

SUPPLEMENTAL PACKET

9A1

JOHN G. HOESCHLER, P.A.
ATTORNEY

800 Lone Oak Road
Eagan, MN 55121
jghoeschler@comcast.net

Phone: 651-683-1868
Fax: 651-681-6868
Cell: 651-324-1694

Email Memo

To: Ron Moorse rmoorse@ci.afton.mn.us
Cc: Fritz Knaak fknaak@klaw.us
Ruth Mordy ruthmordy@me.com
From: Jack Hoeschler, as attorney for Ruth Mordy Friedlander
Date: September 14, 2018
Re: Friedlander Pasevento Lot Line Adjustment

Dear Mr. Moorse,

In anticipation of the Afton City Council's consideration of the request of Ruth Mordy Friedlander to adjust her boundary with Paseventos, her upland neighbor by selling a portion of her upland property to that neighbor, I wish to object for the record to the city's proposed action as follows:

1. We object to your requirement that Ms. Friedlander file a minor subdivision application with the payment of certain fees because the city lacks authority for such a requirement under Minn. Stat. 462.351-.354. We specifically direct your attention to the boundary line adjustment exception to your powers under Minn. Stat. 462.351 Subd. 12(3). We therefore request a refund of the fees paid and an explicit agreement that these two neighbors can adjust their boundary lines without the city's review or approval.
2. We object to your demand for a Scenic and Use Easement Agreement over the land proposed to be conveyed on the grounds that it is an unconstitutional regulatory taking without just compensation. We request that you acquire the land in question at the agreed purchase price plus attorney's fees and expenses if you wish to impose those requirements on us.

Needless to say I am sure all of us would like to avoid the cost and hassle of a 42 USC 1983 action over this matter since the transfer does not change the city's powers over any of the property in question and it results in a much improved layout for all parties.

As I indicated, I would have no objection to a change in the zoning designation of all of the lands as rural residential and also the erasure of all internal lot lines.

I look forward to speaking more with you on Monday morning.

462.352 DEFINITIONS.

Subdivision 1. Application. For the purposes of sections 462.351 to 462.364 the terms defined in this section have the meanings given them.

Subd. 2. Municipality. "Municipality" means any city, including a city operating under a home rule charter, and any town.

Subd. 3. Planning agency. "Planning agency" means the planning commission or the planning department of a municipality.

Subd. 4. [Repealed, 1980 c 566 s 35]

Subd. 5. Comprehensive municipal plan. "Comprehensive municipal plan" means a compilation of policy statements, goals, standards, and maps for guiding the physical, social and economic development, both private and public, of the municipality and its environs, and may include, but is not limited to, the following: statements of policies, goals, standards, a land use plan, including proposed densities for development, a community facilities plan, a transportation plan, and recommendations for plan execution. A comprehensive plan represents the planning agency's recommendations for the future development of the community.

Subd. 6. Land use plan. "Land use plan" means a compilation of policy statements, goals, standards, and maps, and action programs for guiding the future development of private and public property. The term includes a plan designating types of uses for the entire municipality as well as a specialized plan showing specific areas or specific types of land uses, such as residential, commercial, industrial, public or semipublic uses or any combination of such uses. A land use plan may also include the proposed densities for development.

Subd. 7. Transportation plan. "Transportation plan" means a compilation of policy statements, goals, standards, maps and action programs for guiding the future development of the various modes of transportation of the municipality and its environs, such as streets and highways, mass transit, railroads, air transportation, trucking and water transportation, and includes a major thoroughfare plan.

Subd. 8. Community facilities plan. "Community facilities plan" means a compilation of policy statements, goals, standards, maps and action programs for guiding the future development of the public or semipublic facilities of the municipality such as recreational, educational and cultural facilities.

Subd. 9. Capital improvement program. "Capital improvement program" means an itemized program setting forth the schedule and details of specific contemplated public improvements by fiscal year, together with their estimated cost, the justification for each improvement, the impact that such improvements will have on the current operating expense of the municipality, and such other information on capital improvements as may be pertinent.

Subd. 10. Official map. "Official map" means a map adopted in accordance with section 462.359, which

Subd. 11. Governing body. "Governing body" in the case of cities means the council by whatever name known, and in the case of a town, means the town board.

Subd. 12. Subdivision. "Subdivision" means the separation of an area, parcel, or tract of land under single ownership into two or more parcels, tracts, lots, or long-term leasehold interests where the creation of the leasehold interest necessitates the creation of streets, roads, or alleys, for residential, commercial, industrial, or other use or any combination thereof, except those separations:

(1) where all the resulting parcels, tracts, lots, or interests will be 20 acres or larger in size and 500 feet in width for residential uses and five acres or larger in size for commercial and industrial uses;

(2) creating cemetery lots;

(3) resulting from court orders, or the adjustment of a lot line by the relocation of a common boundary.

Subd. 13. Plat. "Plat" means the drawing or map of a subdivision prepared for filing of record pursuant to chapter 505 and containing all elements and requirements set forth in applicable local regulations adopted pursuant to section 462.358 and chapter 505.

Subd. 14. Subdivision regulation. "Subdivision regulation" means an ordinance adopted pursuant to section 462.358 regulating the subdivision of land.

Subd. 15. Official controls. "Official controls" or "controls" means ordinances and regulations which control the physical development of a city, county or town or any part thereof or any detail thereof and implement the general objectives of the comprehensive plan. Official controls may include ordinances establishing zoning, subdivision controls, site plan regulations, sanitary codes, building codes and official maps.

Subd. 16. Preliminary approval. "Preliminary approval" means official action taken by a municipality on an application to create a subdivision which establishes the rights and obligations set forth in section 462.358 and the applicable subdivision regulation. In accordance with section 462.358, and unless otherwise specified in the applicable subdivision regulation, preliminary approval may be granted only following the review and approval of a preliminary plat or other map or drawing establishing without limitation the number, layout, and location of lots, tracts, blocks, and parcels to be created, location of streets, roads, utilities and facilities, park and drainage facilities, and lands to be dedicated for public use.

Subd. 17. [Repealed, 2001 c 7 s 91]

Subd. 18. Urban growth area. "Urban growth area" means the identified area around an urban area within which there is a sufficient supply of developable land for at least a prospective 20-year period, based on demographic forecasts and the time reasonably required to effectively provide municipal services to the identified area.

History: 1965 c 670 s 2; 1973 c 123 art 5 s 7; 1974 c 317 s 2; 1980 c 509 s 153; 1980 c 566 s 19-23; 1982 c 507 s 21; 1982 c 500 s 2; 1985 c 104 s 17, 22; 1989 c 200 art 2 s 1; 1997 c 202 art 4 s 7, 9; 2001 c

1. Multiple lots combined
2. Staged coastal lot