



ZONING APPEAL APPLICATION

To/From Board of Zoning Appeals

Dept. of Safety & Inspections
Zoning Section
375 Jackson Street, Suite 220
Saint Paul, MN 55101-1806
(651) 266-9008

To / From Planning Commission

Dept. of Planning & Econ. Devt.
Zoning Section
1400 City Hall Annex, 25 W 4th St.
Saint Paul, MN 55102-1634
(651) 266-6583

Zoning Office Use Only

File # 25-007037
Fee Paid \$ 462.00
Received By / Date D. Eide - 1/16/2025
Tentative Hearing Date 2/12/2025

APPELLANT

Name(s) Sean Ryan - Ryan Companies US, Inc.

Address 533 S Third Street City Minneapolis State MN Zip 55415

Email Sean.Ryan@RyanCompanies.com Phone 612-492-4638

PROPERTY LOCATION

Project Name Highland Bridge - Block 2B

Address / Location 2200 Ford Pkwy, St Paul MN 55116

TYPE OF APPEAL: Application is hereby made for an appeal to the:

- ☐ **Board of Zoning Appeals**, under provisions of Zoning Code § 61.701(c), of a decision made by the Zoning Administrator.
- ☐ **Planning Commission**, under provisions of Zoning Code § 61.701(c), of a decision made by the Planning Administrator or Zoning Administrator.
- ☒ **City Council**, under provisions of Zoning Code § 61.702(a), of a decision made by the Board of Zoning Appeals or the Planning Commission.

Date of decision January 6th, 20 25

File Number 24-095781

GROUND FOR APPEAL: Explain why you feel there has been an error in any requirement, permit, decision or refusal made by an administrative official, or an error in fact, procedure or finding made by the Planning Commission or Board of Zoning Appeals. Attach additional sheets if necessary.

Please See Attached Letter

☐ If you are a religious institution you may have certain rights under RLUIPA. Please check this box if you identify as a religious institution.

Appellant's Signature

Date 1/16/2025

Grounds for Appeal
2200 Ford Parkway; Block 2B Project

I. INTRODUCTION

Ryan Companies US, Inc. (“Appellant”) brings this appeal because there were numerous errors in fact, procedure, and findings made by the Board of Zoning Appeals (“BZA”) during its consideration of, and action related to, File No. 24-095781 (the “Application”). The Application is comprised of certain variance requests made by Appellant relating to the property commonly known as 2200 Ford Parkway (Highland Bridge Block 2B), and legally described as Lot 2 Block 1, Northern Highland Bridge (the “Property”). As established herein, and as further supported by the record, each variance requested within the Application satisfies the criteria required by Minn. Stat. § 462.357, subd. 6(2) and City Code § 61.601. Consequently, and in conformance with City Planning Staff (“Staff”) recommendations, the variances requested in the Application should have been granted in their entirety by the BZA. Appellant, therefore, respectfully requests that the City Council: (i) grant this appeal; (ii) reverse all actions of the BZA denying variance requests under File No. 24-095781; and (iii) affirmatively and conclusively cause the approval of the totality of variances requested within the Application.

A. The Record

1. HB Block 2B Variance Application. *See Attachment A*
2. HB Block 2B Variance Narrative. *See Attachment B*
3. HB Block 2B Variance Exhibits. *See Attachment C*
4. HB Block 2B Variance Supplement. *See Attachment D*
5. 12/9/2024 BZA Meeting PowerPoint Slide Deck. *See Attachment E*
6. HDC Resolution for Highland Bridge Lot 2B. *See Attachment F*
7. BZA Staff Report File # 24-095781. *See Attachment G*
8. BZA Agenda Results, December 9, 2024. *See Attachment H*
9. BZA Agenda Results, January 6, 2025. *See Attachment I*

