



Request for City Council Committee Action from the Department of Community Planning & Economic Development – Planning Division

Date: July 12, 2007

To: Council Member Gary Schiff, Chair, Zoning and Planning Committee
and Members of the Committee

Referral to: Zoning and Planning Committee

Subject: Appeal of the decision of the Board of Adjustment (BOA) to deny the appeal of the decision of the Zoning Administrator (BZZ-3607) regarding parking requirements and signage at the proposed DeLaSalle Athletic Facility, 25 West Island Avenue and 201 East Island Avenue.

Recommendation: The BOA adopted the staff recommendation June 21, 2007 to deny the appeal of the decision of the Zoning Administrator that the proposed facility is an athletic field and not a stadium, and that the proposed scoreboard is not a sign

Previous Directives: N/A

Prepared or Submitted by: Carol Ahlgren, Senior Planner, 612-673-2439.

Approved by: Jack Byers, Planning Supervisor, 612-673-2634

Presenters in Committee: Carol Ahlgren, Senior Planner

Financial Impact (Check those that apply)

- No financial impact (If checked, go directly to Background/Supporting Information).
 Action requires an appropriation increase to the _____ Capital Budget or _____ Operating Budget.
 Action provides increased revenue for appropriation increase.
 Action requires use of contingency or reserves.
 Business Plan: _____ Action is within the plan. _____ Action requires a change to plan.
 Other financial impact (Explain):
 Request provided to department's finance contact when provided to the Committee Coordinator.

Community Impact (use any categories that apply)

Ward: 3

Neighborhood Notification: The Nicollet Island-East Bank Neighborhood Association was notified of the appeal on July 2, 2007.

City Goals: See staff report.

Comprehensive Plan: See staff report.

Zoning Code: See staff report.

Living Wage/Job Linkage: Not applicable.

End of 60/120-day Decision Period: Not applicable

Other: Not applicable.

Background/Supporting Information Attached:

The subject site at 25 West Island Avenue and 201 East Island Avenue is currently part of the DeLaSalle High School playing fields which consists of tennis courts, soccer fields and open space. The area is zoned R1A, Single Family Residence District. The area is located in the Shroreland Overlay District and the Mississippi River Critical Area Overlay District. The area is also located within the St. Anthony Falls Historic District, Nicollet Island Sub-District, is listed on the National Register of Historic Places and is locally designated as a District by the Minneapolis Heritage Preservation Commission (HPC). A Certificate of Appropriateness (COA) for the project was denied by the HPC on August 8, 2006; the decision was appealed. On September 22, 2006 City Council denied the appeal and approved the project. An amendment to the original COA for a Modified Design was presented to the HPC for approval on March 20, 2007 and was denied. The City Council denied the appeal and the project received City Council approval on April 27, 2007.

Land use applications for the proposed project were submitted to CPED-Planning staff for review and were deemed complete on April 23, 2007, with a 60-day deadline of June 22, 2007. On May 11, 2007 however, CPED-Planning staff exercised the city's right to extend the deadline to 120 days and sent a written notice of extension to the applicant. The subsequent deadline for city action on the land use applications is August 21, 2007

On April 23, 2007 the Zoning Administrator determined that the Athletic Facility is an athletic field and not a stadium, adjunct to school use and that parking requirements were determined accordingly; existing school parking will be utilized. This determination was appealed on May 24, 2007. The Zoning Administrator also determined that the scoreboard for the proposed facility is not a sign. That decision was also appealed on May 24, 2007.

At the June 21, 2007 Zoning Board of Adjustment hearing, the BOA upheld the recommendation of staff to deny the appeal. The appeal of the BOA decision is the matter currently at hand.

Supporting Material

- Staff Report submitted to the Board of Adjustment fore the public hearing held on June 21, 2007
- Actions of the Board of Adjustment public hearing held on June 21, 2007
- Appeal of Zoning Administrator Determination by Friends of the Riverfront dated May 24, 2007
- Appeals Application Materials

Board of Adjustment Hearing Testimony and Actions

Thursday, June 17, 2007
4:30 p.m., Room 317 City Hall

Board Membership: Mr. Matt Ditzler, Mr. John Finlayson, Mr. Paul Gates, Ms. Marissa Lasky, Ms. Alissa Luepke Pier, Mr. Matt Perry, and Mr. Peter Rand

The Board of Adjustment of the City of Minneapolis will meet to consider requests for the following:

1. **25 West Island Avenue and 201 East Island Avenue (BZZ-3607, Ward 3):**
Edna Brazaitis, on behalf of Friends of the Riverfront has filed an appeal of the decision of the Zoning Administrator's determinations regarding parking requirements and signage at the proposed DeLaSalle Athletic Facility located at 25 West Island Avenue and 201 Island Avenue East. The appellants have appealed the Zoning Administrator's decision that the proposed facility is an athletic field and not a stadium, and that the scoreboard is not a sign.

Mr. Finlayson moved and Mr. Rand seconded the motion to adopt staff recommendation and **deny** the Appeal of the Decision of the Zoning Administrator that the proposed project at 25 West Island Avenue and 201 East Island Avenue is not a stadium and that the proposed scoreboard is not a sign.

Roll Call Vote:

Yeas: Finlayson, Luepke Pier, Perry and Rand

Nays: Lasky

Recused: None

Absent: Ditzler

TESTIMONY

Mr. Poor: Good afternoon Board Members, Chairman Gates, I think the appellants may, I guess I'd like to respond to what the appellants may bring forth, they've done a lot of homework on this. Let me just say a few words, briefly, it's not for me to remind you, but I'll do it anyway, really what this is an appeal about determinations that were made. These particular determinations really were spawned out of staff report. There were staff reports for this development that's going to Planning Commission. The appellant had some inquiries to what determinations were made, we asked them to write to us to afford an avenue to appeal it, so they wrote to us, we wrote back and that lead to these appeals. So what again, what's being appealed is, is the scoreboard a scoreboard or is it a sign. Our office has concluded based on substantially

similar use analysis, what is it most like, what is it most not like is that it is a scoreboard. And that is an allowed accessory use in the zoning code is that they are typically associated with athletic fields a lot of the high schools have them it's not a sign. The rendering that we've been provided by the DeLaSalle folks doesn't show signage on it, it's a scoreboard. I think if I recollect the only drawing, or the drawing we had only showed a small logo of the manufacturer. As for the parking, there is an existing parking lot. I believe it holds 154 vehicles. It's existing, it's primarily used with regards to sporting events for the basketball team and other winter sports. The stadium that's being proposed to being built is really for fall sports, soccer/football. Our office looks at it there isn't overlap there in terms of seasons, there maybe some minor overlap, but primarily, the lot that is available for the existing gymnasium is also going to be available for attendance to the football game. But again, the matter before you is just did the zoning office make the correct determination in coming up with these analysis, these conclusions, that the scoreboard is not a sign that it is a scoreboard and the parking. I guess with that I'll turn it over to the Chair to open it up to the public hearing, but I'm certainly here to respond to questions and points raised by the appellants.

