

APR 20 2006

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Michael L. Sandford

NOTICE OF APPEAL
(Architectural Board of Review - April 10, 2006)

To: City Council
City of Santa Barbara

Date: April 20, 2006

From : Gary Semerdjian
c/o Michael Sandford
205 East Figueroa Street
Santa Barbara, CA 93101

Property Address: 559 Ricardo Ave.
Santa Barbara, CA
APN 035-122-009

Property Owner: Grant and Monica Laviale

Re: Appeal From Decision of Architectural Board of Review
Hearing Date: April 10, 2006
Application No. : MST 2005-00716
Final Review Calendar: Matter No. 2

Decision Appealed From: Approval by ABR of Modified Landscape Plan and For
Replacement of Landscaping on Hillside

1. Decision Appealed From: Gary Semerdjian, the adjacent property owner to the subject property described above, hereby files the following Notice of Appeal to the Santa Barbara City Council from the decision rendered by the Architectural Board of Review ("ABR") on April 10, 2006 as referenced above. The decision approved the modified landscape plan submitted by the applicant owners for replacement of the plants, trees and shrubs on the slope at the rear slope of applicants' property which adjoins the property owned by the appellant. The matter was Item No. 2 on the ABR final approval calendar for April 10, 2006. For reference purposes, a copy of the Minutes (Draft) of said meeting and decision are attached hereto as Exhibit "A".¹

2. Reasons For Appeal: At the hearing on April 10, 2006, the ABR approved the

¹ The Final Minutes of said meeting were not available on the Website as of the date of the filing this Notice of Appeal.

modified landscape plan submitted by the applicant owner for replacement of the landscaping and modification of the rear portion of their backyard which contains a steep slope which supports the adjacent Semerdjian property and house. Mr. Semerdjian and other neighbors objected to that portion of the modified plan regarding replacement of the hedge plants at the top of the slope near the property line on the grounds that the hedge would block and impair both private and public views of the ocean and islands. The original application and landscape plan was submitted in response to the enforcement case brought against the applicants by the City of Santa Barbara. In their original response, the applicants proposed planting Ficus type plants for the hedge and claimed these were required for privacy. Mr. Semerdjian and several neighbors previously objected to this type of plant to be used as a hedge since the plants would grow to substantial height and block the private ocean and island views from the Semerdjian property and the public views from the street and sidewalk. The ABR previously ruled that the Ficus plants could not be used for a hedge by the applicants and that a modified plan had to be submitted.

At the hearing on April 10, 2006 the ABR approved the removal of the Ficus plants for the hedge and approved the planting of "*Leonotis Leonurus*" (*Lions Head*) plants for the hedge along the top of the slope. A description of these plants is contained in Exhibit "B" attached hereto. It also required the applicants to plant the hedge plants down the slope from the Semerdjian property either two (2) feet from the property line or the fence between the two properties.²

Mr. Semerdjian appeals from the ABR decision for the following reasons:

A. The ABR approved the modified plan which contained a hedge along the top of the slope consisting of *Leonotis Leonurus* (*Lions Head*) plants. The ABR approved the hedge on the basis of the applicants' representations, made through their architect, that the plants would not grow to a height greater than six (6) feet and would not therefore block the public or private views. The written evidence submitted by the objecting parties was that these plants can grow to heights of seven (7) to ten (10) feet and have done so. The Semerdjian evidence presented to the ABR was that any hedge which exceeded six (6) inches above the fence line would block the views. If they grow to that height, the private and public ocean and island views will be blocked by these plants when they reached full maturity and grew to a height which exceeds six (6) feet.

B. The ABR failed to properly consider the City of Santa Barbara View Ordinance (M.C. Section 22.76) ("the View Ordinance") which specifically acknowledges the rights and interests of property owners in Santa Barbara to the maintenance of views from their property without obstruction from trees, plants or shrubs on adjoining properties. This is a case where

² The fence at the top of the slope between the two properties is not on the property line and there is no dispute about this. The fence is actually on the Semerdjian property approximately two feet behind the property line at the sidewalk and then joins the property line at approximately the corner of the two parcels. Most of the property outside the fence and on top of the slope is owned by Semerdjian and the property line is approximately at the apex of the slope.

the approval of the hedge which will potentially block, impede and hinder private property and public views and is not a case where existing plants or trees have grown to block such views. By approving a hedge which will block or impede the views, coupled with a lack of any height restriction on the hedge or an affirmative covenant of maintenance by the applicants, ABR has created a situation and circumstance where Mr. Semerdjian suffers a loss of his views, will suffer a loss in property value and will have to invoke the View Ordinance procedure, at great expense and consumption of time, if the applicants do not maintain the hedge at a height which will not negatively impact the Semerdjian ocean and island views and the public views which have existed in an uninterrupted state for over 18 years for Mr. Semerdjian and 29 years for prior owners of the Semerdjian property.

