



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Court House Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Voice/Relay

Amy Gowan, Director

FAX 410-313-3467

February 17, 2021

Faith Horowitz & Richard Speizman
Aglaya, LLC
6976 Pindell School Road
Fulton, MD 20759

RE: WP-20-109, Faith Horowitz & Richard Speizman and
Aglaya, LLC Property

Dear Ms. Horowitz and Mr. Speizman:

This letter is to inform you that your request for alternative compliance to the Howard County Subdivision and Land Development Regulations for the subject project was reviewed.

On February 12, 2021 and pursuant to Section 16.104, the Director of the Department of Planning and Zoning, considered and **approved** your request for alternative compliance to the following sections of the Subdivision and Land Development Regulations:

- Section 16.147 - Final subdivision plan and final plat - which states The final subdivision plan is the culmination of the subdivision process and shall include all information necessary to comply with subsection (c), "required information for final plat"; (d) "construction drawings, documents and specifications"; (e), "developer's agreement"; and (f), "major facilities agreement," of this section. The final plat becomes the official record of the division of land, and no lot within the subdivision may be sold legally until a final plat has been approved and recorded by the Department of Planning and Zoning.
- Section 16.120(c)(2) – Minimum Frontages - which states all lots, preservation parcels, or bulk parcels for single-family detached dwellings shall have minimum lot frontages on approved streets within a public right-of-way.

The Department of Planning and Zoning hereby determines that you have demonstrated to its satisfaction that strict enforcement of Section 16.147 and Section 16.120(c)(2) would result in an unreasonable hardship or practical difficulty. This determination is made with consideration of your alternative compliance application and the criteria you were required to address for each section, pursuant to Section 16.104(a)(1):

For Section 16.147:

In order to subdivide parcel 160, certain adjustments to the property boundary must be made to provide full access to the Maiden Lane public right-of-way, which is planned to be extended as a public road to the developable areas of the property while limiting environmental disturbances, and to align with pockets of land that pass the percolation certification for septic installation.

Since both parcels were legally created via deed, the applicant is seeking to complete this boundary adjustment through an adjoinder deed rather than process a technical subdivision and record a plat. The proposal does not create any additional lots and requiring the applicant to process a plat in order to modify the property line between the two existing parcels while maintaining the same access to the existing home, would represent an unreasonable hardship for the applicant. The adjoinder deed process will yield the same result for the parcels as the processing/recordation of a plat to modify a parcel line. This alternative compliance request is for the adjoinder process to be used to adjust lot lines only. An administrative adjustment would be needed to resolve a minor encroachment of a retaining wall into the revised 30' side setback that is created by this transfer of land. As part of that administrative adjustment case, the applicant must be prepared to prove that the placement of the lot line through this adjoinder deed in a manner that creates an accessory structure encroachment is necessary to limit disturbance of environmental features in the future extension of Maiden Lane. The completion of the administrative adjustment is a required condition of approval prior to recordation of the adjoinder deed in the Howard County Land Records. The future subdivision of parcel 160 will comply fully with the subdivision regulations and plat recordation process.

For Section 16.120(c)(2):

1. Strict conformance with the requirements will deprive the applicant of rights commonly enjoyed by others in similar areas

In its present configuration, the Horowitz property (Parcel 158D) only has technical public road frontage to Maiden Lane through a pipestem. Due to environmental constraints, a driveway could not be built from Maiden Lane to the residence. As such, the property derives access through a use-in-common access easement from Pindell School Road through Parcel 160 to the residence on Parcel 158D. The applicant seeks to maintain this arrangement and re-record the easement in order to property conform to the location of the driveway. Parcel 158D will receive public road frontage from a new public road at such time that Parcel 160 is subdivided.

Parcel 160's public road frontage to Maiden Lane is partially blocked by Parcel 158D's pipestem. And while Parcel 160 has a 50' frontage onto Pindell School Road, constructing a public road right-of-way at this location would not comply with the bulk requirements for an accessory structure on an adjoining property. Ceding Parcel 158D's pipestem land area to Parcel 160 will provide the opportunity for a future public road extension without hindering the Horowitz's to prepare their property for sale.

