

**TOWN OF PARKER COUNCIL
SPECIAL MEETING
February 12, 2018**

THIS SPECIAL MEETING WAS REQUESTED BY TOWN COUNCIL, AS PROVIDED IN THE HOME RULE CHARTER UNDER SECTION 3.8 - SPECIAL MEETINGS.

THE AGENDA FOR THIS SPECIAL MEETING HAS BEEN POSTED AT THE MAIN ENTRANCE OF TOWN HALL AND ON THE TOWN'S WEBSITE AT www.parkeronline.org.

1. **TOWN COUNCIL MEETING SCHEDULE - 5:30 P.M. or as soon thereafter – Call to Order Town Council Meeting and Roll Call**

2. **CONSENT AGENDA**

Consent Agenda Items are considered to be routine and will be enacted by one motion and vote. There will be no separate discussion of Consent Agenda Items unless Council votes to remove an item for individual discussion. Ordinances on the Consent Agenda are for introduction only and will not be removed for discussion.

TAP HOUSE EXTENSIONS

ORDINANCE NO. 1.480.5 - First Reading

A Bill for an Ordinance to Approve the Reinstatement of and Fifth Amendment to Agreement for Sale and Purchase of Land By and Between the Town of Parker and ACG, LLC, Concerning the Gym Property

Department: Community Development, Weldy Feazell

Second Reading: February 20, 2018

3. **ADJOURNMENT**



Request for Town Council Action

Date: February 12, 2018

Submitted By: Weldy Feazell, PAR Staff
John Fussa, Community Development Director

Reviewed By: Michelle Kivela, Town Administrator

Title: **TAP HOUSE EXTENSIONS
ORDINANCE NO. 1.480.5 - First Reading
A Bill for an Ordinance to Approve the Reinstatement of and
Fifth Amendment to Agreement for Sale and Purchase of
Land By and Between the Town of Parker and ACG, LLC,
Concerning the Gym Property**

Department: Community Development, Weldy
Feazell

Second Reading: February 20, 2018

EXECUTIVE SUMMARY

The developer of the approved Parker Taphouse and Distillery adjacent to The Schoolhouse on Mainstreet is waiting for their bank to complete underwriting and provide final approval for project financing to close the purchase of this Town-owned property. As a result, the Purchase and Sale Agreement has lapsed and there is a need to reinstate it through the Reinstatement and Fifth Amendment to Agreement for Sale and Purchase of Land By and Between the Town of Parker and ACG, LLC.

STAFF RECOMMENDATION

Approve

BACKGROUND/DISCUSSION

The proposed Parker Taphouse and Distillery is a public-private partnership between the Town of Parker and ACG, LLC to redevelop the former gymnasium at The Schoolhouse with a new use that activates Mainstreet. At this time, the Town has completed all of the items required for closing the sale of the property to ACG, LLC for the project. ACG, LLC is waiting on its bank to complete the appraisal of the property and phase one environmental report so it may proceed with the purchase and begin construction.

The previous agreement required closing to occur prior to January 31, 2018. The purchaser's bank was not prepared to close prior to this date and the agreement subsequently lapsed. As of February 1, 2018, the purchaser's bank has indicated the appraisal of the property and phase one environmental report has not been completed. The appraisal and environmental report must be completed prior to closing. The purchaser's bank indicates that they should be prepared to close by the end of February.

Town Council has previously approved the Purchase and Sale Agreement between Town of Parker and ACG, LLC on June 6, 2016. The Council has also approved several amendments as follows: First Amendment on December 5, 2016; Second Amendment on March 20, 2017; Third Amendment on August 7, 2017; and the Reinstatement and Fourth Amendment on November 20, 2017.

FINANCIAL IMPACT

Proceeds from land sale of \$270,957

STRATEGIC GOAL(S)

ENHANCE ECONOMIC
VITALITY



DEVELOP A VISIONARY
COMMUNITY THROUGH
BALANCED GROWTH

ATTACHMENTS

1. Ordinance 1.480.5

RECOMMENDED MOTION

I move to approve Ordinance No. 1.480.5 on first reading and to schedule second reading for February 20, 2018, as part of the consent agenda.

ORDINANCE NO. 1.480.5, Series of 2018

TITLE: A BILL FOR AN ORDINANCE TO APPROVE THE REINSTATEMENT OF AND FIFTH AMENDMENT TO AGREEMENT FOR SALE AND PURCHASE OF LAND BY AND BETWEEN THE TOWN OF PARKER AND ACG, LLC, CONCERNING THE GYM PROPERTY

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, ORDAINS:

Section 1. The Town Council of the Town of Parker hereby approves the Reinstatement of and Fifth Amendment to Agreement for Sale and Purchase of Land by and between the Town of Parker and ACG, LLC, which Agreement is attached hereto as **Exhibit 1** and incorporated herein by this reference, and authorizes the Mayor of the Town to enter into the Agreement on behalf of the Town.

