

**TOWN OF PARKER COUNCIL
SPECIAL MEETING
June 11, 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 – 7:00 P.M. or as soon thereafter as can be heard**
 - **Call to Order Town Council Meeting and Roll Call**
- 2. PUBLIC COMMENTS**
- 3. RESOLUTION NO. 18-044**

A Resolution to Deny the Motion for Reconsideration filed with the Town by Vista South, LLC, and Mountain Waste-South, LLC, Pursuant to C.R.S. § 31-12-116(2)(A)(II), Following Notice and Hearing
Department: Town Attorney, Jim Maloney
- 4. ADJOURNMENT**



Request for Town Council Action

Date: June 11, 2018

Submitted By: Jim Maloney, Town Attorney

Reviewed By: Michelle Kivela, Town Administrator

Title: **RESOLUTION NO. 18-044**
A Resolution to Deny the Motion for Reconsideration filed with the Town by Vista South, LLC, and Mountain Waste-South, LLC, Pursuant to C.R.S. § 31-12-116(2)(A)(II), Following Notice and Hearing

Department: Town Attorney, Jim Maloney

EXECUTIVE SUMMARY

Vista South, LLC, and Mountain Waste-South, LLC (collectively “Vista South”), filed a Motion for Reconsideration, dated April 25, 2018 (the “Motion”) requesting that the Town Council reverse its approval of Ordinance Nos. 2.259 (the “Annexation Ordinance”) and 3.333 (the “Zoning Ordinance”). On June 4, 2018, the Town Council held a hearing to address Vista South’s Motion for Reconsideration. The Town Council deferred its decision on the Motion for Reconsideration until June 11, 2018.

STAFF RECOMMENDATION

Approve

BACKGROUND/DISCUSSION

On April 16, 2018, the Town Council, following notice and hearing, approved the Annexation Ordinance and the Zoning Ordinance. On April 25, 2018, Vista South filed the Motion, as provided by C.R.S. § 31-12-116. On May 22, 2018, the Town Attorney sent the Notice Letter to legal counsel for Vista South. The Notice Letter provided that Vista South may “make any additional arguments in support of (its) Motion based on the evidence presented at the April 16, 2018, public hearing . . .” The Notice Letter allocated fifteen (15) minutes to Vista South and fifteen (15) minutes (collectively) to ABMAR Grasslands, LLC, Charter Communications Holding Company, LLC, M&P Enterprises, LLC, and Woodspear Prairie Trail, LLC. On June 4, 2018, the Town Council held a public hearing to address Vista South’s Motion. Following the public hearing, the Town Council decided to (1) take the Motion under advisement and issue a decision on June 11, 2018; and (2) hold a special meeting on June 11, 2018, in order to issue a

decision on the Motion. The Town Council may: (1) grant the Motion; or (2) deny the Motion.

FINANCIAL IMPACT

None.

STRATEGIC GOAL(S)

DEVELOP A VISIONARY
COMMUNITY THROUGH
BALANCED GROWTH

ATTACHMENTS

1. Resolution No. 18-044

RECOMMENDED MOTION

I move that Town Council approve Resolution No. 18-044.

RESOLUTION NO. 18-044, Series of 2018

**TITLE: A RESOLUTION TO DENY THE MOTION FOR RECONSIDERATION
FILED WITH THE TOWN BY VISTA SOUTH, LLC, AND MOUNTAIN
WASTE-SOUTH, LLC, PURSUANT TO C.R.S. § 31-12-116(2)(a)(II),
FOLLOWING NOTICE AND HEARING**

WHEREAS, on April 16, 2018, following a duly noticed public hearing in accordance with the Colorado Municipal Annexation Act of 1965, C.R.S. § 31-12-101, *et seq.*, the Town Council approved Ordinance No. 2.259, Series of 2018, as an emergency ordinance, annexing certain property known as the "Grasslands/Prairie Trail Property" to the Town, which ordinance was affirmed in accordance with Section 7.6 of the Town of Parker Home Rule Charter by the adoption of Ordinance No. 2.259.1, Series of 2018;