2. Uniqueness of the property or topographical conditions would result in practical difficulty, other than economic, or unreasonable hardship from strict adherence to the regulations.

The current road frontage for Parcel 158D is not feasible to use for access due to steep slopes, specimen trees, a stream and wetlands that would be impacted to construct a driveway for only one user. This represents unique topographical conditions which make the existing frontage not a feasible access point. As such, the existing physical access is through a use-in-common easement from Pindell School Road. The revised use-in-common access easement will re-record the parcel's actual means of access to a public road which best represents how this site functions.

3. The variance will not confer to the application a special privilege that would be denied to other applicants.

This variance will not confer a special privilege that would be denied to other applicants. Providing a practical use-in-common easement for physical access in conditions where environmental features and topography exist has been granted in similar circumstances. Further, granting this variance does not alter

the parcel's current access to a public road. The re-recorded easement intends to more closely align with the existing driveway.

4. *The modification is not detrimental to the public health, safety or welfare, or injurious to other properties.*

There is no evidence that this alternative compliance is detrimental to public health, safety or welfare, nor is it injurious to other properties. The actual usable access to Parcel 158D will not change. The condition created by this waiver is temporary until the existing drive is converted into a public road, which will occur in the future when parcel 160 is subdivided. At that time, the removal of the pipestem to Maiden Lane would be permitted as part of a future joint-party subdivision of Parcel 160 and Parcel 158D. The granting of this alternative compliance now simply allows the property owner of Parcel 158D to make the change now in order to prepare the property for sale rather than wait for a future subdivision to occur.


Approval of this Alternative Compliance is subject to the following conditions:

1. Prior to an adjoinder deed being recorded, an administrative adjustment must be approved for the reduction of the Building Restriction Line for Parcel 158D to allow the encroachment of the retaining wall in the 30' Side BRL for an accessory structure. If the administrative adjustment is not granted, the applicant must provide DPZ a revised copy of the exhibit to alter Parcel 158D's proposed south property boundary to respect the full accessory structure BRL.
2. Prior to recordation, the exhibit attached with the adjoinder deed must reference the administrative adjustment and any conditions of approval. Further, add a note to the exhibit that additional relief required for the retaining wall resulting from the subdivision of Parcel 160 and design location of a future road-of-way may require a variance.
3. The adjoinder deed shall be recorded in the Land Records Office of Howard County, Maryland within one year from the date of the approval letter (on or before February 17, 2022). The adjoinder deed shall reference the alternative compliance file number (WP-20-109) and the alternative compliance petition exhibit must be an exhibit attached to the recorded deed.
4. A use-in-common access easement must be rerecorded to identify the access for Parcel 158D to Pindell School Road in its correct location.
5. Recorded copies of the adjoinder deed shall be submitted to this Department for file retention purposes within 30 days of recordation.
6. Approval of this alternative compliance petition is to adjust the common parcel boundary between Parcels 158D and 160. No other lots are being legally endorsed. No additional lots are being created and no new development, construction or improvements are permitted under this request.
7. Approval of this alternative compliance does imply endorsement of the subdivision design shown on the Percolation Plat submitted as an exhibit for this alternative compliance. The number and boundaries of lots, the location of roads, disturbance of environmental features and any other design consideration will be determined as part of the review of a future subdivision application.

Indicate this alternative compliance petition file number, request, section of the regulations, action, conditions of approval, and date on all related plats, and site development plans, and building permits. This alternative compliance approval will remain this requested alternative compliance will remain valid for the time period specified in the conditions of approval.

If you have any questions, please contact Jill Manion at (410) 313-2350 or email at jmanion@howardcountymd.gov.

