

use applications for the development project known as “Braddock West” on Madison and Wythe Streets. After discussion and deliberation, a motion was made to approve the applications which failed 3-4. Immediately following that, a motion was made to deny the applications which passed 4-3. The result of the vote is that the applications are denied, and the developer cannot move forward with the development proposal.

DISCUSSION: At the City Council legislative meeting on Tuesday, April 6, 2021, during the oral reports, Councilman Aguirre indicated that he understood that the developer has been addressing the concern regarding the lack of contact with the adjacent ARHA development and requested that a motion to rescind the vote be placed on the docket for City Council’s consideration on Tuesday, April 27, 2021.

A motion to rescind is authorized pursuant to Section 2-1-49, included below for Council’s reference, and is allowed at any time after the vote has taken place. In accordance with Robert’s Rules, the vote may not be rescinded if it has been relied upon. In this case, since this vote was a denial of the project, staff does not see any reliance on the vote and therefore, believes it can be rescinded if the Council decides to do so.

Sec. 2-1-49 - Reconsideration of questions.

(a) A motion to rescind any prior final vote or action of city council may be entertained at any time; provided, that no such motion, made at a special meeting, shall be entertained unless there are present at such special meeting at least the number of council members as were present when the vote or action to be rescinded occurred.

(b) No motion to reconsider any prior final vote or action of city council shall be entertained, unless such motion is made prior to the adjournment, or the recess if the meeting be recessed, of the meeting at which the vote or action to be reconsidered occurred, and such motion is made by a council member who voted on the prevailing side with respect to such vote or action.

(c) As used in this section, the terms "meeting", "adjournment" and "recess" have the meaning commonly attributed to them by the practice and procedure of the city council, notwithstanding any contrary meaning or definition set forth in Robert's Rules of Order.

The result of a motion to rescind is that the question of whether to approve or deny the requested land use applications is back on the table for consideration. The City Charter and Zoning Ordinance require that the City Council hold a public hearing on land use applications before they are considered. A public hearing was held on these applications on March 13, 2021. Staff believes that this legal requirement has been satisfied. However, if City Council chooses, it may hold a second public hearing on the applications just to be sure the public is aware and can comment on the City Council’s second consideration of these applications.

FISCAL IMPACT: N/A

ATTACHMENTS: None

STAFF:

Joanna Anderson, City Attorney