Mr. Gates: All right, thank you Mr. Poor. Is the Applicant here? Do you care to speak?

Chris Steller: I live at 95 West Island Avenue, and I'm here to read the letter from Judith Martin, former President of the Planning Commission.

Mr. Gates: Sir, are you the applicant?

Mr. Rand: Don't we have that?

Mr. Steller: Excuse me.

Mr. Gates: You're not the applicant.

Mr. Steller: No, would you like the applicant to be first?

Mr. Gates: I think the applicant should speak to us first.

Edna Brazaitis: I'm here tonight for Friends of the Riverfront who has appealed the two decisions of the Zoning Administrator. So just so you understand, I'm a lawyer, I'm a land owner on Nicollet Island for 25 years with no public money we invested in turning, which you may be not able to see, into this. I think it's important to clarify why we're here, and I agree with Mr. Poor. We're not asking you to determine whether there's enough parking, that's the job of the Planning Commission. We're here to ask you to determine the standards under the zoning code that the Planning Commission will use to evaluate parking and the scoreboard. That involves determining the meaning of two provisions of the zoning code. First whether for the purposes of off street parking the project is a stadium under 541.180 and two whether the scoreboard is a sign and subject to the regulations for signs in zoning district it's located in. While relatively simple, these are very important decisions with far larger implications than just this one project. That is why there's others here are going to tell you about the impacts to their neighborhoods also. In fact this may be the most significant decision that you decide this year. For you will be deciding whether this is a zoning code that regulates the expected impact of use that is the capacity of persons using a facility or you turn the zoning code on its head and base

parking on the type of construction that is used, not the number of people using the facility. That has broad ramifications. After being involved for this for a while, I can understand why for some purposes like public relations the applicant doesn't want to call it a stadium, but that is what I clearly is for the purposes of the zoning code with respect to parking. This project consists of all the amenities of almost a college stadium. Under 520.160 Stadiums should be defined according to its common meaning as an athletic field with seating. We've giving you a couple of examples of definitions. But I was reminded about how simple this was when I asked Nicholas whose down there on the floor what he liked best about his trip to Greece. He's a lot smarter than I am and he said Olympia and Delphi. The best known stadium in the world is the home of the original Olympics.

Mr. Finlayson: Excuse me; this has nothing to do with the question in hand.

Ms. Brazaitis: Yes it does.

Mr. Finlayson: No it does not.

Ms. Brazaitis: Yes it does.

Mr. Finlayson: No it does not. I don't particularly care to hear this. This is burning daylight.

Mr. Gates: Mr. Finlayson, we are trying to uncover the definition I think, the distinction between stadium and athletic field. I don't think it's entirely clear from the code and I'll allow this to go on for a moment here, if it does shed light on the issue, but please again, try ...

Ms. Brazaitis: Well, I agreed to try to keep it short, but the reason why, you know, this is one stadium, and he reminded me of another stadium at Delphi. Now, simple everyday meaning...

Mr. Gates: I do believe that you did elucidate in your packet multiple definitions of stadiums from a variety of sources and so we have a sense of what the general meaning of what the word stadium means so lets...try to stick to this particular one.

Ms. Brazaitis: Right... and I just want to say that for thousands of years this is what a stadium has been. Okay?

Mr. Gates: Got it.

Ms. Brazaitis: Okay. And that the Zoning Administrator unnecessarily goes beyond a plain meaning of the code in trying to decide for his determination. He sites no code provisions and creates a new standard that's not in the code to distinguish between athletic fields and stadiums. This makes no sense. Under this, none of these classic stadiums under his definition, none of these classic stadiums, built on a hillside, would be considered stadiums requiring capacity based parking, and if this gentleman, Lawrence Halprin, how designed Nicollet Mall, were here and designed a stadium, using this construction, there would not be any requirement for capacity based parking. So, what about ...I guess what... this is not what the city tries to do when it wrote a new zoning code. It introduced a provision for recreational uses and distinguished between athletic fields, which is the kind of place where Lisa might go to watch a child play soccer and bring lawn chairs and a stadium which requires 30 % of the capacity of persons as a parking

requirement. Well, what about other schools? First there are no exceptions, for parks and schools, and I asked the Zoning Administrator and he could not give me any specific examples of parks and schools he relied on for his decisions. The last Minneapolis High School Football Stadium, which is Roosevelt, was built in 1998 before the current zoning code was changed in 1999 to put this distinction about a capacity based parking for stadiums. I guess I'm going to say that deciding this is not a stadium will only mean that the Planning Commission will have to take the required parking into consideration. It does not mean that they can not build a stadium. If the applicant isn't able to satisfy the parking requirements. Then...

Mr. Gates: Ms.?

Ms. Brazaitis: Yes?

Mr. Gates: I don't want to hear too much more about parking, all right, we understand what the implications might be of the decision as to whether it's a stadium or an athletic field, but we're here to focus on simply the definition of stadium vs. athletic field. So if you could help us with that.

Ms. Brazaitis: I agree. Would you allow just a little leeway? The zoning Administrator mentioned that he believed that there was adequate parking on the site for the uses...

Mr. Gates: I'm not really sure how that's relevant to the issue here.

Mr. Perry: If I could interject here with a question? I am interested specifically in what your contention is that ... why this is a stadium. Is it the parking?

Ms. Brazaitis: No, no, that's why I didn't want to bring up parking. But I know that he made ...

Mr. Perry: So maybe, what you could do, if you would please, is in a bullet list what makes a stadium, not an athletic field.

Ms. Brazaitis: What makes it a stadium, not an athletic field is these are some of the elements that are on the field and the main thing that makes it a stadium not an athletic field ...this goes back to our definitions. It contains an athletic field, but the stadium is the secured seating that rises in which the spectators watch the event.

Mr. Perry: So...I'm not trying to put words in your mouth, but if I may, the major thing here ... there's some amenities that are beyond the athletic field, and most importantly is the tiered seating.

Ms. Brazaitis: The tiered seating makes it a stadium. Because that adds quite a bit a capacity to the facility and that's what the zoning code wanted to do to deal with the impact with the facility.

Mr. Perry: Okay, thanks that's very helpful.

Ms. Brazaitis: Thank you very much.

Mr. Gates: Before you go away. We received 10 minutes ago, this letter that was written by you, apparently, I don't see a date on it...I'm sorry, June 6th. We didn't get it until now and it's difficult to multi-task to even read that.

