

**TOWN OF SAN ANSELMO  
PLANNING COMMISSION STAFF REPORT**

**For the meeting August 18, 2014**

**Agenda Item D-5**

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**Project Address:**

476 Laurel Avenue  
San Anselmo, CA 94960  
APN-007-131-10 and 46

**Case No.**

UP-1402, LM-1401, DR-1404, GP-1404

**Owner and Applicant**

Michael Weiss  
43 Pastori Avenue  
Fairfax, CA 94930

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**Request**

A use permit to demolish the existing single family residence, a lot merger of APN 007-131-10 and 46, hillside design review for a new 3,540 square foot, three story, single family residence, , and a grading permit to excavate 570 cubic yards, fill 140 cubic yards and off-haul 430 cubic yards at 476 Laurel Avenue. The project site is located in the R-1 Zoning District and within the Bald Hill Area Plan.

**Recommendation**

Conditional approval

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**I. PROJECT SUMMARY**

**Environmental Determination**

Categorically Exempt: Section 15303(a) – New Construction or the Conversion of Small Structures; one single-family residence or a second dwelling unit in a residential zone.

**Authority**

San Anselmo Municipal Code; Article 13 – Use Permit, Article 27 - Merger of Parcels, Article 15 - Design Review, , Grading Permit – San Anselmo Ordinance No. 1074.

**Timing**

A determination must be made within 60 days of the project being deemed complete which is October 8, 2014.

## I. STAFF ANALYSIS

### Existing and Proposed Conditions

	Existing	Proposed	Code
<b>Lot Size (sq. ft.)</b>	Parcel 1 14,835 Parcel 2 15,043	29,878	Minimum 7,500
<b>Floor Area (sq. ft.)</b>	Parcel 1 0  Parcel 2  Total 1,520 First Floor 684 Second Floor 836	Total 3,540 First Floor 1,490 Second Floor 1,534 Garage 516 (16 sq. ft. count toward FAR)	3,906
<b>Floor Area Ratio sq. ft. (%)</b>	1,520 sq. ft. (9.9%)	3,040 sq. ft. (10.2%)	3,906 sq. ft. (20.3%)
<b>On-Site Parking</b>	Uncovered 2	Covered 2 Uncovered 1	3
<b>Stories</b>	2	3	3
<b>Maximum height above average existing grade</b>	22 feet	28 feet, 3 inches	35 feet
<b>Zoning</b>	R-1	Same	NA
<b>Flood Zone</b>	X (not a flood zone)	Same	NA

### Project Description

The application includes merger of the two lots. The west parcel is 14,835 square feet and the east parcel is 15,043 square feet. The new parcel will be a total of 29,878 square feet. The new parcel meets all of the requirements of the Single Family Conservation General Plan land use designation and the R-1 Zoning District.

The proposed project is to demolish the existing residence and to construct a 3,540 square foot, three story residence and pool. The grade level of the new residence is proposed to include a two car garage, mechanical room and foyer. The first level will include the living and dining room, the kitchen, pantry, family room, guest bedroom, media room and bath. The upper floor will include the master suite, two bedrooms, bath and laundry. The new house will meet all required setbacks, 20 feet from the front and rear property lines and 8 feet from either side property line and the floor area ratio is significantly below the maximum permitted. The maximum height of the house will be 28 feet, 3 inches (Code: 35 feet) to the peak of the roof.

The proposed exterior materials include stucco siding, aluminum windows, and a composition shingled roof. A color elevation has been provided as well as a color and materials board with samples (Attachment 2). A visual simulation has been provided, pursuant to the Bald Hill Area Plan (Attachment 3).

The project proposes to excavate 570 cubic yards, fill 140 cubic yards and off-haul 430 cubic yards for the residence and the pool. The excavation is required because of the steep slope of lot (60%) and the desire to minimize the height and visual impact of the residence.

The site currently has minimal landscaping and additional landscaping is proposed on the front and rear elevations to screen the retaining walls. No heritage trees are proposed for removal.

The nearest residence to the east is approximately 75 feet away and the nearest residence to the north is approximately 88 feet away and 60 feet above in elevation, and finally the nearest residence to the south is approximately 100 feet away, therefore a shadow study was not required. Story poles have been installed to show the public and the Commission the outline of the proposed building.

### **Use Permit for Demolition of Residence**

The San Anselmo Municipal Code requires a use permit for the demolition of residential structures. The application includes a use permit to demolish the existing home.

### **Hillside Design Review for New Residence**

The San Anselmo Municipal Code requires that all new dwellings greater than five hundred (500) square feet in size on lots located at or above one hundred fifty (150) feet mean sea level require the approval of hillside design review. The project meets the height, setback, floor area ratio, and parking requirements of the Code.

