

City of Minneapolis
Community Planning & Economic Development
Development Services Division
250 South 4th Street, Room 300
Minneapolis MN 55415-1316
612-673-3000

**APPEAL OF THE ZONING ADMINISTRATOR, CITY PLANNING COMMISSION,
OR BOARD OF ADJUSTMENT APPLICATION**

525.170. Appeals of decisions of the zoning administrator. All findings and decisions of the zoning administrator, director of regulatory services, planning director or other official involved in the administration or the enforcement of this zoning ordinance shall be final subject to appeal to the board of adjustment, except as otherwise provided by this zoning ordinance. Appeals may be initiated by any affected person by filing the appeal with the zoning administrator on a form approved by the zoning administrator. All appeals shall be filed within ten (10) calendar days of the date of the decision. Timely filing of an appeal shall stay all proceedings in the action appealed, unless the zoning administrator certifies to the board of adjustment, with service of a copy to the applicant, that a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed. The board of adjustment shall hold a public hearing on each complete application for an appeal as provided in section 525.150. All findings and decisions of the board of adjustment concerning appeals shall be final, subject to appeal to the city council as specified in section 525.180.

525.180. Appeals of decisions of the city planning commission or board of adjustment. All decisions of the city planning commission, except zoning amendments, and all decisions of the board of adjustment shall be final subject to appeal to the city council and the right of subsequent judicial review. Appeals may be initiated by any affected person by filing the appeal with the zoning administrator on a form approved by the zoning administrator. All appeals shall be filed within ten (10) calendar days of the date of decision by the city planning commission or board of adjustment. No action shall be taken by any person to develop, grade or otherwise alter the property until expiration of the ten-day appeal period and, if an appeal is filed pursuant to this section, until after a final decision has been made by the city council. Not less than ten (10) days before the public hearing to be held by the zoning and planning committee of the city council to consider the appeal, the zoning administrator shall mail notice of the hearing to the property owners and the registered neighborhood group(s) who were sent notice of the public hearing held by the city planning commission or the board of adjustment. The failure to give mailed notice to individual property owners, or defects in the notice, shall not invalidate the proceedings provided a bona fide attempt to comply with this section has been made.

Attention: If you need other disability related accommodations, such as a sign language interpreter, accessible meeting site, or materials in alternative format, please contact 612-673-2162 (673-2157 TTY/VOICE) at least five days prior to the meeting. If you want help translating this information, call – **Hmong** – Ceeb toom. Yog koj xav tau kev pab txhais cov xov no rau koj dawb, hu 612-673-2800; **Spanish** – Atención. Si desea recibir asistencia gratuita para traducir esta información, llama 612-673-2700; **Somali** - Ogow. Haddii aad dooneyso in lagaa kaalmeeyo tarjamadda macluumaadkani oo lacag la' aan wac 612-673-3500.

**APPEAL OF THE ZONING ADMINISTRATOR, CITY PLANNING COMMISSION,
OR BOARD OF ADJUSTMENT APPLICATION REQUIREMENTS CHECKLIST**

A complete application must be received in the Community Planning and Economic Development—Development Services Division office within the prescribed time period. Faxed applications are not accepted. Staff will only accept applications that include all of the items listed below. If any of the items are missing at the time of submittal, staff will not accept the application.

	Correct fees paid (checks payable to Minneapolis Finance Department). In addition to the application fee, the applicant shall pay the cost of first class postage based on the number of property owners to be notified, and the applicant shall pay a fee of twenty-five dollars (\$25.00) for publication in a newspaper of general circulation.
	Statement of reason for appeal.
	Completed Application Worksheet and signed Notice of Appeal form.
	Electronic copy of the application submittal. Please see our instructions for electronic submittal: http://www.minneapolismn.gov/cped/planning/WCMS1P-106500 .
	A list of property owners within 350 feet of the subject site and mailing labels. The 350-foot radius must be from the boundaries of the entire property in question. These must be purchased from Hennepin County Taxpayer Services Division, A-500 Government Center, 4 th Avenue S. Please contact Hennepin County in advance to request the list and labels (they are not available the same day they are requested). Phone: 612-348-5910. Submit <u>all</u> enclosures received from Hennepin County: 1. Map showing subject property, with highlighted 350 ft. circumference. 2. Mailing labels. 3. List of property owners.