Ms. Brazaitis: I think that Carol was doing it just to fill the record, but it had to deal with procedure and if we went ahead with this appeal, would it cause the applicants application to be automatically granted. And actually after I believe there has been a meeting with the City Attorney and they are going to adopt my solution which will allow both of the appeals to be heard.

Mr. Gates: Okay, also to you care to speak about the issue of the scoreboard?

Ms. Brazaitis: I've asked Lisa she's also an appellant to speak.

Mr. Gates: Okay, any questions for the applicant?

Lisa Hondros: My address is 171 East Island Avenue in Minneapolis and I'm here today to talk about the scoreboard. The Zoning Administrator concluded that the scoreboard is in accessory use/structure in his letter and I agree with him. It is an accessory use/structure, but the question is what kind of a use or structure is it? And I think it's a sign and if you look at the definition of sign in the zoning code, it says a structure fixture, placard, announcement, declaration, image, device, demonstration, logo or insignia used for directions, information, identification, attractions or to advertise or promote any business, product, activity, service, interests or entertainment. There a couple types of signs that it specifically defines. One is an on premises sign a sign which directs attention to the activity conducted where the sign is located. There is flashing signs that have changing lights an example in the code of a flashing sign is a time and temperature sign so a sign with a clock is a flashing sign and this sign I have a picture of the scoreboard. This was taken from the application. So that is sort of a model of the type of scoreboard that they intend to use. You can see that it's ...first of all it has the clock of displays, numbers, letters; it will be at a minimum, conveying information about stuff that is going on at the site. And 365 days a year the scoreboard will attract and direct attention to the stadium facility and to the school. And it's possible, I mean these are electronic, you can configure these any way you want and it's possible in the future that they could add a logo or insignia they don't have that now, but you could easily do that. Researching the idea of what has been considered a sign by the City, you might remember that last February there was ... the issue came up about whether a mannequin in the window ... in the Sinner's window display was a sign. And in that case it was decided that the mannequin was a sign because it conveyed information about what was occurring at that business, at that place and I just want to say if this which is like a big rectangular thing 18 by 8 that has numbers and letters on it ... if we don't think that's a sign. A mannequin...just a mannequin in a window displays information then the definition doesn't make sense to me. I'm not saying that athletic facilities shouldn't have scoreboards, its part of it, but it ... I believe it should be regulated in the way that it's required for that particular zoning district.

Mr. Gates: Question?

Mr. Perry: Thank you. When I started doing the reason test here, if I may, I look at this and it looks like a scoreboard to me. And there are many athletic fields throughout the City of Minneapolis that have scoreboards. If this were ... what makes this different than those others?

Ms. Hondros: I don't think it is different. I think all scoreboards are signs.

Mr. Perry: Okay.

Ms. Hondros: It's just a matter of how big can it be in this district, how, you know, how can the City regulate ... the City regulates all signs all signs according to the district that it's in and I'm saying that all scoreboards are signs, because they convey information.

Mr. Perry: So your contention is that the zoning code should be interpreting scoreboards as signs and therefore be able to limit the size of them.

Ms. Hondros: Exactly, because otherwise, if it is determined that scoreboards aren't signs, then in the future, any scoreboard that is put up anywhere the City wouldn't be able to limit it's size of whatever else the code says for that particular district.

Mr. Perry: That was very helpful for me, because I was under the impression there was something about this particular scoreboard that made it a sign, but your contention is just scoreboards should be signs.

Ms. Hondros: No, not at all. All scoreboards are signs.

Mr. Perry: Thank you very much, thank you Mr. Chair.

Mr. Gates: Are there others here to speak in favor of the appeal? Please come forward one at a time. Again, I'll remind you that we are here for a very narrow set of issues, specifically whether or not we're talking about an athletic field or a stadium, a scoreboard of a sign. So please try to restrict your comments to those sets of issues.

Arlene Fred: 1109 Xerxes Ave South, I'm here today because I'm really following up with Lisa here. I am here today, because I believe this decision could set a dangerous precedent. I believe that scoreboards are signs. If scoreboards are not considered signs, then there will be no limit to the size or placement of scoreboards in Minneapolis. For example, the park board could put up scoreboards anywhere in the City without regulations from the Planning Division. On January 3rd, 2007, the Park Board approved the funds for a \$48,000 electronic scoreboard for Parade Stadium. Scoreboards right now are as big as billboards and should be regulated. If the DeLaSalle scoreboard is not deemed a sign, the City will then relinquish its rights to regulate the Parade scoreboard as well as all other scoreboards in the future. Scoreboards are signs and need to be regulated. If it walks like a duck, quacks like a duck, it is a duck.

Mr. Gates: Thanks very much.

Shawne Fitzgerald: 1508 East 37th Street, Powderhorn, Minneapolis, I am like Arlene a member of Parkwatch, I'm here, I want to clarify one thing when you were looking at the what makes it a stadium, it does have two fields, not just one, it has a practice field plus the playing field or

athletic field. But more importantly, I'd like to ask you to make a policy decision today I'm sorry that this political issue is the first one, because coming up in park issues is also Parade Stadium and a Sailing Club on Lake Calhoun. They're both before the Park Board at various stages. Our zoning code says that the zoning code covers all the land in Minneapolis, and in this decision these Zoning Administrator said we usually exempt parks and schools, so I think when you start looking at these large capacity items and this is a smaller one 750 seats, proposals for Parade go up to 5-7,000 if you aren't going to regulate the Park Board, if the Park Board is not going to work in partnership with the City and meet the zoning code and there are some parking lots where they haven't because they don't take out applications, there're not reviewed, we need to be protected by the zoning code...

Mr. Gates: Ms, we're not a policy making body...we're a judicial body...

Ms. Fitzgerald: Okay...

Mr. Gates: And It's not our job to regulate the Park Board.

Ms. Fitzgerald: I understand that, but,

Mr. Gates: So, please restrict your comments here to the issue of the stadium vs. athletic field.

Ms. Fitzgerald: well, thanks for listening and thank you.

Liz Wrelinski: 3519 2nd Street NE in Minneapolis, I'm five houses up from a park, and this ruling that you're going to be making is going to set a precedent of what can happen on school grounds and park grounds for signs or I should say scoreboards. So, here's an example of say a cute little scoreboard that they now build five houses down from my house and it's a scoreboard, so it's not really a big deal, but the park board and the school board, as you may have noticed are kind of running short of funds, so they've been told, so lets do some private/public partnerships. So, the Park Board already has an exclusive agreement to only sell Coke in the parks.

Mr. Gates: Ms, but we're here to evaluate this particular sign.

Ms. Wrelinski: Yes, that's exactly, and I'm going on. And then, they might go with Pizza Hut, or Walgreen's

Mr. Gates: This is all hypothetical.

Ms. Wrelinski: Yes, they have agreements with Best Buys and Home Depots already then there's logos, this is Luther, but they have Lupient Water Park already in my neighborhood.