WHEREAS, on April 16, 2018, following a duly noticed public hearing in accordance with the Parker Municipal Code, the Town Council approved Ordinance No. 3.333, Series of 2018, as an emergency ordinance, zoning the "Grasslands/Prairie Trail Property" concurrently with the annexation of the property to the Town, which ordinance was affirmed in accordance with Section 7.6 of the Town of Parker Home Rule Charter by the adoption of Ordinance No. 3.333.1, Series of 2018;

WHEREAS; on April 25, 2018, Vista South, LLC and Mountain Waste – South Metro, LLC (collectively, "Vista South") timely filed a Motion for Reconsideration, pursuant to C.R.S. § 31-12-116(2)(a)(II);

WHEREAS, on June 4, 2018, after providing notice to Vista South, the Town conducted a hearing on the Motion for Reconsideration in order to allow Vista South the opportunity to present "with particularity the grounds upon which judicial review is sought" pursuant to the C.R.S. § 31-12-116(2)(a)(II), and to allow Town staff and the property owners that petitioned for annexation the opportunity to respond to the arguments made by Vista South in support of its Motion for Reconsideration (the "Reconsideration Hearing");

WHEREAS, at the Reconsideration Hearing, Vista South through its legal counsel, reinforced and asked Town Council to reconsider the arguments made by Vista South in its Hearing Brief submitted on April 16, 2018, and to the Motion for Reconsideration, both of which have been downloaded to TRAKIT;

WHEREAS, Vista South through Scott Eden also made arguments, and in Town Council's opinion attempted to submit new evidence in the form of testimony on behalf of Vista South at the Reconsideration Hearing;

WHEREAS, Town staff through legal counsel requested that the Order of the Douglas County District Court dated May 15, 2018, denying Vista South's Motion for Reconsideration of the Court's April 16, 2018 Order in Case No. 2018CV30354, reaffirming that the April 16, 2018 hearing on the annexation and zoning was properly held be downloaded to TRAKIT; and

WHEREAS, after considering the arguments presented at the June 4, 2018 hearing, the Town Council hereby determines to issue an Order on the Motion for Reconsideration as set forth below.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, AS FOLLOWS:

Section 1. The recitals set forth above are incorporated herein.

Section 2. The Town Council hereby makes the following findings and determinations related to the arguments made at the Reconsideration Hearing:

a. The Town Council finds and determines that the attempt by Vista South to create a conflicting claim for annexation by submitting an annexation petition to the City of Centennial did not require that the Town hold in abeyance the April 16, 2018 legislative hearing on annexation, and that the record of the April 16, 2018 hearing, including Centennial's Resolution determining not to consider annexation of the Vista South property, allowed the Town to proceed forward with its hearing;

b. To the extent Vista South argued that the Town "weaponized" annexation, the Town Council finds and determines that its actions were consistent with the Town's long-standing policy in place since at least 2002 reflecting the Town's desire to seek annexation of properties within the Town's Urban Service Area;

c. The Town Council further finds and determines that its decision to zone the "Grasslands/Prairie Trail Property" by the approval of Ordinance No. 3.333, Series of 2018, as a Planned Development within the meaning of the Parker Land Development Code was a lawful and proper exercise of the Town's home rule land use authority;

d. To the extent that Scott Eden as a representative of Vista South attempted to present new evidence to oppose the annexation of the "Grasslands/Prairie Trail Property" as opposed to presenting "with particularity the grounds upon which judicial review is sought," the Town determines such an attempt is improper. Nonetheless, the Town Council finds that Mr. Eden arguments, even if interpreted as arguments in support of the Motion for Reconsideration, do not create a legal or factual basis upon which the Town Council should reconsider the annexation of the "Grasslands/Prairie Trail Property"; and

e. The Town Council hereby incorporates by reference its previous findings in Resolution No. 18-032, Series of 2018, Ordinance No. 2.259, Series of 2018, and Ordinance No. 3.333, Series of 2018.

Section 3. Considering all of the findings set forth above, the Motion for Reconsideration is hereby DENIED.

RESOLVED AND PASSED this 11th day of June, 2018.

TOWN OF PARKER, COLORADO

Mike Waid, Mayor

ATTEST:

Carol Baumgartner, Town Clerk