ink that reads "Meghan Silverthorn". The signature is written in a cursive style and is positioned above a horizontal line.

President of the School Board

Ms. Meghann Silverthorn

Douglas County School District RE-1

ATTEST:

A handwritten signature in blue ink that reads "Tammy Taylor". The signature is written in a cursive style and is positioned above a horizontal line.

Secretary of the School Board

Ms. Tammy Taylor

Douglas County School Board

MILESTONE CHARTER HOLDINGS, LLC
775 W. 1200 N., SUITE 100
SPRINGVILLE, UT 84663

August 8, 2017

Douglas County School District Board of Education
620 Wilcox Street
Castle Rock, CO 80104

Subject: School Board Hearing for the Milestone Academy Charter School Land Use &
Location & Extent Review

On July 24, 2017 the Douglas County Planning Commission held a public hearing for the sole purpose of considering the Milestone Charter School's Location and Extent plan for the construction of a school in Douglas County. At that hearing the Planning Commission declined to approve the Location and Extent plan and requested an additional public hearing before the Douglas County Board of Education to consider only the location and extent of the Milestone Charter School. This package is provided in response to the Douglas County Planning Commission letter dated July 25, 2017 – Attachment 1.

1. Traffic and Arterial Roads – Attachment 2. Douglas County acknowledged at the commencement of the process in their June 4, 2017 Location and Extent Staff Report that, “Access related improvements will require approval from the Town of Castle Rock, being the owner of the adjacent roadway.” In the Douglas County Department of Public Works Engineering Services letter dated June 7, 2017, this requirement was again stated as was, “The school should be required to adjust their TPMP [Traffic Parking and Management Plan] procedures and/or provide additional onsite stacking to mitigate impacts to the ROW if needed. In Attachment 1, Douglas County stated concerns about traffic generated by a 700-student K-10 school. These and other similar concerns were discussed, commented and revised in coordination with the Town of Castle Rock and Douglas County. A summary of coordination and responses with the Town of Castle Rock and Douglas County is provided in Attachment 2. All of the concerns raised by the Town of Castle Rock were addressed prior to the public hearing before the Planning Commission. In an email on July 24th, prior to the hearing, we received an email from the Town of Castle Rock Planning Staff POC, “We are good on the TIA and TMP.”

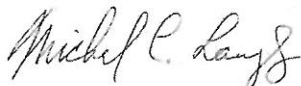
There were no specific issues raised by the Planning Commission with respect to the traffic plans. Instead, as noted in the letter dated July 25, 2017, a general comment concerning the possible volume of traffic was the extent of the discussion. These issues were addressed in detail in the TIA and TPMP and were all approved by the Town of Castle Rock. There is no information in the record that would support any general concerns regarding the volume of traffic that can be reasonably expected as a result of the Location and Extent plan at issue.

2. Potential School Expansion – Attachment 3. In Attachment 1, Douglas County stated concerns that Milestone was already considering doubling the campus size and adding grades 11 – 12. This is correct; to not master plan the school and its 38 acre site would be unprofessional, inefficient and costly. However, oversight and implementation of any expansion will require additional studies, plans and approvals by the Town of Castle. Attachment 3 contains our comments provided during the Planning Commission meeting and in discussions and correspondence with the Town of Castle Rock.

Specifically with regard to the issue before the Board of Education, the current Location and Extent plan does not include the future expansion. The proposed Location and Extent plan is for the 700 student building and the necessary infrastructure to support that construction. The concerns expressed regarding future expansion are not at issue at this time.

3. Design of Access Improvements – Attachment 4. As Douglas County stated above, “Access related improvements will require approval from the Town of Castle Rock, being the owner of the adjacent roadway.” The Douglas County commission expressed concerns there were outstanding design issues. This is a non-issue. Milestone has agreed to the design concepts coordinated with the Town of Castle Rock. Design, design approval and construction will be completed before the school opens. A summary of activities and results of these is provided in Attachment 4.
4. Community Outreach – Attachment 5. In coordination with the Town of Castle Rock, a neighborhood meeting on the project was held on May 4, 2017. Additionally, there has been extensive coordination with neighbors requiring access through the property and with our largest neighbor – Faith Lutheran Church. Lastly, there has been extensive school marketing outreach. These activities and results are provided in Attachment 5.
5. We believe our detailed design and planning; and our approach and coordination with public and private stakeholders has been thorough. We will provide a quality school to the Douglas County School District and to Douglas County citizens at no additional expense to the taxpayers and with minimal impacts. We welcome any questions or comments so we can help put any reservations and so the project can proceed.