Mr. Gates: Thank you Ms, I think you're finished. Thanks very much.

Ms. Wrelinski: becomes a sign not a scoreboard.

Mr. Gates: Thanks very much. Yes Ms.

Janet Demming: I am a member of the Nicollet Island East Bank Neighborhood Association. I have... we as a Neighborhood Board reiterate its general opposition to the proposal for reason discussed in our letter discussed dated January 29th 2005. The decision to classify the facility as an athletic field and not a stadium is improper for two reasons. The seating is part of a rather substantial structure which has required the professional services of multiple architecture and engineering firms to design. Nothing in the design is transitory or temporary including the seating. That such a structure and permanent change in the landscape could be built without a building permit is incredible to us. The parking requirements for this facility are real and not imaginary. Making sense small provision for parking is a commercial and operational necessity for any facility for commercial use. If that facility or use is to operate without burdening the surrounding area with unnecessary expense and inconvenience the athletic field designation means that realistic provision for parking for events of that size intended is removed. Where will the cars and other vehicles be parked. This is an important question both to the surrounding area and to DeLaSalle and the Park Board. Refusing to demand realistic answers to obvious questions is the root cause of many personal business and governmental debacles. This decision means that the question will not be either asked or answered in any realistic way. Parking is a general and increasing problem on Nicollet Island and on East Bank and a problem which may inhibit the continued development of the area as a vibrant and successful part of Minneapolis. Council member Diane Hofstede has recently organized an all parties committee to study the problem. One of the bit issues being discussed is the protected decline in parking capacity the projected decline on parking capacity of the East Bank due to conversion of existing parking lots to building and the pending sale of the St Anthony ramp for possible re development.

Mr. Gates: Ms., again we've heard quite a bit about parking, now, I'd like to hear more about the stadium about the stadium vs. the athletic field issue.

Ms. Demming: The rationale for the decision about the scoreboard is hard to fathom. A scoreboard is certainly an essential part of an athletic facility. So is signage to a commercial entertainment and restaurant establishment. This includes an animated sign showing changing rates or messages, not unlike the changing score in game situation in an athletic contest on a scoreboard. Planning use closely regulated with regard to size, location, appearance, and other characteristics. We fail to see any essential difference between a scoreboard and a sign. Both are necessary to the intended use and both should be regulated. This is from the Neighborhood Group, our President is Victor. Did you all receive a copy of this? You should have.

Mr. Gates: Could you show us what we are looking at here?

Mr. Rand: Yes.

Ms. Demming: Okay. If you have any questions, his number is on there, you can give him a call and we do not support it being...it is a stadium.

Mr. Gates: All right, thanks very much. Anyone else here to speak on behalf of the appeal?

Phylis Kahn: 115 West Island Avenue. I would like to speak. My background is not politics. My background is in science, so I tend to look at evidence, and I would like to just look at things that are called fields all over the City and there are a handful of stadiums various places in the City. I think all you have to do is look at the design for this and the fact that this for specific events.

Fields are something that are kind of used continually this is going to have restricted ability to be used to attract obviously large crowds because of the seating area. So I think just looking at what is called a field in the City and what is called ... or go to neighboring Cities if you'd like ... like St. Paul and I think you can clearly see that this falls into the definition of things that should be called that should be part of the class of stadium and not part of the class of fields.

Mr. Gates: Thank you very much.

Mr. Perry: If I could just ask a quick question. So your contention...others have said it's the seating, your contention is its, whether it's general use or specific use?

Ms. Kahn: Well, first of all, I didn't want to repeat everything that everyone else had said,

Mr. Perry: Sure, thank you.

Ms. Kahn: Specifically, one of the reasons why we don't govern fields very much is because people come to them at times and that sort of thing and so there is kind of a continue flux of usage. A stadium as far as I've understood it you will not be able to just walk on this and play, this is going to be extremely, this going to be restricted, it's going to be scheduled and it fits into the activity that will go on here and how it looks and the structures as have been specifically talked about by everyone else certainly fits the image of a stadium not a field.

Mr. Perry: Thank you.

Mr. Gates: Thank you. Anyone else here to speak in favor? I see no one. Anyone here to speak in opposition?

Eric Galatz: I represent DeLaSalle High School. DeLaSalle is the Applicant in the conditional use permit process that's been held up by these proceedings. Quick technical point first then I'll get to your questions about what's a stadium and what's a scoreboard. You have my June 15th letter. I won't go into this in detail, but I think that it's a mistake for this body to be hearing this appeal at all in terms of the timing. The ordinance requires appeals of the Zoning Administrator determinations within 10 days of the determination. DeLaSalle met with the Zoning Administrator and his staff several times in March and April to determine the appropriate characterization of the project and to determine what applications were required as required by the zoning ordinance. On April 23rd the Zoning Administrator issued a determination that our application was complete. By issuing that determination he has determined that we've been properly characterized we've requested the kinds of approvals we are required to approve for our use and we've submitted all the information that's required to be submitted for those approvals. He made that determination on April 23rd. The time to appeal that determination expired on May 3rd, so my first point is and I know I'm risking insulting the people who are going to make a decision I hope will make a decision in my favor today, but I think it is inappropriate to hear this at all.

Mr. Gates: This body does not usually make judgments about what it should be hearing and what it shouldn't be hearing, we take what they give us, so to speak, and leave it to the City to determine that so.

Mr. Galatz: I think it's a dangerous president for the City and for this Board I think that anyone could step into the middle of a zoning proceeding and stop it by saying, you know, this guy asking Steve Poor if the sky is blue or pink...

Mr. Gates: Okay, we understand your point, but we are going to proceed.