C. The ABR failed to impose, as a condition of approval, a requirement for maintenance of the hedge at a height not to exceed six inches above the top of the existing fence so as to not negatively impact the Semerdjian views or the public views.

D. The ABR failed to impose any restriction on the height of the hedge so that it would not negatively impact, impair or block the ocean and island views from the Semerdjian property or the public views.

E. The ABR failed to impose any affirmative maintenance obligation or impose any condition of approval for the applicants to maintain the height of the hedge so that it would not negatively impact, impair or block the ocean and island views from the Semerdjian property or the public views.

F. In its decision, the ABR states that "the hedge material be planted a minimum distance of two (2) feet away from the fence or property line".³ This aspect of the decision is vague and ambiguous since the fence is not on the property line and creates a circumstance where the hedge could be planted on the flat portion above the slope on the Semerdjian property. The property line is actually approximately (2) feet inside the fence towards the applicants' backyard. This means that if the hedge was planted two(2) feet inside the fence line, it would conceivably be planted on the Semerdjian property (See Exhibit "C" attached hereto for reference purposes), would grow to at least six (6) feet (according to the applicants' architect) and would then severely block and impede the Semerdjian views and the public views. The decision needs to be modified to clearly state that the hedge plants are to be planted at a minimum of two (2) feet down the slope from the property line and not the fence.⁴

³ See the Minutes of the Meeting of April 10, 2006 at page 5 - "Motion"(attached hereto as Exhibit "A").

⁴ This distance from the property line was purportedly accepted by the ABR on the grounds that the plants would not exceed six feet in height, that the fence was three feet tall, and if planted two feet down the slope would not grow to much above the fence line and the Semerdjian views would not be impacted in a negative way. This is not true if the hedge plants are allowed to be planted two feet from the fence line at the top of the flat area of the fence. The minimum distance should be two feet down the slope from the property line.

G. The ABR failed to recognize and follow the guidelines in the View Ordinance for the protection of private views for property owners in Santa Barbara and permitted a situation to exist which will, in all probability, result in arbitration, mediation or litigation under the view ordinance, all at great expense and inconvenience to the property owners. The avoidance of a problem which would invoke the use of the View Ordinance should have been paramount to the ABR.⁵

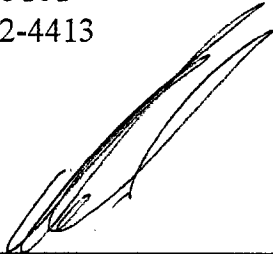
3. Name and Information Re Appellant.

Appellant: Gary Semerdjian
619 Juanita Ave.
Santa Barbara, CA 93109
c/o Michael Sandford (address below)

Appellant Represented By:

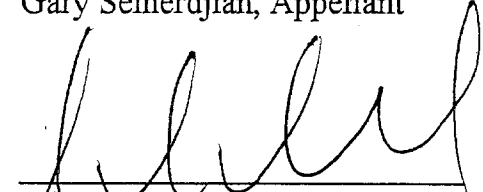
Michael L. Sandford, Attorney
Law Offices of Michael L. Sandford, Inc.
205 East Figueroa Street
Santa Barbara, CA 93101
Telephone: (805) 962-4413

Respectfully submitted,



Gary Semerdjian, Appellant

c: City Administrator
City Attorney
Community Development Director
Planning Division
4-21-06, ba



Michael L. Sandford
Attorney for Appellant

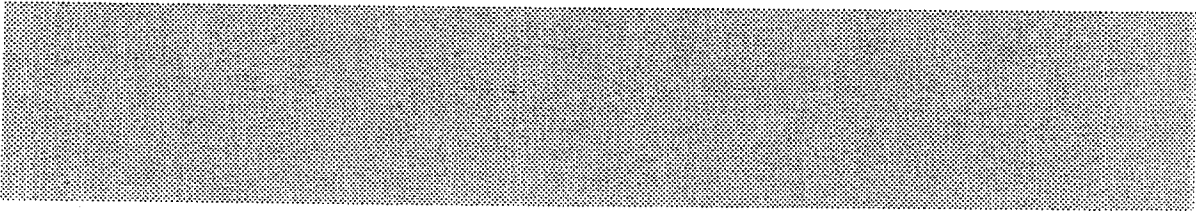
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⁵ In filing this Appeal, Semerdjian does not waive or relinquish any right that he has, now or in the future, to invoke the provisions and procedures contained in the View Ordinance.