Sincerely,

DocuSigned by:


1EB75478A22B49A...
Anthony Cataldo, AICP, Chief
Division of Land Development

AC/jam

cc: Research
DED
DLD - Julia Sauer
Real Estate Services



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Court House Drive

Ellicott City, Maryland 21043

410-313-2350

Voice/Relay

Amy Gowan, Director

FAX 410-313-3467

August 26, 2020

Faith Horowitz & Richard Speizman and Aglaya, LLC
6976 Pindell School Road
Fulton, MD 20759

RE: WP-20-109, Faith Horowitz & Richard
Speizman and Aglaya, LLC Property

Dear Ms. Horowitz and Mr. Speizman:

This letter is to inform you that your request for alternative compliance to the Howard County Subdivision and Land Development Regulations for the subject project was reviewed.

The Department of Planning and Zoning hereby determines that additional information is required before we can take action on your request for an Alternative Compliance to Section 16.147 of the Subdivision and Land Development Regulations. Specifically, the proposed reconfiguration of the parcels includes the removal of a pipestem that provides technical road frontage for Parcel 158. Although Parcel 158 is unable to utilize the pipestem for access because of environmental features and currently derives access to Pindell School Road through Parcel 160, the abandonment of the pipestem landlocks the parcel which is contrary to policy in approving adjoinder deeds. Please **Revise and Resubmit** the application and justification to include Section 16.120(c)(2) of the Subdivision and Land Development Regulations.

In addition, please evaluate the justification (and, if necessary, provide alternative scenario exhibits to add to the file) to demonstrate the ability or inability to consider options that could eliminate the need for the Administrative Adjustment and/or the extinguishing of Parcel 158's pipestem road frontage:

- Investigate the ability to create road right-of-way to the future subdivision from Pindell School Road in place of, or in addition to the Maiden Lane access.
- Investigate a design that creates a road from Pindell School Road that ends in a cul-de-sac or T-turnaround with a use-in-common driveway so that the south boundary line of Lot 158 will not shift as far north and eliminates the encroachment issue for the existing house to remain?
- Clarify if the culvert in the stream stay in place as-is or will it be upgraded to accommodate any future road as currently shown on the Percolation Certificate? Provide clarification on how the anticipated layout of the future subdivision minimizes environmental impacts to the streams and wetlands? What environmental impacts are anticipated? Can the road alignment be shifted away from the existing home without adjusting the culvert?
- Provide additional information on the number of lots proposed. Is density being imported to the site? If the percolation certification of one lot is what is requiring the placement of the

- road, can the road be slightly re-aligned without increasing environmental disturbance, even if it creates the elimination of one lot?
- Consider the ultimate encroachment condition for the wall on Lot 158. While the deed adjoinder would only require an Administrative Adjustment to resolve the side setback for an accessory structure to a property line, there is no differentiation for a side setback of a principal structure or accessory structure from the potential future right-of-way. The setback with the right-of-way will be 60 feet. A variance will be required to place the road in the proposed future location as a zoning violation cannot be created with the future subdivision as confirmed by the Planning Director. Re-evaluate whether an application for the Administrative Adjustment is the desired action as this time, with the understanding that a future variance would be required or if the team will pursue a variance for the ultimate condition now..


The revised and resubmitted alternative compliance application must be submitted within 45 days from the date of this letter (on or before October 10, 2020*).

*Deadlines for submission are pursuant to the Fifth Edition of the Subdivision and Land Development Regulations. Pursuant to Executive Order 2020-04, and as per DPZ Director Department Order dated April 14, 2020, certain deadlines are reinstated. Should those deadlines lapse while Executive Order 2020-03 is in effect, those deadlines are automatically extended to (30 days) beyond the termination of the Order. In accordance with adopted Council Bill 51-2016, effective 10/05/16, if the deadline date is a Saturday, Sunday or holiday or if the County offices are not open, the deadline shall be extended to the end of the next open County office business day.

Please refer to the Department of Planning and Zoning website for current business processes during this time. Submissions can be mailed to Howard County Planning and Zoning, 3430 Court House Drive, Ellicott City, MD 20143 or dropped into the bin labeled 'DPZ' in the George Howard Building lobby. Submission materials can also be emailed to planning@howardcountymd.gov for processing.

If you have any questions, please contact Jill Manion at (410) 313-2350 or email at jmanion@howardcountymd.gov.