Mr. Galatz: All right. So, on to the merits. We've talked about what it is, I don't think if we've looked at it yet. I'm not sure how good the. I hope you've got a better picture at your seats than what's projecting up there, it's kind of dark, but that is the field. The seating structure, that's I think at issue here is a set of concrete steps poured on the ground on an earth firm with, I believe they are going to end up being aluminum, maybe wood planks on there so the people sitting on them don't get too cold. Maybe most telling, this is what it looks like, this is the back of the seating structure, including most of what you are seeing in that picture that is structure that is sticking up above the earth firm is actually the press box, you don't actually see the seats. In terms of what definitions of, and I'm going to say stadium and grandstand to be fair. The zoning ordinance requires parking at a rate of 30% of the capacity of a grandstand or a stadium so I'll help them out a little bit by throwing grandstand into the mix too. The code doesn't define either of those terms. Noah Webster does and those I know it hasn't been an issue in this ... these particular proceedings in the historical issues it has been big in this too so I thought maybe we'd start with an historic figure famous for knowing what words are. Stadium Mr. Webster agrees that it comes from the Greek and the important thing about the fields Ms. Brazaitis showed you and the important thing about Greeks think a field is, is that they enclosed the field. No matter how small those arenas were, the seating in those are at least a horseshoe. That is part of the definition of a stadium, a set of tiered seats that surround an athletic field or other field. And again our picture we've got, pretty much 40 yard line to 40 yard line with an earth firm with some seats on it. Ah grandstand, Mr. Webster even illustrates a grandstand for us and the definition is it is a roofed structure serving as a principle spectator stand at a race course, stadium, or other place designed for spectator sports. The operative thing in that definition is the roof that is the thing that distinguishes it from other kinds of seating including bleaches, which is probably the closest thing to what we have here and what the city parks and city schools have at their athletic fields. I think it is important to think about how the City otherwise deals with these things. I'm sorry, one more definition, this is also grandstand, well, you don't need to see that, you've heard enough about grandstand. They're used in circuses too. It is another picture of a grandstand. Stadium, I've got some pictures there, a couple of them under construction and one for proposed for the various parts of the City of Minneapolis is the University of Minneapolis TCF Bank Stadium, they actually call theirs a stadium. This is the old Hubert H Humphrey Memorial Metro Dome, the Marshmallow on the side there, that's a stadium. The Twin's aren't calling theirs a stadium, but I would concede it's a stadium, it's a ball park and 40,000 people can sit in there and eat hot dogs. That's what it looks like from the outside. Canada...Canada is maybe a little bit confused, I did a Google search just to see what people thought stadiums were and again, I don't know if your pictures are a poor as that, you can't see, this is 5100 seats but, it is just one side of the field, so I concede that in Canada something that doesn't wrap around the field might be called a stadium, at least by Gwelth College, but, not, Mr. Webster, no anybody in the United States calls a football field with a set of bleachers on the side a stadium or a grandstand. People who sell parts for stadiums and grandstands sell roofs for them. The Minneapolis Park and Recreation Board, if you look on their website, and this is a facility for the Minneapolis Parks and Recreation Board, if you look on their website, they announce that they offer a variety of athletic fields at locations throughout the City and they have a long list of them,

interestingly enough, they have no stadiums, and if you look at their description of the current facilities at Parade athletic fields, often called Parade Stadium, because if was the historic site of a stadium, of a big set of stands that wrapped around a field, they note that all of their athletic fields have seating and lights, so the fact that something has seating doesn't make a stadium or a grandstand. It's a field. Scoreboards were a little bit harder to find information about. I had to resort to Wikipedia. They were very helpful. Well, first Princeton University, their website, a large board for displaying the score of a contest and some other information is how Princeton University defines it. Wikipedia says a scoreboard is a large board for publicly displaying the score in the game or a match and they've got six pages of explanation which I'll leave for you to read later, but they never even used the word sign in there. Two kind of horrors were raised as possible consequences of finding that this facility is an athletic field with a scoreboard instead of a stadium with a sign, and one is parking and what I want you all to rest assured about is that this decision today will not have any bearing on whether the City considers whether we have adequate parking. We've already provided a travel demand management plan in connection with the EAW process for this project. We've submitted that in a CUP process and they've asked for an update for that which we've submitted. We're required to analyze and prove up adequate parking regardless of how they characterize the zoning ordinance requirement and we are doing that and with respect to the scoreboard, the horrors of having Coca Cola sold in a park, can easily be controlled by characterizing the Coca Cola sign as a sign which the City would do and the City would regulate, and until we start hanging signs on a scoreboard we'd expect that you please treat us like a scoreboard. One final thing, I asked Mr. Poor who I've known for the 16 years since I've been practicing law and the first probably seven or eight of those he was the man you would talk to in the City of Minneapolis about hanging a sign. He was, I don't want to get your title wrong Steve, but he was inspector, he was the guy who regulated signs for the City of Minneapolis, he never looked at a scoreboard. He was never presented with one for a permit. He never issued a permit for a scoreboard, because they're not signs and that wasn't his responsibility. Any questions?

Mr. Gates: Any questions? I see none. Thank you. Is there anyone else here to speak? Mr. Poor, do you want to speak now? Go ahead.

Mr. Poor: Chairman Gates, I just wanted to clarify a point, but I don't want to make too much out of... I would just for the record take issue with Mr. Galatz point about that this appeal should not be heard, and just for the record I'd just like to clarify. The zoning office did make some determinations on the completeness of an application, but the way that I would prefer to characterize that is that the appellants know that there is going to be an application made, and they're diligently following developments in City Hall to see when things are filed. They see an application come in and they raise legitimate questions about what's being filed. But they don't know necessarily all the machinations behind the decisions that deem that application complete and so there is a series of interrogatories between some of the appellants and staff. It is, and I alluded to this early on, it is precisely because we wanted no doubt about the date on which the clock started to keep the window of appeal open for the appellant that we asked them to write to us and so with all do respect to Mr. Galatz and DeLaSalle, the whole purpose of having that letter was to make sure that there was an understood and agreed to date that started the appeal clock so that we wouldn't get into what was hearsay on a phone call, because there's no transcript or recording and relying on hearsay to say when the appeal clock should have started and when it shouldn't have started. Is it uncomfortable? Yes. Does it raise a lot of questions for staff about how we manage a process? And is it denying someone else the ability to get their

project approved in a timely way? I guess that remains to be seen. But, I do want to be clear, that we chose the date of the appeal period being opened or closed based on the letters that we wrote to the appellants. We didn't know how else to put a firm line that said, okay, you've been told, these are the determinations we made that are imbedded in the staff report. The clock starts. You have 10 days to file your appeal. So I just, I take issue with Mr. Galatz on that, it's not a large point, but I would like to get that in the record.

Mr. Gates: We'll note your comments for the record, and I'll reiterate that this is a body made up of citizens none of us are attorneys, we're not qualified to make legal judgments about what we should be hearing and what we shouldn't be hearing we've heard it for a better part of an hour now, we're going to continue to hear it. Thank you. Are there others who wish to speak against the appeal? I see no one. Mr. Poor, do you want to come back up for a minute. The appellant talks about defining a stadium in terms of its use and the attorney for DeLaSalle talks about defining a stadium in terms of its size. My experience has been that the City typically defines structures on the basis of their use and not their size, but that is not the case this time, can you comment on that?