Horticopia® On-line Plant Information

Leonotis	Leonotis cardiaca	Leonotis sibiricus	Plant Index	Search
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Leonotis leonurus
Lion's Ear

Lamiaceae
Mint

Plant Type: Perennial

Hardiness Range: 9A - 11

Mature Height: 30" to 7' / 75cm to 2.20m

Environment: prefers full sun; soil should be moist

Bloom Colors: Orange



Photography: Dr. Allan Armitage

Cultivar(s)	found on these Horticopia reference libraries and/or portfolios
Species	<i>Handwritten initials</i>

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Our website provides but a small subset of the information contained on our published CD-ROMs. Each plant comes complete with one or more pictures and comprehensive data. The pictures on our CD-ROMs are a significantly higher resolution (typically sized for a 1024 by 768 monitor resolution) than the website samples and do not have the Horticopia copyright imbedded in the image.

Horticopia Professional Woody XE Library	Horticopia Professional Herbaceous XE Library	Horticopia Professional Woody SE Library	Horticopia Professional Herbaceous XE Library	Horticopia Professional Armitage Portfolio
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Exhibit B

THE VANDUSEN SEED COLLECTORS' STORE

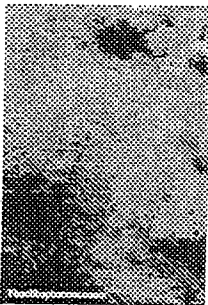
VanDusen » Shrubs » Leonotis leonurus

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Foeniculum vulgare 'Purpureum' \$ 2.45

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- Rhododendrons (12)
- Vines (11)
- Treasures (16)

Plant Families

Please Select

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Leonotis leonurus

Lion's Ear
 Native Region: South Africa
 Zone Range: 08-10
 Preferred
 Climate: Mediterranean
 Harvest Date: Tuesday 21 October, 2003

Description:

This wonderful small to medium sized shrub produces upright stems with whorls of orange flowers arranged at regular intervals, and grows to a height of 2m (6ft) or more. The habit of the bush is such that you might be forgiven for thinking it an herbaceous perennial at first glance. Bloom time is from autumn to early winter in coastal temperate regions, in warmer climes, or if the plants are sheltered in a greenhouse, flowers may be produced sooner. Semi evergreen or deciduous, depending on the weather.

Notes:

The plants at VanDusen reached 3m (10ft) in the summer of 2003.

Cultivation:

Sow seed in the spring in containers of sterile starter medium, and germinate at 14-18°C (57-64°F). Grow in a any good, well drained garden soil. In colder regions, some winter protection may be needed, or prune the plants back and bring them into a cool greenhouse for the winter. For maximum freshness, please keep seed refrigerated in its original packaging until it is time to plant.

Harvest Date: Tuesday 21 October, 2003

\$ 2.95

Seed count: 25-30



Click to enlarge or reduce

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0 items

Plant Family



Tell A Friend

Tell a friend about this seed variety.

Specials



Berkheya purpurea
~~\$ 3.25~~
\$ 2.49

Languages

Currencies

Canadian Dollar

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B-1

ADD 11/56 PLUMBAGO AURICULATA 6

(2) 24" BOX WASHINGTON NAVEL
OR VALENCIA CITRUS
SEMI DWARF 8-10

RELOCATE
(3) DURANTA E. 'VARIEGATA'

18- 5g LEONOTIS LEONURUS

RELOCATE
(3) DURANTA E. 'VARIEGATA' 10-25#

SEMERDJIAN
FENCE

(E) CEANOTHUS 'YANKEE POINT'

SEMERDJIAN /
LAVIALE
PROPERTY LINE

(E) PITTOSPORUM HEDGE
TO REMAIN AND BE MAINTAINED
AT 7'-0" HEIGHT MAX.

(E) PARKWAY

(E) SIDEWALK

Exhibit C