B. The Project

The Highland Bridge Block 2B Mixed-Use Project (the “2B Project”) is a Ryan Companies owned and developed project located in the northern portion of the Highland Bridge development, south of Ford Pkwy and west of Outlot B (also known as the Civic Square). The 2.19 acre site is one of four parcels split from the original Block 2 within the City’s F5 Business Mixed Zoning District. Block 2 was initially divided between Lot 1 and Lot 2 through the original FORD plat by a diagonal line between Outlot B and Outlot C, but the Northern Highland Bridge plat was recorded in 2023 to split Block 2 into four separate parcels, Lots 1-4:

1. Lot 1, Block 2 (or “Block 2A”), will be developed at a future date, anticipated to be a Mixed-Use Project or Commercial Project.
2. Lot 2, Block 2 (or “Block 2B”), is proposed to be developed into a Mixed-Use Project.

3. Lot 3, Block 1 (or “Block 2C”), is proposed to be developed into a Commercial Project.
4. Lot 4, Block 2 (or “Block 2D”), is currently under construction with a 55+ active adult development anticipated to open in Spring of 2025.

The 2B Project is a four-story, 97 unit mixed-use residential building with approximately 23,500 square feet of retail spread beneath the residential portion of the four-story massing and within three one-story buildings (Retail Buildings B, C, and D). Two levels of structured parking are provided interior to the site, the second level providing parking for retail users and the lower level providing secured parking for residential tenants. Vehicular access to the site is directly from Hillcrest Ave to the south, which provides access to both levels of the structured parking. The mixed-use components of the 2B Project are consistent with the business mixed focused goals of the City’s F5 Business Mixed Zoning District. Construction is expected to start in the Spring of 2025 with the 2B Project being completed in the Fall of 2026.

The 2B Project design is significantly affected by geological constraints, City-Required pedestrian easements (resulting in an abnormal parcel shape), various grade changes, the need to create ADA compliant connections that work with the grade changes, and the City desire to create a pedestrian friendly scale of development along Ford Pkwy. The current sidewalk along Ford Pkwy is not ADA compliant and the proposed buildings are seeking to improve access for all abilities. Grade changes along Ford Pkwy for the Property are approximately 16 feet from the east to west corners, grade changes from Hillcrest Ave to Ford Pkwy on the west side of the Property are approximately 9 feet, and grade changes along Hillcrest Drive and Hillcrest Ave from east to west are approximately 5 feet. The various slopes throughout the Property further complicate ADA pedestrian access as well as market-required parking for the site. A series of ramps, stairs and changes of building heights work within these constraints (with very little tolerance) to create a vibrant and viable mixed use development proposal. The 2B Project design seeks to accommodate these practical difficulties. Through the use of variances, the 2B Project design will deliver a viable development that reasonably conforms with the spirit and intent of the F5 Business Mixed District.

C. Summary of Application

Appellant submitted the Application on November 18, 2024. *See Attachment A.* Among the Application were requests for variances from the strict application of City Code § 66.931 concerning building floor area ratios (FAR) and building heights. *See Attachments B and G.* Specifically, for the 2B Project, a FAR minimum of 2.0 is required; 1.0 is proposed, resulting in a FAR variance request of 1.0 (“Request 1”). *See Attachments B and G.* Also for the 2B Project, building height minimums of 40 feet are required; Retail Buildings B and C are each proposed to be 15 feet tall, and Retail Building D is proposed to be 12 feet tall, for variances of 25 feet and 28 feet respectively. (respectively “Request 2, 3, and 4”). *See Attachments B and G.* The Highland District Council passed and submitted to the City a resolution supporting the sum of variances contained in the Application. *See Attachment F.* City staff evaluated the Application against the criteria required by Minn. Stat. § 462.357, subd. 6(2) and City Code § 61.601 and, for each of the requested variances contained in the Application, found that the request met the collective criteria. *See Attachment G.*