Mr. Poor: Yes, Chairman Gates, I guess I would prefer to think that it's not so cut and dry and that it's more a nexus of the two. If you even look in chapter 541 under the parking chapter it talks about having a 40 stall parking requirement for an athletic field alright and soccer fields, it has a different requirement for stadium and as Ms. Brazaitis indicated she had some inquiries earlier and if you're a regional sports facility which happens to be Target Center or Metrodome, you have no parking requirement. So, I do think there is something in there about scale and size and not just about use. Clearly, I would hazard to guess that same kids who are playing football at DeLaSalle at one time played on what we would know as to be a field. And then they move up in the schools and now they are maybe at an athletic field as at an athletic field for a high school, a junior high and when it become a stadium? I'll give you some insight into how the zoning office came to this determination on the athletic field being a stadium or not. The original iteration that they provided us with and I think they would attest to this, I think reasonable people would say it did look more like a stadium. It had certain elements to it that maybe gates the field more, it had a press box, that if I recollect right was erected higher off the ground, there was bleacher seating, it wasn't seating on berms, and so, on those early iterations, and before we had made an official determination, we were, staff looked at it and said, this does kind of look like a stadium. It came back and mostly as a result of working with staff and going through the heritage preservation process and they changed their design and so by the time that they were making applications to the Planning Commission and to which our office was compelled to make some kind of decision on what the parking requirement would be it really didn't look like a stadium how we think about it. Others have raised here about the park board and Parade and Stadium, and we'll see what they bring in, but clearly the former Parade Stadium had hundreds of people in seats that went up 30 some odd feet, it was gated, it had a scoreboard I think reasonable people thought that was stadium, I think there's a line that crosses between when it's a field with some seating on a berm. Again, it's not even structured seating, that requires a building permit. But again, reasonable people can disagree on this, but we have to make the call to make the applications move forward one way or the other and to us it still looks more like an athletic field, yes it does have a small press box, yes it does have a scoreboard, but it's still not a stadium.

Mr. Gates: How has the design changed that made you change your mind?

Mr. Poor: Well, not having the drawings with us and iterations, but my recollection, if it serves me right, was that they did have a more substantial gated entrance, column, the seating was far more substantial and structured, they had, it was much less, frankly it looked more like a stadium, more looked like a structure, it was more fenced in, as apposed now they've gone to more earth and berms with seating on it and they're not even regular rows necessarily. Mr. Galatz has provided us. I don't know if this is going to show up on the overhead. In any event, this is what we looked at in early iterations. At that time we didn't have to make an official determination on the parking, but this clearly was more than what's being proposed at this time. I'm not sure where we would have come down on the end on that either to be honest with you, but it was a different iteration.

Mr. Gates: Do you agree with my statement that the City typically looks at use rather than size?

Mr. Poor: Well, yes.

Mr. Gates: A single family home can be 1000 square feet it can be 20,000 square feet but it's still a single family home.

Mr. Poor: I do think that there is something about scale and size that at some point you become something else. Generally speaking we look at use to help inform those decisions, yes. But there are things where difference in scale and size can actually become different in kind I believe. So, but yeah, generally use is one of the key factors to help inform our decisions.

Mr. Gates: Anymore questions for Mr. Poor? Yes, Ms. Luepke Pier.

Ms. Luepke Pier: Mr. Poor, I have a question regarding is a scoreboard not a sign, or is it a sign that is exempt from the code in question?

Mr. Poor: Our position is that a scoreboard is a scoreboard and that it is not a sign. It really is an accessory use almost exclusively associated with athletic fields. You don't see scoreboard down in the parking lot. I suppose you could if it was a sports bar, but that would be a sign mimicking a scoreboard, but no, a scoreboard is a particular accessory structure that serves a purpose. The purpose is to mark the time of an event, a game, the score, and in some cases does have the name of a school or some identifying characteristic on it. Contrary to some of the testimony we heard here that the scoreboard proposed doesn't have signage on it, DeLaSalle understands what those limitations are and if they chose to put signage on it they will have to come back and go through the process. I would just put one other point, if we had to think of this as a sign, this is a residentially zoned district, and the sign requirements for a free standing signs in a residential district are extremely diminutive. I mean, I'm not sure you could built a scoreboard that meets the sign regulations if it was a sign that would even be useful quite frankly for the purposes that it would be intended to serve which is to inform the players and the audience what the score of the game is and how much time is left. I think that it is clearly is a scoreboard. I think that's really not in question to be candid with you. And as Mr. Galatz mentioned I did do the signs for many years, I approved all the sign permits for over a decade and just never saw come across. I don't think a lot of them either, but I don't think that any body considered them to be signage.

Mr. Gates: Thank you. Mr. Perry.

Mr. Perry: Thank you Mr. Chair. I have two questions here at the moment. Is there...there is a definition of stadium in the zoning code Mr. Poor. I don't see that in our packet, maybe I'm overlooking it.

Mr. Poor: I believe the answer is no, there isn't in fact a definition in fact under 521.60 and I believe that's why the appellant said that when in doubt you go back to Webster's. There is not a definition in the definitions chapter of the zoning code.

Mr. Perry: Okay, so we know that there isn't a definition in the zoning code for stadium. But there are...you have made ruling on parking requirements for things that you have considered stadiums. That's sort of a rhetorical question. So, you know what a stadium is, and you're saying it seems to be that the three things that sort of triggered your change of thought were the whether and I don't want to put words in your mouth either, but whether it was enclosed, or had the appearance of enclosure, the, how high the press box was and the size of the press box and whether the seating was more ... was either permit driven or more substantial than just sitting in a berm, are those the three things that really were the triggers?

Mr. Poor: Those were certainly three of the important factors to consider in making that determination.

Ms. Lasky: Can I ask? Did the seating reduce in number? It had the same amount of seating though, correct?

Mr. Poor: I would defer to the folks at DeLaSalle on that, I'm not sure on exactly whether the number was the same number on that or not. Chairman Gates and Mr. Perry, we look at a number of factors, and we try to look at them in concert with each other, we very seldom look at one element or one factor alone to be deterrent. There are some examples and you've heard them in the past here at the Board, so I won't get into it, but in a case like this, we do look at a number of things, I mean, there is no, they've gone away from the structured seating, doesn't require a building permit, they've gone to really, which means there's less structure there and they've gone to more earth and berms with seating, well, obviously, they don't want people's back sides to get wet, so they have to put something for them to sit on. They've gone away from a more structured entryway that they had originally proposed. So there was a number of factors that we looked at, but we looked at them in general in concert. Let me add one more thing to this. There is a parking lot. There is a parking lot immediately adjacent to this area with 154 stalls in it. The appellants argue that that isn't enough for the existing school for itself, but the way I look at it. That parking lot will be used for the field. If you look what the parking requirement is for a school, if you have a high school and the students are of driving age. They need to provide one stall per student per five students that driving of age. So again if you think about who's going to the football game, you've got to assume some of these are going to be students, so these are all factors behind us looking at how we are coming to these parking requirements and then you get to the main question is it a stadium or not.

Mr. Perry: The thing that I think to be fair, I don't think we really can...hopefully you're not taking parking into consideration, because when you're making these decisions because that's the contention of many of the appellants and we've very specifically we're not talking about parking, or, basically in my opinion, having that be thing that defines whether it's a stadium or not.

