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September 26, 2011

Mayor Helene Schneider and Members  
of the City Council  
City of Santa Barbara  
City Hall  
Santa Barbara, California 93101

Re: Cahill Appeal of SFDB Decisions Regarding 1402 Grand Avenue

Dear Madame Mayor and Members of the City Council:

I represent Melanie Cava and Todd Drevo, owners and residents of 1402 Grand Avenue, a 5.2 acre property on the lower Riviera. For the past several years, Ms. Cava and Mr. Drevo have been attempting to complete a lot line adjustment with their neighbors, Mr. and Mrs. Joseph Yob, owners of the home at 860 Jimeno Road. Ms. Cava and Mr. Drevo at one time owned the Jimeno Road property, and as a condition of sale of that property to the Yobs, negotiated a transfer of 3,140 square feet of the Jimeno Road property to the Grand Avenue site to facilitate parking and emergency access. Neither party to the sale could have anticipated the extent of opposition which would be raised to this simple request.

Background

The original request for a lot line adjustment between the Yob and Cava/Drevo properties was approved by the Staff Hearing Officer (SHO) on June 3, 2009. Among the conditions of approval were several requirements addressing the preservation of a large oak tree near the newly adjusted property line, as well as a requirement that covered parking on the Grand Avenue site be provided. On June 30, 2010, Ms. Cava and Mr. Drevo sought, and received, approval for certain minor changes to the conditions of approval, which addressed the method of restricting parking under the oak tree and substituted a two car garage for the previously approved carport. Because of unexpected delays in obtaining lender approval for the lot line adjustment, Ms. Cava and Mr. Drevo found it necessary to apply for, and receive, a three year time extension of the lot line adjustment approval. This time extension was granted by the SHO on July 27, 2011. Subsequent thereto, Ms. Cava and Mr. Drevo obtained the required design approval for the garage and landscaping, and recorded the lot line adjustment on August 16, 2011.

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### The Appeal

Over the last several months, Tony Fischer, attorney for Mike and Linda Cahill, has filed a series of appeals, challenging everything from the staff's 2010 acceptance of a respected arborist's recommendations because the arborist was paid by the applicant, to assertions that the approved garage is not in keeping with the surrounding area. He alleges that Ms. Cava and Mr. Drevo are operating an illegal vacation rental (an issue which was resolved to the City's satisfaction several years ago), as well as claims that the staff is bias against his clients. What is lacking in Mr. Fischer's appeal, however, are any facts relevant to the decisions made by the Single Family Design Board, the only issue properly on appeal.

Apparently, Mr. and Mrs. Cahill object to the size, location, and design of the garage approved for the Grand Avenue site. Because the garage is 7 feet longer than the minimum 20 foot dimension and not located immediately adjacent to the house, the appellants assert that this is proof that the garage will not be used for parking. The appellants disregard the significant site constraints which dictate the location of the garage (and which were appreciated by the SFDB in granting their approval of the location), and instead allege that because the garage plan allows for a modest amount of storage, it will be a "party room for the vacation rentals." Further, they assert that a 562 square foot garage is somehow out of character with other properties in the neighborhood (none of which begin to approach 5.2 acres in size). Finally, they appear to object to the pitched roof design. At no time do the appellants identify any ordinance violations relating to the SFDB approval, offer any examples of the alleged inconsistencies with City policies or with similarly situated properties, or provide any quantifiable basis for their objections. They simply don't like the garage and want the approval overturned.

While the Cahills are certainly entitled to their opinion, the fact that they dislike their neighbors' proposal, one which meets all setback, height, and design requirements, does not form a valid basis for overturning the actions of the SFDB.

### The Factual Setting

The Cava/Drevo property is accessed by a long, narrow, dangerous driveway extending from the end of Grand Avenue some 689 feet to the residence. Because of the manner in which the properties were originally divided and developed many years ago, there was little room on the Grand Avenue site for parking and drivers were forced to back down this long and perilous driveway. To address these concerns, the Yobs and the Cava/Drevo's agreed to transfer approximately 3,140 square feet from the Yob property to the Grand Avenue parcel and filed an application for a lot line adjustment in August of 2008. Various designs were proposed, all with the goal of increasing parking and access

to the site. Careful consideration was given to the preservation of an existing large oak tree on the Yob property, with the imposition of conditions requiring annual monitoring of the health of the tree, preventing parking near the tree, and limiting landscaping near the tree roots. Similar care was taken with designing the parking and maneuvering areas to assure safe ingress and egress without adversely impacting the tree. The SHO approved this request in 2009, including the conditions protecting the oak tree and limiting the parking areas onsite. The 2009 approval also contained a requirement that covered parking be provided in a carport. The 2009 decision was not appealed.