The BZA held a public hearing on the Application at its December 9, 2024 meeting. *See Attachment H.* After closing the public hearing, no motions were passed and the Application was administratively laid over to the BZA's January 6, 2025 agenda. *See Attachment H.* At its January 6, 2025 meeting, the BZA passed a motion to deny Requests 1, 2, 3, and 4. *See Attachment I.* The BZA's findings, which were conclusory in nature, were confined to Staff findings 2, 3, and 4. *See Attachment I.* That is, the BZA's limited finding were that Staff erred in finding: (i) variance Requests 1-4 were consistent with the comprehensive plan; (ii) that there are practical difficulties in complying with the FAR and building height standards provided in City Code § 66.931; and (iii) the plight of the Appellant is due to circumstances unique to the Property not created by Appellant. *See Attachment I.* The result of the BZA's action relating to the Application was the denial of Requests 1-4, and approval of the balance of variances requested in the Application. *See Attachment I.*

While well intentioned, BZA commentary made in support of the motion to deny Request 1-4 did not objectively focus on the procedural criteria set out in Minn. Stat. § 462.357, subd. 6(2) and City Code § 61.601 but, rather, included subjective and personal opinions about the 2B Project, about bicycle parking, about the City's diminishing downtown tax base, and about housing demands citywide. In effect, the BZA's stated rational for denying Requests 1-4 were related to personal opinions that the 2B Project should be held to a higher standard and deliver solutions to citywide concerns, each of which are beyond the scope of the criteria required by Minn. Stat. § 462.357, subd. 6(2) and City Code § 61.601.

Moreover, the BZA reviewed the 2B Project under the premise that each platted parcel should be looked at independently for City Code compliance. While the Application responds to this City guided premise, the premise ignores the definition "Zoning Lot" within the City Code. City Code § 60.213 defines "Lot, zoning" as: "*A single tract of land which, at the time of filing for a building permit, is designated by its owners or developers as a tract to be used, developed or built upon as a unit, under ownership or control of one (1) person or joint tenants. A zoning lot shall satisfy this code with respect to area, size, dimensions and frontage as required in the district or districts in which the zoning lot is located. A zoning lot, therefore, may or may not coincide with a lot of record as filed with the county recorder but may include one (1) or more lots of record.*" Even though the 2B Project is seeking variances, consideration should be given to the overall reasonableness of the 2B Project in light of the fact that the combined originally conceived and platted Block 2 (as envisioned in the Ford Site Master Plan) would have built dimensions close to, or perhaps meeting, the dimensional standards contained in City Code § 66.931 under identical development and design conditions as the 2B Project.

II. THERE ARE PRACTICAL DIFFICULTIES NECESSITATING THE REQUESTED VARIANCES

Pursuant to Minnesota law, variances may be granted "when they are in harmony with the general purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan ... [and] when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance." Minn. Stat § 462.357, subd. 6(2). The City may approve variances from strict application of the zoning code where "practical difficulties"

result from carrying out the strict letter of the regulations. “Practical difficulties” in this case means (1) that Appellant proposes to use the Property in a reasonable manner not permitted by the zoning provisions of the City’s Code; (2) that the plight of the Appellant is due to circumstances unique to the Property not created by Appellant; and (3) that the variances, if granted, will not alter the essential character of the locality. Minn. Stat § 462.357, subd. 6(2). With respect to the 2B Project and Property, practical difficulties would indeed result if Appellant were required to carry out the strict letter of the City’s zoning regulations. The follow established that fact:

1. The variances are in harmony with the general purposes and intent of the zoning code.

Staff found this criteria was established for each of the variances requested in the Application. *See Attachment G*. This criteria is further established by the overall content of Appellant’s collective submittals. *See Attachment B* and *Attachment D*. The BZA did not assign any error to this finding with respect to any of the variances requested in the Application. *See Attachment I*. This finding, accordingly, has been met for all requested variances.

2. The variances are consistent with the comprehensive plan.

Staff found this criteria was established for each of the variances requested in the Application. *See Attachment G*. This criteria is further established by the overall content of Appellant’s submittals. *See Attachment B* and *Attachment D*. The BZA incorrectly assigned error to this finding with respect to Requests 1-4. *See Attachment I*. The BZA’s findings, however, were erroneous and not based on fact. Request 1 is consistent with the comprehensive plan for the reason set forth in *Attachment G* (at Finding 2), *Attachment B* (at page 6), and *Attachment D* (at pages 2-4). Requests 2-4 are also consistent with the comprehensive plan for the reason as set forth in *Attachment G* (at Finding 2), *Attachment B* (at page 9), and *Attachment D* (at pages 6-8). This finding, accordingly, has been met for all requested variances, including Requests 1-4.