FEES

Application type	Fee (dollars)
Appeals of the ruling of the board of adjustment or city planning commission	365 + cost of postage & publication
Appeals of the ruling of the zoning administrator, planning director or other official involved in the administration or the enforcement of this zoning ordinance	365 + cost of postage & publication

APPLICATION WORKSHEET

Appellant	Name	Ray Croaston Jr.
	Mailing Address Including City, State and Zip Code	1650 West 82nd Street, Suite 900 Bloomington, MN 55431
	Phone Number	952-486-4157;612-812-5419
	Fax	
	Email	ray.croaston@us.mcd.com

NOTICE OF APPEAL

Choose one:

____ I, _____ (print name) do hereby file an exception to the Decision of the **Zoning Administrator** as provided for in Chapter 525.170;

____ I, Ray Croaston Jr. (print name) do hereby file an exception to the Decision of the **Board of Adjustment** as provided for in Chapter 525.180;

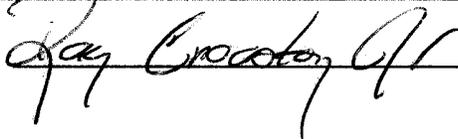
____ I, _____ (print name) do hereby file an exception to the Decision of the **City Planning Commission** as provided for in Chapter 525.180;

Project Name	McDonalds Restaurant Sign Height
Project Address	
BZZ Number	BZZ-6924

Further, I do hereby request that I be given an opportunity to express my case before the Board of Adjustment or the proper committee of the City Council.

The action being appealed and the reasons for appealing the decision are attached and made a part of this notice of appeal.

Appellant's Name: Ray Croaston Jr

Appellant's Signature:  Date: 12/18/14

McDonalds USA, LLC



Minneapolis, MN

**APPLICATION FOR
ZONING BOARD OF ADJUSTMENT
APPEAL**

December 19, 2014



INTRODUCTION

On behalf of McDonald's USA, LLC ("McDonald's"), Landform respectfully submits this application for an appeal of the December 11, 2014 ruling by the Zoning Board of Adjustment (ZBA) to uphold the Zoning Administrator's decision that the height of the signs installed at 1100 University Avenue NE shall be measured from natural grade. We request that the Council allow signs to be measured from grade per the variance request and affirm the "approximate" language of the approved variance.

HISTORY

On January 21, 2014 Landform submitted a variance request to increase the allowable sign heights for 2 menu boards, 2 canopy order displays (COD) and one gateway sign. The application specified the height of the signs as measured from **grade**.

On February 20, 2014 the Zoning Board of Adjustment concurred with the recommendation of CPED staff to approve three of four requested variances, subject to approval of the master sign plan by the Department of Community Planning and Economic Development.

The variance approval summary is as follows:

1. The Board of Adjustment adopted staff findings and **approved** the variance to increase the number of freestanding signs from one to four for the properties located at 1100 and 1118 University Ave NE in the C2 Neighborhood Corridor Commercial District.

3. Notwithstanding staff recommendation, the Board of Adjustment **denied** the variance to increase the maximum height of a menu board from 6 feet to **approximately** 6 feet 9 inches for the properties located at 1100 and 1118 University Ave NE in the C2 Neighborhood Corridor Commercial District, based on the following finding:

Finding #1: The increased height of the menu board to maintain consistency with the existing signage is not a unique circumstance of the property that creates practical difficulties in complying with the ordinance.

4. The Board of Adjustment adopted staff findings and **approved** the variance to increase the maximum height of a freestanding signs from 8 feet to **approximately** 10 feet 3 inches and 10 feet 9 inches, for the properties located at 1100 and 1118 University Ave NE in the C2 Neighborhood Corridor Commercial District.

Building Permit documents were submitted to the City on March 20, 2014, and included detailed drawings of the proposed signs.

In October 2014, McDonald's USA, LLC received a sign permit from the City of Minneapolis to install the signs per the approved sign plans and variances.

In October 2014, signs were installed per the approved plans.

On October 27, 2014, Zoning Enforcement sent a stop work order to McDonalds for noncompliant heights on two menu boards, the drive-through gateway sign, and the customer order display canopies. According to the letter, all of the signs violated the height requirements of the approved variance.

In an email dated November 5, 2014, Stuart Roberson, Zoning Inspector II revised findings from the October 27, 2014 stop work order. The revised findings concluded that the height of the menu boards were a minimal violation and required no further action, but that the canopy order signs and the drive-thru gateway signs exceed height requirements and required McDonalds to lower the sign, submit an appeal or submit a variance application.