As is often the case, when the applicants began refining their design in anticipation of recording the lot line adjustment and obtaining the necessary building permits, they decided that a garage was much more in keeping with a property of this caliber, and they sought approval from the City to substitute a garage for the previously approved carport. As part of this substitution, the location of the covered parking was relocated slightly, which necessitated minor changes to the back-up/turn around area under the oak tree (for example, a change from a rock border to a curb). The SHO found these proposed alterations in substantial conformity to the original approval and granted the requested change. The 2010 decision was not appealed.

As mentioned previously, the parties to the lot line adjustment were delayed in obtaining the required approvals from their lenders in order to complete the lot line adjustment by the 2011 deadline. In order to preserve their approval, the applicants filed for, and received a time extension, something which is regularly granted if the applicants have shown progress on their project. We have been advised by staff that time extensions are not appealable.

Within a month of the receipt of the time extension from the SHO, the applicants completed the design review process with the SFDB and recorded the lot line adjustment. The Cahills are now appealing the action taken by the SFDB. Although the appeal includes a variety of unrelated issues, including objections to the time extension process, complaints about the attitude of staff, and false allegations about the actions of the applicants, these assertions are not properly before the Council and should not be considered as part of this appeal. The matter before the Council is simply whether or not the decisions of the SFDB regarding the garage should be upheld.

### The SFDB

The SFDB is charged with determining whether a given application meets the City's design criteria, is compatible with the surrounding neighborhood in size and design, and

is in keeping with the Neighborhood Preservation Ordinance, the Single Family Design Guidelines, and other relevant guidelines applicable to construction in this zone. A careful review of the record shows that the Planning staff, the SHO, and the SFDB spent a great deal of time assuring that the project would meet the requirements of the Neighborhood Preservation Ordinance through the imposition of conditions addressing the height of vegetation, the location of parking and turn around areas, and the overall design of the garage. As stated in the minutes of the SFDB action, the findings required by Santa Barbara Municipal Code Section 22.69.050 have all been made for this project.

More significantly, however, is the fact that there is nothing in the various appeal letters and accompanying documents which provides a justifiable basis to challenge the SFDB's 5-0 decision approving this project. Nowhere does the appellant state which ordinance provision has been violated, which finding is lacking, or what design criteria has been overlooked. Rather, the appeal is fraught with unfounded allegations impugning the integrity of staff, the applicants, and the process. Rather than working with the applicants to obtain the most acceptable proposal possible, Mr. Cahill has chosen to spend his time accosting Ms. Cava's and Mr. Drevo's visitors, asking them how much they are paying to visit the property, falsely accusing staff of bias, and raising absurd objections to the minutes of various City proceedings (such as the allegation that SFDB minutes are erroneous because they fail to list every staff member in the room). An inordinate amount of time has been wasted on complaints about the adequacy of the notice (the SFDB agenda mistakenly included reference to the earlier SHO actions; however, since Mr. Cahill and his attorney have been present at each and every hearing, clearly the notice was legally effective), the lack of detail in the minutes, the fact that consent calendar items are not televised, and other procedural objections which are irrelevant to this decision, as the appellants have been afforded every opportunity to participate throughout. It is indeed unfortunate that an appellant is afforded a government forum to rail against both staff and the applicant without respect for truth or integrity. Staff, the SHO, and the SFDB have done nothing to deserve the vitriol aimed at them throughout this process. They have conducted themselves professionally and without bias to either party. The simple fact that the appellants disagree with the decision is not evidence of error.

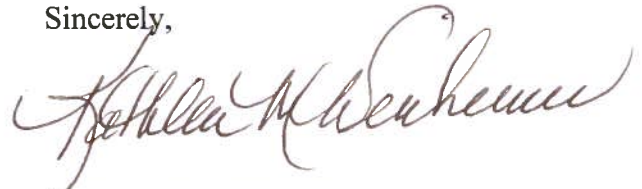
### Conclusion

The last two sentences of Mr. Fischer's letter of September 8, 2011 summarize the only real issues in this appeal: Mr. Cahill wants the garage relocated or the carport condition reinstated. The appeal offers no basis for either request. Clearly, an enclosed parking garage of 562 square feet, which includes a modest amount of space for storage of gardening equipment, garbage containers, and the like, is preferable to an open carport.

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One would think this is particularly true for a neighbor who can view the site from his home. More importantly, the applicants received approval to substitute the garage for the carport more than 15 months ago, and have spent considerable time and money in reliance on that approval. The SFDB members have applied their expertise as design professionals to review and approve the project, believing it to be an appropriate improvement, especially given the size of the residence (2,400 square feet) and the parcel (5.2 acres). Careful consideration has been paid to the legitimate concerns raised throughout the review process and appropriate conditions protecting the oak tree and the adjacent environment have been imposed and upheld. As such, on behalf of Ms. Cava and Mr. Drevo, who have been living with this exhausting and expensive process for more than three years, I respectfully request that you deny this appeal and uphold the decision of the SFDB. Thank you very much.

Sincerely,

A handwritten signature in cursive script, reading "Kathleen M. Weinheimer". The signature is written in dark ink and is positioned above the printed name.

Kathleen M. Weinheimer