Respectfully,



Mike Langley
Project Manager

Attachments:

1. Douglas County Planning Commission letter dated July 25, 2017
2. Traffic and Arterial Roads
3. Potential School Expansion
4. Design of Access Improvements
5. Community Outreach



Perry L. Glantz
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perry.glantz@stinson.com

August 22, 2017

Via Electronic Mail

Mike Langley
Project Manager
MORCOR
775 W 1200 N
Springville, UT 84663

Re: Status of Milestone Academy Charter School Ability to Proceed with Construction

Dear Mr. Langley:

The purpose of this letter is to summarize the current legal status of the Milestone Academy Charter School's ability to proceed with construction on the property located at 271 N. Ridge Road in unincorporated Douglas County, Colorado. In summary:

It is our opinion that Milestone Academy is legally entitled to proceed with its site development plan as reflected in the Location and Extent Plan submitted to the Douglas County Planning Commission on July 24, 2017

Colorado Revised Statute § 22-32-124 (1.5)(a) provides the controlling law for the analysis of this situation. Pursuant to that statute, the planning commission for the area in which a charter school is to be located may request a site development plan for the proposed facility. Once provided with that plan the planning commission may review and comment on the plan within thirty days. If the planning commission is not satisfied with the response received to its comments it may request a hearing before the local board of education regarding the plan. Of particular importance is that the planning commission does not have the authority to issue a denial or disapproval of the proposed site plan. Once a hearing before the board of education is requested it must be held, if at all, within thirty days of the request. Then, pursuant to Colorado law, "[t]he charter school then may proceed with its site development plan unless prohibited from doing so by school board resolution." C.R.S. § 22-32-124 (1.5)(a) (emphasis added).

The staff of the Douglas County Planning Commission was well aware of the foregoing statutory procedure. In the staff report to the Douglas County Planning Commission dated June 4, 2017 they provided the following summary:

For both public schools and charter schools, the planning Commission "may review and comment," and if dissatisfied, the Commission is provided the opportunity to request a hearing before the board of education (BOE), which in the County's case is the Douglas County Board of Education. **The planning commission does not issue a**

denial or disapproval. Rather, the Commission indicates that it is not satisfied with the application as submitted, and requests a hearing before the BOE. ...

If the hearing before the BOE is in regard to a charter school, and if the BOE concurs with the Planning Commission's concerns about the facility, the BOE would need to pass a resolution specifically prohibiting the charter school from proceeding; otherwise, state statute indicates that the charter school would be free to proceed with the site development.

(Emphasis added).

By letter dated July 25, 2017 the Douglas County Planning Commission requested that the Douglas County Board of Education hold a public hearing "to consider the location and extent of the charter school based upon the PC's dissatisfaction with the proposal." In this letter the Assistant Douglas County Attorney, Chris Pratt, informed the Douglas County Board of Education that the Planning Commission had voted 4-3 in favor of requesting this additional public hearing. Consistent with controlling Colorado law, there was no indication that the Douglas County Planning Commission had denied or disapproved the Milestone Academy Location and Extent Plan.

The Douglas County Board of Education convened a public hearing concerning the Milestone Academy Location and Extent Plan on August 15, 2017. It is specifically noted in the Board of Education agenda that the staff report quoted above was provided to the Douglas County Board of Education prior to the hearing. After discussion of the issue, the Douglas County Board of Education voted 4-3 that "The Board uphold the Planning Commission's recommendation or ruling."

The issue with the foregoing action by the Douglas County Board of Education is that the Planning Commission only requested a further hearing. The Douglas County Planning Commission had no authority to deny or disapprove the Milestone Academy Location and Extent Plan. Therefore, the Board of Education voted to uphold the request for a further hearing. There was no Board of Education resolution proposed or passed that prohibited the charter school from proceeding with the site development. Therefore, by operation of Colorado law—as stated to the Board of Education by the Planning Commission staff—Milestone Academy is free to proceed with the site development.

If you have any further questions regarding the foregoing please do not hesitate to contact me at your convenience.

Sincerely,

Stinson Leonard Street LLP



Perry L. Glantz
PLG:PG