Sincerely,

DocuSigned by:

1EB75478A22B49A...

Anthony Cataldo, AICP, Chief
Division of Land Development

AC/jam

cc: Research
DED
DLD - Julia Sauer
Real Estate Services
Sill Engineering
Bill Erskine



Howard County Maryland
Department of Planning and Zoning
 3430 Courthouse Drive, Ellicott City, MD 21043

(410) 313-2350

DPZ Office Use only:

File No.

Date Filed

ALTERNATIVE COMPLIANCE APPLICATION

Site Description: Faith Horowitz & Richard Speizman AND Aglaya, LLC Property

Subdivision Name/Property Identification: Acct. # 05-370698 and 05-355818

Location of property: 6976 & 6978 Pindell School Road, Fulton Maryland 20759

Existing Use: Residential and Agricultural

Proposed Use: Residential and Agricultural

Tax Map: 41

Grid: 003

Parcel No: 158 PAR D & 160

Election District: 5th

Zoning District: RR-DEO

Total site area: 4.03 ac. & 57.33 ac. (per SDAT)

Please list all previously submitted or currently active plans on file with the County (subdivision plans, Board of Appeals petitions, alternative compliance petitions, etc.). If no previous plans have been submitted, please provide a brief history of the site and related information to the request:

GP-00-207; WP-05-29

In the area below, the petitioner shall enumerate the specific numerical section(s) from the Subdivision and Land Development Regulations for which an alternative compliance is being requested and provide a brief summary of the request. Please use the additional page if needed.

Section Reference No.	Brief Summary of Request
16.147	The Applicants are seeking an Article IV waiver from Section 16.147 of the Howard County Subdivision and Land Development Regulations in order to permit the transfer and conveyance of certain portions of the Horowitz Property to be merged with the adjoining Aglaya Property and to also permit the reciprocal transfer and conveyance of certain portions of the Aglaya Property to be merged with the adjoining Horowitz Property, without the necessity of submitting and recording a Final Plan and Final Plat.

Section Reference No.	Brief Summary of Request

Signature of Property Owner: See attached

Date:

Signature of Petitioner Preparer:

William E. Erskine

Date:

May 5, 2020

Name of Property Owner: See attached

Name of Petition Preparer: William E. Erskine, Esq.

Address: See attached

Address: 8171 Maple Lawn Boulevard, Ste. 200

City, State, Zip: See attached

City, State, Zip: Fulton, Maryland 20759

E-Mail: See attached

E-Mail: Fulton, Maryland 20759

Phone No.: See attached

Phone No.: 301-575-0663

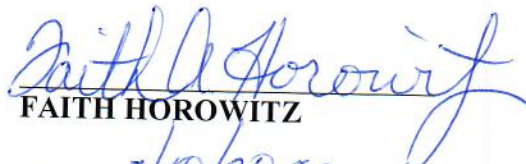
Contact Person: Richard Speizman

Contact Person: William Erskine

Owner's Authorization Attached

NAME OF PROPERTY OWNERS (PARCEL 158 D): FAITH HOROWITZ
& RICHARD SPEIZMAN

SIGNATURES OF PROPERTY OWNER(S):


FAITH HOROWITZ

DATE: 5/10/2020


RICHARD SPEIZMAN

DATE: 5/10/2020

ADDRESS OF PROPERTY OWNERS: 6976 PINDELL SCHOOL ROAD, FULTON,
MARYLAND 20759

EMAIL: rspeizman@comcast.net

PHONE NO.: 443-745-6577

CONTACT PERSON: RICHARD SPEIZMAN

NAME OF PROPERTY OWNER (PARCEL 160): AGLAYA LLC

SIGNATURES OF PROPERTY OWNER(S):