Lettering was removed from the COD and gateway signs to bring them into compliance. No action was taken on the menu boards per the November 5, 2015 letter from Stuart Robertson.

In an email dated November 7, 2014, Steve Poor, Manager of Zoning Administration sent an email to Landform stating that all signs would be held "to the inches" because the variance specified inches.

On December 11, 2014 the Zoning Board of Adjustment denied McDonald's USA LLC's application to appeal the Zoning Administrator's decision.

APPEAL OF ZONING BOARD OF ADJUSTMENT

Section 525.180 of the Minneapolis City Code allows applicants to appeal decisions of the Zoning Board of Adjustment to the City Council. McDonald's USA, LLC installed signs at 1100 University Avenue according to their variance request and approval and asks that the City of Minneapolis reaffirm the terms of approval and allow the signage to remain on site in accordance with plans approved by City staff and variances approved by the Zoning Board of Adjustment.

McDonald's USA, LLC requested that sign heights be measured from grade. The January 21, 2014 application for the variance approved on February 20, 2014 requested that signs be measured from grade. The request from grade was requested because it is specific and measurable in the Minneapolis City Code. Section 520.160 defines grade as *"The lowest point of elevation of the surface of the ground, paving or sidewalk within the area between the building and the property line or, when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building."* According to survey documents, this point is at an elevation of 840 feet. The signs are well under the height limitations when measured from this point as shown in Exhibit A.

Staff has thoroughly reviewed and supported plans for the signs. McDonalds has been working with staff for a year on the signs and has constructed signs according plans submitted to staff. Landform worked with staff to apply for a variance that would allow for the signs as shown in the plans. Plans for the signs have been reviewed at PDR, ZBA, at the sign permit stage, and additional reviews to determine compliance. Signs heights on the plans staff reviewed were shown in relationship to the proposed grading on site. Staff was aware of the height intent correctly approved the plans throughout this process. All of these plans are part of the public record.

The variance approval specified that sign heights are to be approximate. The approximate language is important for most construction projects. When signs are installed, there can be slight variations of the actual conditions of the site. In our case, the variations have little to do with the actual heights of the signs, rather the slight variations that come with grading, leveling the sign in concrete, and the manner in which the foundation was poured. The variance request specified "approximate" measurements to account for the slight variations that occur as a result of on-site conditions. The "approximate" measurement language was approved by Planning Commission and the Zoning Board of Appeals. If the Council determines that natural grade will be used, this language allows the code to be reasonably flexible and allow the signs to remain as previously approved.

Signs are compliant with sign height definition specifying natural grade in the City Code. The signs meet the height requirements when measured from the natural grade at the top of curb at the adjacent drive-thru aisles. City staff is measuring the height from the base of the drive-thru aisle at an unspecified location, not at the curb as specified in the following definition:

*Sign height shall be calculated as the vertical distance from the natural grade measured at a **point either at the curb level or ten (10) feet away from the front center of the sign**, whichever is closer, to the uppermost point used in measuring the area of a sign. (Sec. 543.80)*

The December 11, 2014 staff report states that the Zoning Administrator determined that the curb at the right-of-way or a point “10 feet from the exterior curb” should be used. The staff report noted that McDonald’s USA LLC did not significantly alter the natural grade, and “thus it was determined to measure the signs from the drive thru aisles, not the new curbing.” The intent of the natural grade definition is to prevent the artificial elevation of grade through the use of a berm or similar feature to intensify sign height. New curbing and islands simply replaced and modified existing curbing and islands to support the additional menu board. The new curbing is standard and was built to replace old curbing, provide protection, and allow for appropriate site drainage. It was not constructed to unnaturally elevate the signs in any way. The definition of natural grade is as follows:

Grade, natural. The grade of a site before it is modified by moving earth, adding or removing fill, or installing a berm, retaining wall or other earthwork feature. Natural grade is determined by reference to a survey, or other information as determined by the zoning administrator. (Sec. 520.160)

The new curbing replaces old curbing and the site did not change in any significant way. While the code does give the Zoning Administrator authority to determine the location of natural grade, the definition of sign height specifies natural grade *at the curb*.

The heights of the installed signs are consistent with other recently approved McDonald’s signs. As City staff notes in ZBA minutes from February 20, 2014, the signs and heights are consistent with other signs that were approved in the City of Minneapolis. On July 31, 2013 the ZBA approved menu boards at the height of 6 feet 8 inches and two freestanding signs at the height of 11 feet 6 inches at 4121 Hiawatha Avenue (BZZ #6003). The Council approved similar signage at the 3110 Lake Street location in 2012 (BZZ #5236). The signs that were installed at 1100 University have little variation in size or height from the signs that were installed at these other locations, and were measured in the same manner as the signs at 1100 University Avenue.