### **Bald Hill Area Plan**

The subject site is located within the Bald Hill Area Plan (BHAP). This plan was approved in 1996 to provide guidelines for conservation and development of the densely wooded, steep hillsides that are served by narrow, winding roads and where new development on existing lots could pose issues of fire safety. The BHAP extends uphill roughly from the 150 foot mean sea level contour in the southwest quadrant of the Town.

The overall intent of the visual policies (Section 5.0) in the BHAP is to “minimize visual building mass from nearby and distant views, removal of mature trees, and visible grading.” The subject site is at the base of the BHAP, has little visibility beyond adjacent residences and has relatively flat topography. No heritage trees are proposed for removal although pursuant to the arborist’s report, the California bay tree at south east corner of the lot is in poor health (Attachment 4). The applicant is not proposing to remove the bay tree at this time.

The building design meets policies addressing height and mass. Policy 5.1.2 states: “The overall height of each building should be varied and as low as possible for each site condition”. Staff has worked with the applicant through revisions to the overall height of the proposed residence and the proposed design now has a maximum height of 28 feet, 3 inches.

Policy 5.2.2 requires non-reflective surfaces and darker earth tones to minimize visibility from distant or intermediate views. The selected tan, gray and green finishes of the new residence will be complimentary to the surrounding area and will result in a low visual profile. Hinkley Vento, dark sky compliant exterior lighting is proposed. This lighting conforms to Policy 5.6.3 of the BHAP, which requires hooded, low-level, low wattage light fixtures, which cast light in a downward direction.

Policy 5.3.2 states, “Upper floors should be stepped back from lower floor footprints to create variety to exterior elevations and to reduce the overall height of exposed downhill walls.” The proposed 1,534 square foot upper story is set back 8 feet from the front porch and 24 feet from the west lower floor elevation and 12 feet from the east lower floor elevation.

The parcel currently only has an open wire fence along the rear property line. A condition has been added that any new fencing must meet the requirements of the BHAP, which requires fences to be of

transparent construction and may integrate the use of vegetation. Fences shall be designed to allow wildlife to travel freely between properties. Solid fences should not be used.

## **Public Notice**

A notice was sent to all residents and property owners with 300 feet of the project. Comments were emailed to the applicant directly and copied to Town Staff (Attachment 5). The comments raise a number of issues. Staff has provided a summary of the comments and responses below. The applicant has also responded to the neighbors via a letter and met with several of the neighbors on two occasions (Attachment 5). A condition has been added that a detailed construction management plan is required to be submitted with the building permit application.

### **Comment #1**

Summary of Comment

*Project Setting (Bald Hill Area Plan)-The proposal for 476 Laurel is a speculative construction project. Accordingly, any promises made to ameliorate the impact of this project must be assessed in the light of a commercial enterprise.*

Response to Comment

Weather this project is proposed for a specific individual(s) or not is not relevant in the evaluation of this application.

### **Comment #2**

Summary of Comment

*The developer's stripping the hillside of more than 30 trees around and in front of the house two months ago, immediately eliminating all screening of the existing house, is an indication of what can be expected absent terms explicitly incorporated into approved design documents.*

Response to Comment

The tree removal was approved by the Town of San Anselmo. Attachment 4 includes the approved application for tree work, arborist's report and photographs.

### **Comment #3**

Summary of Comment

*With the regrettable exception of a relatively recent project at 456 Laurel, retaining walls are not visible and the houses are modest in scale.*

Response to Comment

Retaining walls within the setback area cannot exceed 4 feet in height. All retaining walls will be of concrete and stained a brown color. The walls on the downhill portion of the lot have been broken into

two or three walls in order to facilitate shorter walls and increase the planting areas to help minimize the impact.

**Comment #4**

*Summary of Comment*

*A the project is not consistent with The Bald Hill Area Plan (BHAP)*

Response to Comment

Staff is able to make all of the relevant findings of the BHAP, see discussion above under Staff Analysis Bald Hill Area Plan

**Comment #5**

*Summary of Comment*

*The note “no neighbors to south of house” on Sheet A1.1 is not accurate.*

Response to Comment

The plan set dated June, 25, 2014 was incorrect. The note was removed and plans resubmitted on July 23, 2014.

**Comment #6**

Summary of Comment

*The proposed swimming pool and retaining wall are proposed to be located approximately 50 feet directly up the steep hill from 479 Laurel Avenue and facing the south and east. It is misleading to infer that the visual and noise impacts of the project will not face any neighbors.*

Response to Comment

The retaining walls on the southern and eastern elevations do not exceed 4 feet in height, are concrete and stained a brown color and will be screened by plantings. The proposed swimming pool will be required to meet all the requirements of the California Building Code and the San Anselmo Municipal Code.

**Comment #7**

Summary of Comment

*The project will require a significant amount of grading to almost entirely re-contour the very steeply sloping site.*

## Response to Comment

The application includes a grading permit pursuant to the San Anselmo Ordinance No. 1074 and staff has reviewed the application and is able to make all of the required findings, see discussion and findings below.

