September 14, 2001

Members of the Planning
and Zoning Board
City of Fort Collins
300 Laporte Avenue
Fort Collins, CO 80521

Re: Harmony Ridge PUD, 2nd Filing, #49-95D
Request for Solar Variance

Dear Board Members:

This firm represents J.D. Padilla (the “Developer”), an owner and developer of the Harmony Ridge PUD, 2nd Filing (the “Second Filing”), the final phase of the Harmony Ridge development. In September, 1996, the Planning and Zoning Board approved the 186.87-acre Harmony Ridge Overall Development Plan (the “ODP”) under the Land Development Guidance System (the “LDGS”). Thereafter, the City Natural Resources Department purchased 141.4 acres of the ODP property as an addition to the Cathy Fromme Prairie Natural Area (the “Prairie”), leaving 45.47 acres for residential development. The First Filing, consisting of 130 dwelling units on approximately 29.5 acres adjacent to The Ridge Subdivision, was approved in 1998 and is currently under construction. Of the First Filing lots subject to the solar orientation criterion, 80% meet the requirements, exceeding the LDGS requirement that 65% be “solar-oriented”.

The balance of the ODP, which is now pending as the Second Filing, was originally approved for high density multifamily housing (123 dwelling units). In response, however, to the City’s changing vision for the area and specific site constraints, the project’s density was significantly reduced through an amendment to the ODP and a series of plan revisions to 47 single family and 8 duplex lots, for a total of 63 dwelling units on 15.81 acres. In the Developer’s latest revision to the plans, he agreed to eliminate 6 more dwelling units (an additional 10%) in a focused effort to minimize the development’s visual impact upon users of the Prairie, increase the amount of on-site open space, expand the buffer between housing and the Prairie and to reduce the amount of disturbance to the topographic features adjacent to and visible from the Prairie. The Second Filing now proposes 39 single family and 9 duplex lots for a significantly reduced total of 57 dwelling units on 48 lots. Twenty-six (26) of the Second Filing lots, or 54%, fully comply with the LDGS definition for a “solar-oriented lot”, although a number of additional lots are within a few degrees of meeting the criteria.
With 26 solar-oriented lots, the Second Filing is 5 lots short of achieving compliance with Community-Wide Criteria A-1.1 which requires that at least 65% of the Second Filing lots be solar-oriented. On behalf of the Developer, we request that the Planning and Zoning Board grant a variance from this criteria. In support thereof, we submit that the request satisfies the mandatory variance criterion of LDGS Sec. 29-526(K) (discussed in paragraph #1 below) and at least one of the optional variance criteria found at LDGS Sec. 29-526(K)(1) and (2) (discussed in paragraph #2 below):

1. **Granting of the variance would neither be detrimental to the public good nor impair the intent and purposes of the LDGS.** Allowing the Second Filing’s revised layout, which has less than the required percentage of lots oriented to preserve the potential for solar energy usage, will not impair the overriding purpose of the LDGS to improve and protect the public health, safety and welfare. In fact, the revised layout contributes positively to the accomplishment of several specific LDGS objectives (i.e., facilitating the provision of open space, avoiding the inappropriate development of land and minimizing environmental impacts). Additionally, the revised layout, with fewer total dwelling units and greater setbacks from the Prairie, enables the Second Filing to further minimize disturbance of the dramatic topographic features on the development’s west and south boundaries adjacent to the Prairie. See mandatory criterion of LDGS Sec. 29-526(K).

2. **Exceptional topographical conditions peculiar to the site and exceptional difficulties with regard to solar orientation and access would cause undue hardship to the Developer if the solar orientation criteria were strictly applied.** The Second Filing site is an irregularly shaped property, only 15.81 acres in size, with a steep slope and deep ravines along its south and west boundaries, where the transition is made from the developable portion of the site to the Prairie below. The property also includes a small wetland, open space and detention areas. The northern boundary of the site is adjacent to the vacated Harmony Road right-of-way where there is no opportunity for access, and the eastern boundary is adjacent to the approved First Filing, where points of access and utility connections have already been determined and constructed. The relatively small size of the project, in combination with the natural site constraints and the necessity of coordinating with the First Filing and complying with all street standards, does not permit a redesign of the street and lot layout that would result in a higher percentage of solar-oriented lots, without the elimination of even more lots. Given the fact that the Developer has already reduced the number of dwelling lots to less than half of what was originally approved, any further reduction would jeopardize the feasibility of the project and cause undue hardship. See optional criteria of LDGS 29-526(K)(1) and (2).

In addition, approval of the Second Filing’s revised layout will substantially benefit the City by protecting and preserving the integrity of the on-site natural features and the adjacent Prairie in furtherance of City Plan Policy NOL-1.2.
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For all of the above reasons, we request the Planning and Zoning Board to grant a variance to the requirements of Community-Wide Criteria A-1.1 regarding solar orientation for the Harmony Ridge PUD, 2nd Filing. Thank you for your consideration.

Sincerely,

MARCH, LILEY & OLIVE, P.C.

By:  
Leticia A. Liley

LAL/jpk  
pc: Harmony Ridge Estates, LLC  
Rich Dvorak, TST, Inc.  
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