SUMMARY

In conclusion, we believe that the drive-thru signs installed at 1100 University Avenue NE comply with zoning standards, meet the intent of the zoning code, the approved variances, and the building code. Signs were installed as shown on PDR documents, building permits, and sign permits that were approved and issued by City Planning Staff. McDonalds has been transparent in their intent to construct the signs as shown on plans from grade. Any slight variations in height are a result of typical industry variations accounting for proper drainage, leveling of the sign, and slight field adjustments, and were accounted for in the “approximate” language of the variance. For these reasons, we respectfully request the following:

1. That the sign heights are measured from grade, according to the City's definition as requested in the variance application.
2. That the terms of the approximate language of the variance are respected.
3. That the Council determine what is reasonably "approximate."
4. If the Council determines that natural grade is to be used as a measurement, we ask that the top of the nearest curb to the signs be used to measure the height, as defined in the City's sign height definition.

CONTACT INFORMATION

This document is respectfully submitted by:

Mary Matze

Landform

105 South Fifth Street, Suite 513

Minneapolis, MN 55330

Any additional questions regarding this application can be directed to Darren Lazan at dlazan@landform.net or 612.252.0250.

Attached exhibits

1. Sign height variance application submitted for February 20, 2014 variance request
2. Exhibit A – Graphic showing sign heights at grade, natural grade, and the drive-thru aisle
3. Exhibit B – Intent of Natural Grade
4. Please see the public record for sign plan approvals from 2014

GENERAL LAND USE APPLICATION WORKSHEET

Property Owner/Applicant	Name	Ray Croaston Jr.
	Mailing Address Including City, State and Zip Code	1650 West 82nd St., Suite 900
	Phone Number	P 952-486-4157; C 612-812-5419
	Fax	
	Email	Ray.Croaston_jr@us.mcd.com
Applicant's Representative (This person will be the primary contact for staff, and is the authorized agent in place of the property owner)	Name	Tracey Kinney, AICP
	Mailing Address Including City, State and Zip Code	105 South Fifth Avenue, Suite 513
	Phone Number	612-638-0227
	Fax	612-252-9077
	Email	tkinney@landform.net
Neighborhood Group Contact (Be sure to include a copy of the letter or e-mail that was sent)	Organization	Sheridan and St. Anthony West
	Contact Name	Adam Axvig, President (Sheridan) & Pete Greffin, Chair (St. Anth)
	Phone Number	612-379-0728 (Sheridan), 612-378-8886 (St. Anthony West)
	Date letter/e-mail sent	1/22/2014
Council Member Contact (Be sure to include a copy of the letter or e-mail that was sent)	Name	Jacob Frey
	Ward	3
	Phone Number	(612) 673-2203
	Date letter/e-mail sent	1/22/2014
Property Information	Address(es)	1100 University Avenue NE
	Identification Number(s)	1402924230161, 1402924230176, 1402924230147
	Legal Description (provide an electronic copy in a Microsoft Word© document if applying for a rezoning or conditional use permit)	Attached
	Lot Area (sq ft)	55,261 square feet
	Zoning classification(s)	C2 District
	Name of Proposed Project (If applicable)	McDonald's Restaurant - Sign Variance