Mr. Poor: No, my point Mr. Perry is, if they had no parking, they'd at least have to give us 40 stalls for the field, that's my point, but they have 154 existing. That's my point, that even if it was a field, they'd still have a requirement of 40 and they have 154. So that's why we're not asking for the additional parking because if it's a field, it has a requirement of 40 and there's 154 existing.

Mr. Gates: All right, any more questions for Mr. Poor? Yes, Mr. Rand.

Mr. Rand: No real question, just a statement, I remember going to state fair in high school and it was called the grandstand. This is an irrelevant question, one man's stadium or one women's stadium is another man's grandstand, or women's grandstand, so ... let's move on from that.

Mr. Gates: Actually, I have one more question for Mr. Galatz, if you could come back up. Does DeLaSalle have an athletic field now?

Mr. Galatz: We have a practice field, we don't have seating facilities, and it's not a regulation size field.

Mr. Gates: So the intention in building this new ...whatever it is...

Mr. Galatz: Athletic facility.

Mr. Gates: Is to be able to hold events.

Mr. Galatz: That is correct, and events that otherwise happen elsewhere. We hold events for basketball games for example, we've got a seating capacity of 1600 and we're adequately parked in the eyes of the zoning ordinance for that. I think one key distinction that I think the zoning administrator Poor missed is this is accessory to a school. This is, and he did allude to this, it's going to be used by the Parks Department and it's going to be used by DeLaSalle High School and it's adjunct to a facility that's already got parking pursuant to the zoning ordinance. The thing that distinguishes this from a grandstand or a stadium is that a grandstand or a stadium that's subject to regulation as such under the code is that those are free standing structures that are designed to attract crowds and collect tickets and holds events on a regular basis. This thing is part of high school experience the same way plays in the auditorium and basketball games in the gym are events and those are not separately with respect to parking. They're just accessories or even iatrical parts of a high school and the zoning ordinance contemplates that high schools have football fields and high schools have auditoriums and high schools have basketball courts. The parking regulations for high schools reflect that fact and they don't require additional parking when you add the theatre and they require additional parking when you add the basketball court and they don't require additional parking when you add the athletic field. Thank you

Mr. Gates: All right, thank you. With that, we'll close the public hearing and hear from the Board. Board comment. Ms. Lasky.

Ms. Lasky: Okay, I get to go out on a limb, Wrigley field is not a field and when the ponies run, they're not Shetland. I don't care what you call something, it's how it's used. So when the

proposal came in and looked more like a stadium and the softened the design, you still had the same number of seating, the press box got lowered and the design got softened, it still in my mind looked like a stadium, a very low end stadium, but a stadium, they have a playing field. So in my mind this will be a stadium. In terms of the scoreboard, scoreboards aren't regulated and it will still be a scoreboard and it's not a sign.

Mr. Gates: Thank you. Mr. Finlayson.

Mr. Finlayson: Thank you Chair Gates. Really if this was a variance, one of the things we would be talking about would be reasonable use of the land, but it's not it's an appeal of the Zoning Administrator and this is about reasonable use of words. What did they mean, what did they imply, what do they convey, what does this facility have in commonality with others, or not. My wife and I live in the same block as Christ the King School and we're one block from Pershing Park. Pershing Park is the home of Southwest High School. It consists of basically a couple city blocks. It's got a park building on one end, it's got a large open field on another and then it has the quote-end-quote field or stadium at the other end. This is terribly intrusive to the neighborhood by 20 minutes a year they have a homecoming parade on 50th. They have a few games there every year. They actually have a loud speaker system and if need be they have lights. So, when you look at this proposal and what ever you are going to call it a stadium, or a field, what is the reasonableness of the words defining it as it's conveyed against the use. And if I compare this to Pershing Park and there's no use of the word field or stadium in regard to this at all it's just Pershing Park and that's where they hold their games. They have bleachers there that are much higher than the ones that are proposed here. They have lights, they have some thing that passes as press area, and heaven only knows if it gets used. And they have games there and people show up and I certainly won't mention the Parking Board, because nobody mentioned parking, so I'm not going to say that they've got about 25 or 30 spaces of parking, so I apologize for not mentioning it like everyone did. But when I look at this, it's the duck test. And this is a reasonable use, and I don't care what you call it, I view the parsing of words here as flicking fly specs out of pepper in an attempt to kill a project. So, from my point of view, I don't think this a valid way to do business. Maybe this is a way business gets done in public these days, but I can't say that I'm a fan of it, so I move that we uphold the decision of the zoning Administrator.

Mr. Rand: Second.

Mr. Gates: Further comment from the Board. Mr. Perry.

Mr. Perry: I may have another comment, but I'm just say a couple of things. I'm sort of surprised there isn't a definition for a stadium for starters that for something that drives the parking. So I guess I'm a little bit sitting next to a school I'm assuming that the land use will be for the school. I realize there are some other uses that are involved here because of the relationship of the Minneapolis Park Board, but I tend to agree with Mr. Gates, that we should be looking at these things for use. I understand that the residents the appellants are very concerned about the parking and maybe some broader issues, but we really have at our disposal in this forum and the way the issue was brought to us, a way to address that, and frankly I don't think we have preview of those things. So while I can understand the concerns that the decision or calling a stadium may lead to, I don't... if we're trying to sort out whether the Zoning Administrator really made the right call as whether this is a field for the school or some sort of

larger stadium for other things I think I'm going to have to come down on the side of the Zoning Administrator made the right call. Concerning the sign, I would also say there are hundreds, I'm sure of examples of scoreboards at athletic fields that have already sort of by defacto determined that scoreboards are scoreboards and not signs. That fact that there's no regulation of their size, I think might be something that the zoning code address at some point, but it doesn't, and there's nothing on this particular scoreboard that would suggest to me that it is anything but a scoreboard. So again I will support that part of the motion as well.

Mr. Gates: Thank you Mr. Perry. Any last comments? We have a motion to deny the appeal. Please call the Roll.

Finlayson: Yes.

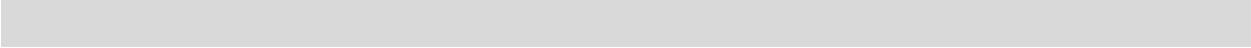
Lasky: No

Luepke Pier: Yes

Perry: Yes

Rand: Yes

Mr. Gates: Motion carries the appeal is denied.