3. The applicant has established that there are practical difficulties in complying with the provisions, that the property owner proposes to use the property in a reasonable manner not permitted by the provisions. Economic considerations alone do not constitute practical difficulties.

Staff found this criteria was established for each of the variances requested in the Application. *See Attachment G*. This criteria is further established by the overall content of Appellant’s collective submittals. *See Attachment B* and *Attachment D*. The BZA incorrectly assigned error to this finding with respect to Requests 1-4. *See Attachment I*. The BZA’s findings, however, were erroneous and not based on fact. With respect to Request 1, there are practical difficulties in complying with the FAR requirement of City Code § 66.931 for the reasons set forth in *Attachment G* (at Finding 3), *Attachment B* (at page 5), and *Attachment D* (at page 4). With respect to Requests 2-4, there are practical difficulties in complying with the building height requirements of City Code § 66.931 for the reasons set forth in *Attachment G* (at Finding 3), *Attachment B* (at page 5), and *Attachment D* (at page 4). This finding, according, has been met for all requested variances, including Requests 1-4.

4. The plight of the landowner is due to circumstances unique to the property not created by the landowner.

Staff found this criteria was established for each of the variances requested in the Application. *See Attachment G*. This criteria is further established by the overall content of Appellant's collective submittals. *See Attachment B* and *Attachment D*. The BZA improperly assigned error to this finding with respect to Requests 1-4. *See Attachment I*. The BZA's findings, however, were erroneous and not based on fact. With respect to Request 1, plight of the Appellant is due to circumstances unique to the Property not created by the Appellant for the reasons set forth in *Attachment G* (at Finding 4), *Attachment B* (at page 5), and *Attachment D* (at pages 4-5). With respect to Requests 2-4, the plight of the Appellant is due to circumstances unique to the Property not created by the Appellant for the reasons set forth in *Attachment G* (at Finding 4), *Attachment B* (at page 8), and *Attachment D* (at pages 8-9). This finding, accordingly, has been met for all requested variances, including Requests 1-4.

5. The variances will not permit any use that is not allowed in the zoning district where the affected land is located.

Staff found this criteria was established for each of the variances requested in the Application. *See Attachment G*. This criteria is further established by the overall content of Appellant's submittals. *See Attachment B* and *Attachment D*. The BZA did not assign any error to this finding with respect to any of the variances requested in the Application. *See Attachment I*. This finding, accordingly, has been met for all requested variances.

6. The variances will not alter the essential character of the surrounding area.

Staff found this criteria was established for each of the variances requested in the Application. *See Attachment G*. This criteria is further established by the content of Appellant's submittals. *See Attachment B* and *Attachment D*. The BZA did not assign any error to this finding with respect to any of the variances requested in the Application. *See Attachment I*. This finding, accordingly, has been met for all requested variances.

III. CONCLUSION

As stated herein, the BZA's action to deny Requests 1-4 contained errors in fact, procedure, and findings. Said action was contrary to the findings of the Highland District Council, contrary to the findings of City Planning Staff, any contrary to an objective application of the criteria required by Minn. Stat. § 462.357, subd. 6(2) and City Code § 61.601. The BZA action was based upon subjective and personal opinions, rather than content of Appellant's submittals. As established herein, with respect to the 2B Project and the Property, practical difficulties would indeed result from carrying out the strict letter of the City's regulations.

Notwithstanding the BZA's focus on Requests 1-4, Appellant respectfully requests that the City Council: (i) grant this appeal; (ii) reverse all actions of the BZA denying variance requests

under File No. 24-095781; and (iii) affirmatively and conclusively cause the approval of the totality of variances requested within the Application.