Property History	Name of current business: McDonald's Restuarant	Beginning / end dates: NA	Type of business / use: Restaurant, fast food	
	Name of former business: NA	Beginning / end dates: NA	Type of business / use NA	
	Name of former business: NA	Beginning / end dates: NA	Type of business / use NA	
Building Data (Fill in existing & proposed even when no change is proposed)	Gross floor area (square feet)	Existing to remain: 3,882 sq. ft	Proposed new: NA	Total: 3,882 sq. ft
	Building footprint area (square feet)	Existing to remain: 3,882 sq. ft	Proposed new: NA	Total: 3,882 sq. ft
	Building height	Existing stories: 1	Proposed stories: 0	
		Existing feet: 16'-4"	Proposed feet: 19'-3"	
	Dwelling units	Existing: NA	Proposed: NA	
Specific Uses (as applicable)	Car repair	Number of service bays: NA	Gross floor area excluding service bays (square feet): NA	
	Nightclub	Seating and lobby area (square feet): NA	Gross floor area: NA	
	Place of assembly or reception or meeting hall	Auditorium area (square feet) NA		
	School	Number of Classrooms: NA	Number of students of legal driving age (full attendance): NA	
Parking Data	Number of standard spaces	Existing: 74	Proposed: 64	
	Number of compact spaces	Existing: 0	Proposed: 0	
	Number of handicap spaces	Existing: 3	Proposed: 3	
	Total spaces	Existing: 77	Proposed: 67	
	Number of bicycle spaces	Existing: NA	Proposed: NA	
	Number of loading berths	Existing: NA	Proposed: NA	
Landscaping Data	Landscaped area (square feet)	Existing: 13,675 square feet	Proposed:	
Impervious Surface Data	Impervious surfaces (square feet)	Existing: 41,586	Proposed: 41,025	
Fence Data	First fence (circle one): Existing / Proposed	Type / material (i.e. wood, chain-link):	Length (feet): NA	
		NA	Height (feet): NA	
	Second fence (circle one): Existing / Proposed	Type / material (i.e. wood, chain-link):	Length (feet): NA	
		NA	Height (feet): NA	

Sign Data	Number of signs 4 signs; 2 menu boards	Existing: 1 to remain; 1 to remove	Proposed: 3 freestanding; 2 menu boards
	First sign (circle one): Existing Proposed	Type of sign (circle one): Freestanding / Mounted	Length x Width (feet): 13.5 feet X 16.5 feet approx.
	To remain	If lit, how? Internally	Area (square feet): 223 square feet approx.
			Height above grade (feet): 25 feet approx.
	Second sign (circle one): Existing / Proposed	Type of sign (circle one): Freestanding / Mounted	Length x Width (feet): 4.75 feet X 8.62 feet approx.
	Menu Board; to be removed	If lit, how? Internally	Area (square feet): 41 square feet approx.
Height above grade (feet): 6.78 feet approx.			

Third sign (circle one): Existing / Proposed	Type of sign (circle one): Freestanding / Mounted Menu Board	Length x Width (feet): Approx. 4.75 feet X 8.62
	If lit, how? Internally	Area (square feet): 41 square feet
		Height above grade (feet): 6.78 feet
Fourth sign (circle one): Existing / Proposed	Type of sign (circle one): Freestanding / Mounted Menu Board	Length x Width (feet): Approx. 4.75 feet X 8.62
	If lit, how? Internally	Area (square feet): 41 square feet
		Height above grade (feet): 6.78 feet
Fifth sign (circle one): Existing / Proposed	Type of sign (circle one): Freestanding / Mounted	Length x Width (feet): 5.69 feet X .76 feet
Canopy signage at the drive-thru order board	If lit, how? Internally	Area (square feet): 4.32 square feet
		Height above grade (feet): 10.3 feet
Sixth sign (circle one): Existing / Proposed	Type of sign (circle one): Freestanding / Mounted	Length x Width (feet): 5.69 feet X .76 feet
Canopy signage at the drive-thru order board	If lit, how? Internally	Area (square feet): 4.32 square feet
		Height above grade (feet): 10.3 feet
Seventh sign (circle one): Existing / Proposed	Type of sign (circle one): Freestanding / Mounted	Length x Width (feet): 1.14 feet X 14.30 feet
Gateway signage	If lit, how?	Area (square feet): 16.3 square feet
		Height above grade (feet): 10.7 feet

LAND USE APPLICATION(S)