Section 2. Safety Clause. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Parker, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained. The Town Council further finds that the title to this Ordinance was posted in two public places two days before the Town Council meeting, as provided by Section 7.5e. of the Town of Parker Home Rule Charter.

Section 3. Severability. If any clause, sentence, paragraph or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 4. This Ordinance shall become effective ten (10) days after final publication.

INTRODUCED AND PASSED ON FIRST READING this ____ day of _____, 2018.

Mike Waid, Mayor

ATTEST:

Carol Baumgartner, Town Clerk

ADOPTED ON SECOND AND FINAL READING this ____ day of _____,
2018.

Mike Waid, Mayor

ATTEST:

Carol Baumgartner, Town Clerk

APPROVED AS TO FORM:

James S. Maloney, Town Attorney

EXHIBIT 1

REINSTATEMENT OF AND FIFTH AMENDMENT TO AGREEMENT FOR SALE AND PURCHASE OF LAND

This Reinstatement of and Fifth Amendment to Agreement for Sale and Purchase of Land (“Amendment”) is made and entered into effective as of _____, 2018 (the “Effective Date”), by and between the Town of Parker, a Colorado municipal corporation (“Seller”) and ACG, LLC, a Colorado limited liability company (“Buyer”).

RECITALS

This Amendment is made with respect to the following facts:

A. Seller and Buyer are the parties to that certain Agreement for Sale and Purchase of Land made and entered into as of June 6, 2016, as amended by a First Amendment dated November 7, 2016, a Second Amendment dated March 20, 2017, a Third Amendment dated August 7, 2017, and a Reinstatement of and Fourth Amendment to Agreement for Sale and Purchase of Land dated effective December 4, 2017 (collectively, the “Original Agreement”), regarding certain real property located in the Town of Parker in Douglas County, Colorado. Capitalized terms not otherwise defined herein shall have the meanings assigned to such terms in the Original Agreement.

B. The deadline for Closing under the Original Agreement was January 31, 2018, but Closing did not occur by such date, and the Original Agreement was terminated automatically by its terms and the Deposit was released to Seller.

C. Buyer and Seller desire to reinstate the Original Agreement and make certain amendments thereto on the terms and conditions stated herein.

AGREEMENT

In consideration of the promises and agreements of Buyer and Seller set forth herein, the sufficiency of which are hereby acknowledged by both Seller and Buyer, Seller and Buyer do hereby promise and agree as follows:

1. Reinstatement. The Original Agreement, as amended hereby, is reinstated and in full force and effect. The Original Agreement as modified by this Amendment is hereinafter referred to as the “Agreement.”

2. Amendment to Original Agreement. The Original Agreement is hereby amended and modified as follows:

(a) Deposit. Pursuant to the terms of the Original Agreement, the Deposit in the amount of Twenty-Five Thousand and No/100 Dollars (\$25,000.00) was released to Seller, and Seller was entitled to retain the Deposit and Seller’s sole Property. If Buyer completes the purchase of the Property as and when required by this Agreement, then notwithstanding anything to the contrary in the Original Agreement, an amount of the Deposit equal to Twenty-Four Thousand Five Hundred and No/100 Dollars (\$24,500.00) shall be applied to the Purchase Price at Closing. The remaining Five Hundred and No/100 Dollars (\$500.00) shall be and remain the

sole property of Seller as additional consideration for entering into this Agreement. In the event Buyer fails to close in accordance with the terms of this Agreement, Buyer shall have no further claim or title to any portion of the Deposit.

(b) Closing. Section 4.2 is amended to provide that the Closing shall occur at 10:00 a.m. at the offices of the Title Company on or before Friday, June 29, 2018. If Closing does not occur on this date, and the Closing Date is not extended by mutual written agreement of the parties hereto, then the Agreement shall automatically terminate and Buyer and Seller shall be relieved of all further obligations to each other under the Agreement except for any liabilities or obligations that by their terms survive termination of the Agreement.

3. Execution. This Amendment may be executed in counterparts and when counterparts of this Agreement have been executed and delivered by both Seller and Buyer as provided in this Section, this Amendment shall be fully binding and effective in accordance with its terms, just as if both Buyer and Seller had executed and delivered a single counterpart of this Amendment. Execution by either Party may be effected by facsimile or email PDF transmission of a signature page of this Amendment executed by such Party, and each party will produce an original signature on this Amendment if requested by the other party or the Title Company.

4. Survival of Terms; No Further Modification. Except as modified by this Amendment, the Original Agreement remains in full force and effect. In the event of a conflict between the provisions of the Original Agreement and the provisions of this Amendment, the provisions of this Amendment shall govern and control.

IN WITNESS WHEREOF, the parties hereto have executed this Reinstatement of and Fifth Amendment to Agreement for Sale and Purchase of Land the date and year first above written.

SELLER:

TOWN OF PARKER, COLORADO
a Colorado municipal corporation

By: _____

Name: Mike Waid

Title: Mayor

BUYER:

ACG, LLC, a Colorado limited liability
company

By: _____

Name: _____

Title: _____