Department of Community Planning and Economic Development – Planning Division Report

Variance Request
BZZ-3607

Date: June 14, 2007

Applicant: Edna Brazaitis, on behalf of Friends of the Riverfront

Address of Property: 25 West Island Avenue; 201 East Island Avenue

Contact Person and Phone: Edna Brazaitis, 612-379-4524

Planning Staff and Phone: Carol Ahlgren, 612-673-2439

Date Application Deemed Complete: June 1, 2007

Public Hearing Date: June 21, 2007

Appeal Period Expiration: July 2, 2007

End of 60 Day Decision Period: July 31, 2007

Ward: 3 **Neighborhood Organization:** Nicollet Island East Bank

Existing Zoning: R1A Single Family District
Shoreland Overlay
Mississippi River Critical Area Overlay

Appeal of the decision of the Zoning Administrator: Edna Brazaitis on behalf of Friends of the Riverfront is appealing of the decisions of the Zoning Administrator regarding parking requirements and signage at the proposed DeLaSalle Athletic Facility, 25 West Island Avenue and 201 East Island Avenue; specifically that the Zoning Administrator's decision that the proposed facility is an athletic field and not a stadium, and that the proposed scoreboard is not a sign.

525.170. Appeals of decisions of the zoning administrator. All findings and decisions of the zoning administrator, 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.

Background and Analysis:

The subject site, 25 West Island Avenue and 201 East Island Avenue, is currently part of the DeLaSalle High School playing fields which consist of tennis courts, soccer fields, and open space; the area is zoned R1A, Single Family Residence District. The subject area is also located in the Shoreland Overlay District and the Mississippi River Critical Area Overlay District. The area is also located within the St. Anthony Falls Historic District, Nicollet Island sub-district, is listed on the National Register of Historic Places, and is locally designated as a district by the Minneapolis Heritage Preservation Commission. DeLaSalle High School intends to construct an athletic field in the subject area, under a reciprocal use agreement with the Minneapolis Park and Recreation Board, owners of the property. A Certificate of Appropriateness for the project was denied by the Heritage Preservation (HPC) on August 8, 2006. The decision was appealed; on September 22, 2006 DeLaSalle received City Council approval for the project, which will necessitate the vacation and removal of a portion of Grove Street. An amendment to the original Certificate of Appropriateness for a Modified Design was heard by the HPC on March 20, 2007 and was denied. The HPC decision was appealed, and received City Council approval on April 27, 2007.

Land use applications for the proposed athletic field were submitted to the City planning staff for review and analysis before the City Planning Commission and were deemed complete on April 23, 2007 with a 60 day deadline of June 22, 2007. However, on May 11, 2007 city planning staff exercised the city's right to extend the deadline to 120 days and sent a written notice of extension to the application. The subsequent deadline for city action on the land use applications is August 21, 2007.

Athletic Facility/Stadium

On April 23, 2007 the Zoning Administrator determined that the Athletic Facility is an athletic field adjunct to school use and that parking requirements for the proposed facility were determined accordingly; existing school parking will be utilized, no additional parking was included. The proposal for the DeLaSalle Athletic Facility consists of a football field with seating located on berms and associated structures including a press box, storage building and addition to the existing high school building for concessions and restrooms. The seating, which will be located on earthen berms is not considered a structure, and therefore will not require a building permit to install. According to the zoning code (section...) seating is the principal mechanism to support capacity of the use; the proposed seating is not considered a structure. The proposed facility therefore, is more appropriately characterized as an athletic field. The proposed field will be adjunct to the existing DeLaSalle High School building. The facility includes a gymnasium which has a seating capacity for 1,050 spectators. The gymnasium is used for spectator sports and gatherings during the school year, September through June. The existing parking lots at the school are deemed sufficient for this capacity which exceeds the maximum 750 seats for the proposed athletic field.

The Appellants state that the Zoning Administrator erred by excluding the tiered bleacher seating for 750 spectators from consideration of type of use and as a factor in capacity of use. The Appellants state that the proposed facility is more accurately defined as a "stadium" since it is an open structure with tiered seating. The Appellants state that an athletic field is an area where athletes practice or play and is typically a component of a sports stadium. The Appellants state that the parking requirements at the site should be required for its highest possible use, as a stadium, which would require 225-250 parking

stalls. The Appellants further state that a parking plan by the Minneapolis Park and Recreation Board and DeLaSalle should be required and submitted for review.

Scoreboard/Sign

The Appellants are also appealing the decision of the Zoning Administrator that the scoreboard for the proposed facility is not a sign. The scoreboard will be attached to the rear façade of the existing high school building. The Appellants state that the scoreboard is clearly a “wall sign” under the Zoning Code and is therefore subject to compliance with the provisions for On-Premise signs of the Zoning Code (543.10). The Zoning Administrator determined that the scoreboard is not a sign and instead meets the standards and applicable ordinances as an accessory use/structure to the Athletic Facility per Minneapolis Code of Ordinances Title 20, Chapter 537.20:

537.20. Accessory uses and structures in general. Accessory uses and structures shall comply with the following standards and all other applicable regulations of this zoning ordinance:

- (1) The accessory use or structure shall be incidental to and customarily associated with the principal use or structure served.
- (2) The accessory use or structure shall be subordinate in area, extent and purpose to the principal use or structure served.
- (3) The accessory use or structure shall contribute to the comfort, convenience or necessity of the occupants of the principal use or structure served.
- (4) The accessory use or structure shall be located on the same zoning lot as the principal use or structure served, except for accessory off-street parking and loading facilities, subject to the provisions of Chapter 541, Off-Street Parking and Loading, and the applicable requirements of the district in which such facility is located.
- (5) The accessory use or structure shall not be injurious to the use and enjoyment of surrounding properties.

525.80. Substantially similar uses. Whenever an application contains a use not included in the zoning ordinance, the zoning administrator shall issue a statement of clarification, finding that the use either is substantially similar in character and impact to a use regulated herein or that the use is not sufficiently similar to any other use regulated in the zoning ordinance. Such statement of clarification shall include the findings that led to such conclusion and shall be filed in the office of the zoning administrator. If said use is not sufficiently similar to any other use regulated in the zoning ordinance, the use shall be prohibited.

537.120. Additional allowed accessory uses and structures. In addition to the accessory uses and structures listed in section 537.100 above, the zoning administrator may allow other accessory uses and structures, provided the zoning administrator determines that the proposed accessory use or structure is substantially similar to an accessory use or structure listed above in the manner provided for in Chapter 525, Administration and Enforcement, governing determination of substantially similar uses, or the zoning administrator determines that the proposed accessory use or structure meets the standards as specified in section 537.80 above.

The Appellants have supplied information relative to the two proposals including sketches and site plans of the proposed bleachers, an analysis of current parking usage on the Island, and a narrative statement of reason for the appeal(s); this information is attached.

Recommendation of the CPED Department Planning Division:

The Department of Community Planning and Economic Development Planning Division recommends **denial** of the Appeal of the Decision of the Zoning Administrator that the proposed project at 25 West Island Avenue and 201 East Island Avenue is not a stadium and that the proposed scoreboard is not a sign.

Attachment: Appeal to the Zoning Board of Adjustment, Friends of the Riverfront, May 24, 2007