Do not complete the following section (*Staff will do this*) BZZ _____

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

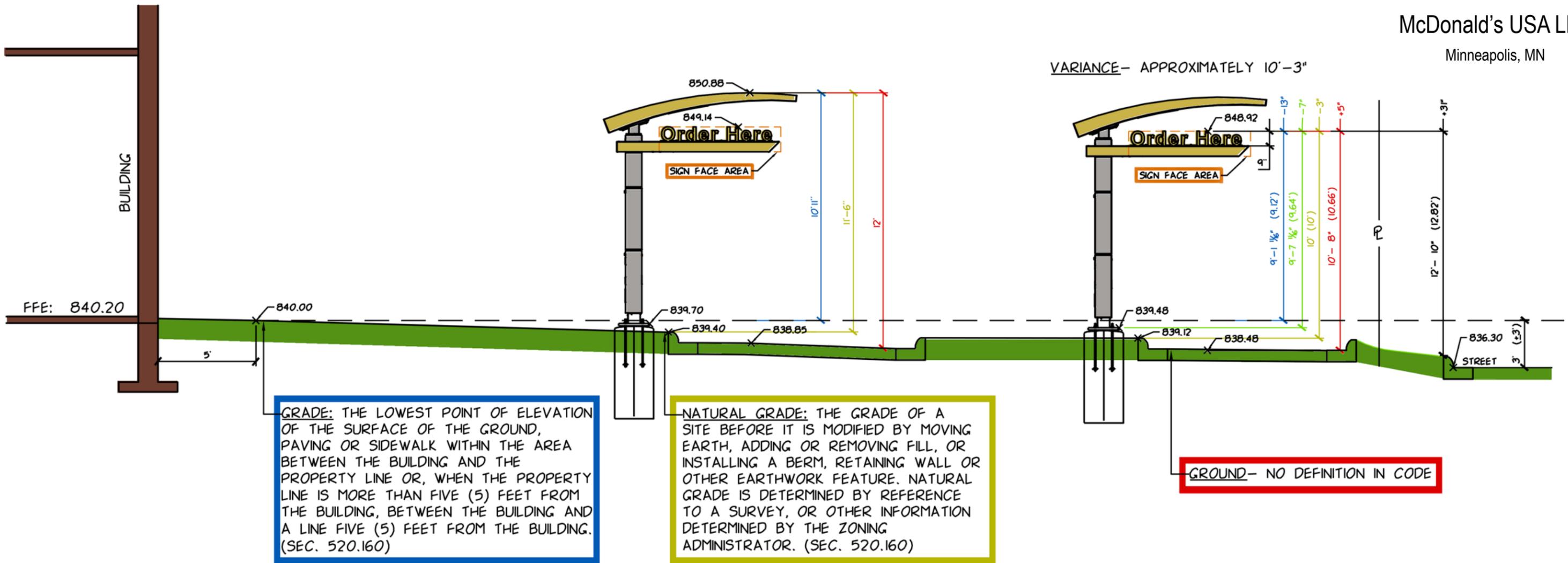
9. _____

10. _____

I understand that I must file the land use application(s) listed above with the Community Planning and Economic Development Department – Development Services Division and obtain approval of these applications by the Minneapolis City Planning Commission or the Zoning Board of Adjustment in order to conform with the zoning ordinances of the City of Minneapolis. I certify that the information which I have supplied in submitting these application(s) is correct and accurate to the best of my knowledge. When I submit this application along with the required application fee(s) and a *properly scaled and dimensioned plan* of the subject property, I authorize the Community Planning and Economic Development Department – Development Services Division to process the land use application(s) listed above.

Ray Croaston Jr Ray Croaston Jr 11/9/14
Applicant's name and signature Date

- ❖ Must be signed and dated by the applicant before the application(s) will be processed.
- ❖ Applications received after 3:30 p.m. will be processed as received on the following business day.
- ❖ Development Services staff may identify additional land use applications upon further analysis of the proposed project.



GRADE: THE LOWEST POINT OF ELEVATION OF THE SURFACE OF THE GROUND, PAVING OR SIDEWALK WITHIN THE AREA BETWEEN THE BUILDING AND THE PROPERTY LINE OR, WHEN THE PROPERTY LINE IS MORE THAN FIVE (5) FEET FROM THE BUILDING, BETWEEN THE BUILDING AND A LINE FIVE (5) FEET FROM THE BUILDING. (SEC. 520.160)

NATURAL GRADE: THE GRADE OF A SITE BEFORE IT IS MODIFIED BY MOVING EARTH, ADDING OR REMOVING FILL, OR INSTALLING A BERM, RETAINING WALL OR OTHER EARTHWORK FEATURE. NATURAL GRADE IS DETERMINED BY REFERENCE TO A SURVEY, OR OTHER INFORMATION DETERMINED BY THE ZONING ADMINISTRATOR. (SEC. 520.160)

GROUND- NO DEFINITION IN CODE

SIGN HEIGHT: SHALL BE CALCULATED AS THE VERTICAL DISTANCE FROM THE NATURAL GRADE MEASURED AT A POINT EITHER AT THE CURB LEVEL OR TEN (10) FEET AWAY FROM THE FRONT CENTER OF THE SIGN, WHICHEVER IS CLOSER, TO THE UPPER-MOST POINT USED IN MEASURING THE AREA OF A SIGN. (SEC. 543.80)

