



**SPROUSE SHRADER SMITH PLLC**  
ATTORNEYS AT LAW

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April 23, 2020

City of Austin Planning Commission  
c/o Mr. Andrew Rivera  
301 W 2nd St  
Austin, TX 78701

*via email: [andrew.rivera@austintexas.gov](mailto:andrew.rivera@austintexas.gov)*

Re: Interested Parties' Objection to Twilight Gardens Preliminary Plan, Case No. C8-2019-0112

Dear Members of the Planning Commission,

The undersigned's law firm represents the owners of all the lots in Nowotny Acres, who are interested parties to the Twilight Gardens Preliminary Plan project as defined in Section 25-1-131 of the Land Development Code. The owners of all the lots in Nowotny Acres oppose the proposed subdivision and request a postponement of the hearing on the current case until such time as an in person hearing may be held.

In 2018, the owners of Nowotny Acres reached out to the owner/applicant's agent, Jerome Perales of Perales Land Development, detailing their objections to the project and never received a response from the agent or owner.

On March 30, 1948, by deed recorded at Volume 911, Page 385 of the Deed Records of Travis County, Texas, Kunda Trautwein Chote and S.Y. Chote acquired a tract of land consisting of 263.75 acres (the "Parent Tract"). The Chotes later conveyed to J.R. Rudolph and his wife, Marjorie Jo Rudolph, an 8 acre tract and a 10 acre tract out of the Parent Tract by separate deeds recorded respectively at Volume 2714, Page 275 and Volume 2475, Page 509 of the Real Property Records of Travis County, Texas (the "Rudolph Deeds"). Twilight Estates, LLC is the successor in interest to J. R. Rudolph and Marjorie Jo Rudolph. The Rudolph Deeds expressly restricted the use of said property to residential, farm and/or ranch purposes, and, in the event of subdivision of the 18 acres, the Rudolph Deeds restricted the minimum lot size to one acre. The applicant proposes a preliminary plan for single family lots on the property smaller than one acre. The Nowotny Acres subdivision is out of the same Parent Tract, and therefore the owners are beneficiaries of such restrictions. The Nowotny Acres owners object to the platting of this property into lots smaller than one acre in conflict with the restrictive covenants enforceable against the property.

We understand that the City does not enforce private deed restrictions; however, this letter is to make the City aware of the objections of an interested party and request to be heard at a public

Letter to Planning Commission re C8-2019-0112

April 23, 2020

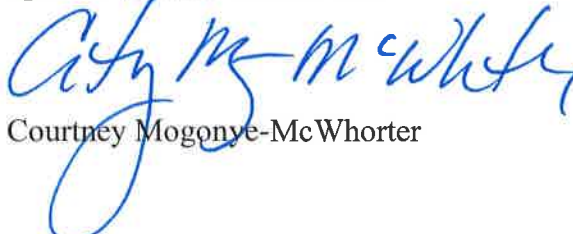
Page 2

hearing. Approving such preliminary plan would be an exercise in futility. The Nowotny Acres owners will file a lawsuit and enjoin any filing of a plat in violation of the restricted covenants applicable to the property.

We appreciate your attention to this matter and request a postponement of the hearing until an in person hearing may be held.

Sincerely,

Sprouse Shrader Smith PLLC



Courtney Mogonye-McWhorter

cc: Mr. Tommy Nowotny  
Mr. Terrence L. Irion

**From:** Courtney Mogonye  
**Sent:** Friday, April 24, 2020 1:04 PM  
**To:** Rivera, Andrew <Andrew.Rivera@austintexas.gov>  
**Cc:** Zavala, Cesar <Cesar.Zavala@austintexas.gov>; Terry Irion 'tnowotny <tnowotny  
**Subject:** RE: Case No. C8-2019-0112 - Twilight Gardens (Interested Parties Objection Letter to Planning Commission)

Mr. Rivera,

We would like a postponement to June 23, 2020.

Thanks,  
Courtney

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