AGLAYA LLC


By: FAITH HOROWITZ
MANAGING MEMBER

DATE: 5/10/2020

ADDRESS OF PROPERTY OWNER: 6978 PINDELL SCHOOL ROAD, FULTON,
MARYLAND 20759

EMAIL: rspeizman@comcast.net

PHONE NO.: 443-745-6577

CONTACT PERSON: RICHARD SPEIZMAN

Justification Letter to Accompany Alternative Compliance Application

A. Extraordinary hardships or practical difficulties.

Faith A. Horowitz together with her spouse Richard A Speizman (the “Horowitzes”) are the fee simple owners of 4.037 acres +/- of land (per SDAT) designated on Howard County Tax Map 41 as Parcel 158, PAR D (the “Horowitz Property”). Aglaya LLC, a Maryland limited liability company (“Aglaya”), is the fee simple owner of 57.33037 acres +/- of land (per SDAT) designated on Howard County Tax Map 41 as Parcel 160 (the “Aglaya Property”). Aglaya is a family owned entity that is owned by various members of the Horowitz family including Faith A. Horowitz who is the owner of a non-controlling minority interest.

The land that now comprises Parcel 158D, Parcel 160 and Parcel 494C was acquired by Peter and Elizabeth Horowitz in the 1990s for the purpose of providing themselves and their children and grandchildren a place to live on a bucolic piece of land. Subsequently, Parcel 158D was transferred to their daughter Faith Horowitz and her husband Richard Speizman; and Parcel 494 was transferred to their daughter Sandra Hand and her husband Bruce Hand. Faith Horowitz and Richard Speizman built a house on their lot, and Sandra and Bruce Hand renovated an existing house on their lot. The Hands and Speizman-Horowitzes have occupied and continue to occupy their homes, where, between them, they raised four children.

The remaining parcel of land (Parcel 160) was transferred to Aglaya LLC, which is now owned by Faith Horowitz, Sandra Hand, and a third sibling, Matthew Horowitz. Parcel 160 has been in continuous agricultural use since the property was originally purchased by Peter and Elizabeth Horowitz.

As time has passed, maintaining the entire property has become a hardship. The grandchildren are now adults and no longer live on the property. The remaining residents are getting older, with some retired and others approaching retirement age. Peter and Elizabeth Horowitz had planned to build a house on Parcel 160. They are now precluded from doing so by advancing age (they are retired and are living in Florida). Matthew Horowitz is also retired and living in Florida. Meanwhile, the expenses associated with owning such a large amount of land, including, but not limited to, property taxes, insurance, and general maintenance continue to increase. These expenses have become quite burdensome, especially given that some of the owners are no longer working.

Consequently, the respective families have been reviewing potential options for the future use of the land. The Speizman-Horowitz family anticipates that it will need to sell its property, which includes a house that is much larger than they currently want or need. All of the owners of Aglaya have agreed that they cannot afford to keep the Aglaya property as-is and therefore, while they have not yet sold the property, they intend to sell it, as soon as the property is in saleable condition, to a buyer who will subdivide it. In light of this, and with guidance from their advisors, the property owners have determined that the boundaries of the existing parcels should be modified in order not to interfere with a future sale.

The Horowitz Property and the Aglaya Property are adjoining properties having multiple

common boundary lines. The Aglaya property has frontage and direct access onto Pindell School Road. In addition, the Aglaya property has frontage on Loganberry Lane. Despite this frontage it is not practical or in the public interest to utilize Loganberry Lane for access to the public road due to the presence of extensive environmentally sensitive areas including: streams, flood plains, wetlands, and their respective buffers.

The Horowitz Property, via its pipe stem, adjoins approximately one-half of the Maiden Lane right-of-way (east of the centerline). The Aglaya Property adjoins the remaining portion of Maiden Lane right-of-way (west of the centerline). Despite having frontage on Maiden Lane, the Horowitz Property is not able to physically access Maiden Lane via its pipe stem due to the presence of environmental features including: streams, flood plains, wetlands, steep slopes, and their associated buffers. Because of these physical constraints, the Horowitz Property instead derives public road access by means of a recorded use-in-common driveway access easement over the Aglaya Property to Pindell School Road. This use-in-common driveway is also shared with Parcel 494C which is currently owned by Bruce and Sandra Hand. In the event that this alternative compliance request and the related petition for administrative adjustment are approved, the above referenced use-in common driveway easement will be extinguished and replaced with a new use-in-common driveway easement and maintenance agreement that is better aligned with the present location of the existing driveway serving all of the properties. The Horowitz property would abandon the use of this new use-in-common driveway easement in the future when Maiden Lane is extended and dedicated to Howard County as a public road.

