

**From:** [Moore, Shari \(CI-StPaul\)](#)  
**To:** [Siegworth, Emma \(CI-StPaul\)](#)  
**Cc:** [Archibald, Dominique \(CI-StPaul\)](#)  
**Subject:** RE: City Council Agenda Item 23 - Rezoning of 695 Grand Av - misstatement of legal standard for rezoning  
**Date:** Wednesday, August 11, 2021 1:30:50 PM  
**Attachments:** [image001.png](#)

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Thanks, in the future, please send these to Dominique Archibald. I'm copying her on this.

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**From:** Siegworth, Emma (CI-StPaul) <Emma.Siegworth@ci.stpaul.mn.us>  
**Sent:** Wednesday, August 11, 2021 1:28 PM  
**To:** Moore, Shari (CI-StPaul) <shari.moore@ci.stpaul.mn.us>  
**Subject:** FW: City Council Agenda Item 23 - Rezoning of 695 Grand Av - misstatement of legal standard for rezoning  
**Importance:** High

Hi Shari,

Could you please include the email below from Carol Lansing as part of the public comment for Ord 21-31, the 695 Grand rezoning?

Let me know if there's anything else I need to do.

Thanks,

**Emma Siegworth**

City Planner  
Pronouns: she/her  
Department of Planning and Economic Development  
400 City Hall Annex, 25 West Fourth Street  
Saint Paul, MN 55102  
651-266-6657  
[emma.siegworth@ci.stpaul.mn.us](mailto:emma.siegworth@ci.stpaul.mn.us)  
[www.StPaul.gov](http://www.StPaul.gov)



**SAINT PAUL  
MINNESOTA**

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**From:** Lansing, Carol <[carol.lansing@faegredrinker.com](mailto:carol.lansing@faegredrinker.com)>  
**Sent:** Wednesday, August 11, 2021 12:54 PM  
**To:** Siegworth, Emma (CI-StPaul) <[Emma.Siegworth@ci.stpaul.mn.us](mailto:Emma.Siegworth@ci.stpaul.mn.us)>; Pereira, Luis (CI-StPaul) <[Luis.Pereira@ci.stpaul.mn.us](mailto:Luis.Pereira@ci.stpaul.mn.us)>; Warner, Peter (CI-StPaul) <[peter.warner@ci.stpaul.mn.us](mailto:peter.warner@ci.stpaul.mn.us)>  
**Cc:** Ari Parritz <[aparritz@reuterwalton.com](mailto:aparritz@reuterwalton.com)>  
**Subject:** City Council Agenda Item 23 - Rezoning of 695 Grand Av - misstatement of legal standard for rezoning

**Importance:** High

**Think Before You Click:** This email originated **outside** our organization.

Ms. Siegworth, Mr. Pereira and Mr. Warner,

I represent Reuter Walton Development, the developer for the proposed project at 695 Grand Avenue. An application to rezone that site is on today's City Council agenda for public hearing (Item 23). I am writing to request that City staff correct for the record and for the benefit of the City Council's deliberations this afternoon a serious misstatement of the law included in the documents in the record.

Planning Commissioner Reilly's statement regarding his rationale for opposing the rezoning application for 695 Grand Avenue has been included in the materials provided to the City Council. Mr. Reilly's submission includes the following egregious misstatement of the legal standard for assessing the validity of a City's rezoning decision:

“And, in any rezoning, the law presumes an existing zoning ordinance constitutional, and an applicant only is entitled to a change if they can demonstrate that the existing zoning is unsupported by any rational basis related to the public health, safety and welfare.”

The actual legal standard is the opposite:

“As a legislative act, a zoning or rezoning classification must be upheld unless opponents prove that the classification is unsupported by any rational basis related to promoting the public health, safety, morals, or general welfare.”

*Honn v. City of Coon Rapids*, 313 N.W.2d 409, 414-15 (1981), citing *State, by Rochester Ass'n of Neighborhoods v. City of Rochester*, 268 N.W.2d 885, 888 (1978) (quotation marks omitted). *See also Parranto Bros., Inc. v. City of New Brighton*, 425 N.W.2d 585, 589 (Minn. Ct. App. 1988) (the court's review “involves determining whether the reasons assigned by the [local government] do not have the slightest validity or bearing on the welfare of the area, or . . . whether there was a rational basis upon which the [local government] could have made the zoning decision.”) (citations omitted).

Given Mr. Reilly's position as a Planning Commissioner, I believe it is particularly important that City staff proactively correct his misstatement of the law and clarify for the City Council the correct legal standard at the outset of tonight's hearing.

Thank you.

**Carol Lansing**

Counsel

[carol.lansing@faegredrinker.com](mailto:carol.lansing@faegredrinker.com)

Connect: [vCard](#)

+1 612 766 7005 direct

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**Faegre Drinker Biddle & Reath LLP**

2200 Wells Fargo Center, 90 South Seventh Street  
Minneapolis, Minnesota 55402, USA

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