The Horowitzes and Aglaya (the “Applicants”) are seeking an Article IV waiver from **Section 16.147** of the Howard County Subdivision and Land Development Regulations in order to permit the transfer and conveyance of certain portions of the Horowitz Property to be merged with the adjoining Aglaya Property and to also permit the reciprocal transfer and conveyance of certain portions of the Aglaya Property to be merged with the adjoining Horowitz Property, without the necessity of submitting and recording a Final Plan and Final Plat. The Applicants’ objective is to reconfigure their respective lot lines as shown on the Alternative Compliance & Administrative Adjustment exhibit attached hereto as **Exhibit 1**. See also a proposed Deed of Adjoinder Transfer and Merger attached hereto as **Exhibit 2**. Both the Horowitz and Aglaya properties are legal parcels that were created by deed (See attached 60 year parcel deed histories attached hereto as **Exhibit 3** (Horowitz Property) and **Exhibit 4** (Aglaya Property). Consequently, neither parcel has ever been the subject of a recorded subdivision plat.

The specific portions of the Horowitz Property proposed to be conveyed to and merged with the Aglaya Property consist of two (2) parcels of land including: 1) a 14,960 square foot, or 0.3434 acre parcel shown as a striped area on sheet 2 of **Exhibit 1**; and 2) a 3,762 square foot, or 0.0864 acre parcel also depicted on the aforementioned exhibit as a striped area. (See legend below.)

LEGEND

AREA TO BE TRANSFERRED TO PARCEL 158



AREA TO BE TRANSFERRED TO PARCEL 160



The specific portions of the Aglaya Property proposed to be conveyed to and merged with the Horowitz Property consist of two (2) parcels of land including: 1) a 23,238 square foot, or 0.5335 acre parcel shown as a cross hatched area on sheet 2 of **Exhibit 1**; and 2) a 31,799 square foot, or 0.7300 acre parcel also depicted on the aforementioned exhibit as a cross hatched area.

The Horowitz Property is improved with a 5,202 sq. ft. two story single-family detached dwelling. The Aglaya Property is improved with four (4) agricultural buildings and has been in agricultural use for at least the past several decades. As noted above, Aglaya and its members have decided to sell the Aglaya Property. However, due primarily to the Howard County Adequate Facilities Ordinance and the lack of available school capacity it is expected that the subdivision of the Aglaya Property could take seven (7) years or more after any sale.

Subdivision of the Aglaya Property will require, at a minimum, the continuing cooperation of the Horowitzes. The reason for this is that the Horowitz Property pipe stem occupies 1/2 of the width of the Maiden Lane right-of-way. Because of this it will be necessary for this portion of the Horowitz Property to be dedicated to Howard County in order to extend Maiden Lane into the Aglaya Property to serve a future subdivision. The Horowitzes are willing to dedicate a portion of their property for purposes of dedication to Howard County for a public road, however, they have been informed that the Department of Public Works cannot accept such a dedication until the future subdivision has received final approval. In addition, it is necessary and desirable to make other lot line adjustments between the Horowitz and Aglaya properties in order to properly locate a future extension of Maiden Lane to serve the intended subdivision and to also provide space for potable wells to serve potential future lots. See proposed Perc Certification Plan attached hereto as **Exhibit 5**.

As shown on the Perc Certification Plan, the proposed extension of Maiden Lane will enter the Aglaya Property along the northern boundary. The extended road will then descend in elevation while curving to the east to a point where it will follow the course of an existing driveway. The extended road will then cross a stream at the location of an existing crossing that is already improved with 54" double culverts. By crossing the stream at this location, disturbances to the stream, wetlands, and associated buffers will be minimized. However, in order to achieve the road crossing at this location it is necessary to utilize a portion of the Horowitz Property to accommodate the width of the Maiden Lane right-of-way and to also have adequate room for grading and storm water management.

Due to the extended duration of the Howard County subdivision process, the Horowitzes do not wish to include their property, the Horowitz Property, as part of the future subdivision of the Aglaya Property. Doing so would impose an unreasonable hardship and practical difficulties upon them. Participating in the future subdivision of the Aglaya Property could delay their ability to sell their home for seven (7) years or more. At the same time, selling the Horowitz Property to a third party now in its current configuration would effectively preclude the future subdivision of the Aglaya Property thereby imposing significant practical difficulties and unnecessary hardships on Aglaya. The Horowitzes are willing to reconfigure their property in advance of its sale to a third party but having to wait seven (7) years or more to do so would likewise impose significant practical difficulties and unnecessary hardships upon them. By

approving this request for alternative compliance and the related Petition for Administrative Adjustment, the boundaries between the Horowitz and Aglaya properties can be reconfigured as necessary and in a timely and efficient manner without precluding the future subdivision potential of the Aglaya Property.

B. The Intent of the Regulations Will be Served to a Greater Extent Through the Implementation of the Alternative Proposal.

The granting of the requested waiver will serve the intent of the regulations to a greater extent - as compared to insisting upon strict compliance with Section 16.147 of the regulations. Notably, Section 16.101 of the Subdivision and Land Development Regulations sets forth the purpose and intent of the subdivision and land development regulations. Among the stated intents of the regulations is “Assisting orderly, efficient, and integrated development of land.”¹ The granting of the requested waiver will serve this stated purpose and intent to a greater extent because it will result in the orderly and efficient reconfiguration of the common boundaries between the Horowitz and Aglaya properties and will achieve the integrated development of the properties and meet the needs of the respective property owners.

C. Approval of the Waiver Is Desirable and Will not be Detrimental to the Public Interest.

Approval of the requested waiver will not be detrimental to the public interest. In fact, the area of land being reciprocally conveyed between the properties is comparatively quite small and no additional lots or parcels are being created. Further, no physical changes to the land are contemplated as a result of the adjoinder deed transfers proposed herein. All that will occur is that the common lot lines between the adjoining properties will be adjusted modestly. Before any further subdivision or physical development of the Aglaya Property occurs, the project will have to go through the full subdivision and land development review and approval process.

D. The Approval of the Waiver Will not Nullify the Intent and Purpose of the Regulations.

For the reasons set forth above, granting the requested waiver and permitting the adjoinder deed transfer to be recorded will not in any way be contrary to or nullify the purpose of the subdivision regulations as set forth in Section 16.101(a) (1) – (14). This is particularly true considering the fact that the Aglaya Property, when developed, will be subject to the full subdivision and land development review and approval process which will be evidenced by an approved Final Plan and Final Plat. Therefore, the purpose and intent of Section 16.147 will be fully achieved as part of the future Aglaya Property subdivision approval process.

E. Compliance with Bulk Requirements Under HCZR §105.0.E.4.a.3.c.1.

In the event that this alternative compliance request is granted, it will be necessary to apply for and to obtain an Administrative Adjustment to reduce the minimum setback required under HCZR §105.0.E.4.a.3.c.1. This regulation requires accessory structures 200 square feet or greater to maintain a minimum setback of 30 feet from a side yard lot line. As shown on sheet 1 of

Exhibit 1, the reconfiguration of the lot lines between the Horowitz Property and the Aglaya Property as proposed will result in a side yard setback encroachment between an existing retaining wall located on the Horowitz Property and the reconfigured side yard lot line. For this reason, the Applicants are requesting that any approval of this alternative compliance request be conditioned upon the Horowitzes obtaining an appropriate Administrative Adjustment to reduce the accessory structure side yard setback from a lot line to the extent necessary to eliminate the setback encroachment. A Petition for Administrative Adjustment is being filed contemporaneously with this Petition for Alternative Compliance.

The Applicants would request a period of twelve (12) months from the date of approval of this alternative compliance request to satisfy this condition.

¹ See, Section 16.101(a)(1).