### **Comment #8**

#### Summary of Comment

*The site is a source of a significant amount of water flowing offsite onto and across the fire trail, and onto 479 Laurel Avenue and the neighboring property to the southeast of the site. We have taken to installing a straw bollard across part of the fire trail to divert water back into the drainage area below the site; the water otherwise flows onto our property behind a rock wall above our driveway, and under the driveway itself. The plans we have seen for this project do not show drainage improvements necessary to address the impact that the proposed enlargement of the structure and addition of a paved patio and full size swimming pool will have on storm water runoff.*

#### Response to Comment

The Town Public Works/ Building Department has reviewed the application and has included conditions of approval that will address bio-retention and drainage at the time of building permit submittal.

### **Comment #9**

#### Summary of Comment

*The pool itself poses safety and engineering issues unaddressed by the proposed plan. It is well understood that hillside pools are ill advised. Downslope support needs to be on a solid foundation, preferably rock. Soil and structural engineering reports are needed to ensure the safety and integrity of the pool, and surface water needs to be routed around the pool to the downslope area to prevent water from seeping into the ground around the pool and compromising its integrity. The pool will generate noise that will impact the neighborhood.*

#### Response to Comment

The Town Public Works/ Building Department will require a geotechnical report with the building permit for the pool. The Town has a noise ordinance that regulates noise levels beyond property lines to certain decibel levels. A swimming pool is allowed on residential properties, subject to a building permit.

### **Comment #10**

#### Summary of Comment

*The project is inconsistent with General Plan Objective 9.*

Response to Comment

Staff has determined that the project is consistent with the San Anselmo General Plan, Zoning Ordinance and Bald Hill Area Plan, see discussions above.

**Comment #11**

Summary of Comment

*The proposed pool puts our (479 Laurel Avenue) personal interests in quiet enjoyment (and safety) of our property in the forefront of our minds. The pool and pool area would be directly above and look directly down into one of our bedrooms, our kitchen, and an outdoor entertainment area and would encroach upon the privacy that we previously enjoyed in these areas.*

Response to Comment

Town maps indicate that 479 Laurel Avenue is approximately 100 feet from the proposed pool. Staff has determined that the project would not have a significant impact on privacy. Further, a swimming pool is not subject to Design Review.

**II. REQUIRED FINDINGS**

**Use Permit Findings for Demolition of Residence**

In order to grant the use permit, the Planning Commission must make the following findings:

1. *Failure to approve a demolition permit will cause immediate and substantial hardship because of the conditions peculiar to a particular structure, and such hardship has not been created by an act of the owner in anticipation of action under this chapter. Examples of hardship include health and safety hazards that cause the building to be unsafe. Personal, family, financing difficulties, loss of prospective profits and neighboring violations are not justifiable hardships and;*
2. *It is necessary to reveal previous architectural features covered up, such features that would be functionally and aesthetically compatible with the existing improvements and the natural elements of the area.*

Staff is able to make both of the findings above relevant to the proposed demolition of the existing residence. Failure to approve the demolition will cause a hardship to the property owner and prevent their development of the site. The residence proposed for demolition was constructed in 1950. The San Anselmo Historical Museum has no information that the building has any historical significance.

## **Hillside Design Review Findings for New Residence**

In order to grant the design review application, the Planning Commission must make the following findings:

1. *The proposed project is functionally and aesthetically compatible with the existing improvements and the natural elements in the area.*

Although larger in size, the new home will be placed at identical location as the existing home, ± 20 feet 8 inches from the front property line and approximately 75 feet from the nearest neighbor. The maximum height of the proposed residence is 28 feet, 3 inches which is ±3 feet higher than the existing residence. The gray and sand colored exterior is designed to blend with the natural elements in the area.

2. *The proposed project provides for protection against noise, odors, and other factors, which may make the environment less desirable.*

The new home is proposed at the same location as the original home and will not generate noticeable negative impacts to adjacent properties. Once the construction is complete, the residence should not create excessive noise, odors or other less desirable environmental conditions. Three parking spaces are provided to minimize parking impacts. Construction will follow all San Anselmo requirements.

3. *Will not tend to cause the surrounding area to depreciate materially in appearance or value or otherwise discourage occupancy, investment, or development in the area.*

The proposed new home will add value to the site, as well as the adjacent parcels. The proposed improvements will create a residence that is connected with and sensitive to the natural landscape. During construction, the contractor will be required to adhere to the rules and regulations regarding safety and accessibility as well as the specific regulations of the Bald Hill Area Plan.

4. *Will not create unnecessary traffic hazards due to congestion, distraction of motorists, or other factors and provides for satisfactory access by emergency vehicles and personnel.*

The project will not create any unnecessary traffic hazards. Three off-street parking spaces are provided. The Ross Valley Fire Department reviewed the proposed plans and confirmed that there is satisfactory access for emergency vehicles and personnel. A construction management plan will be required with the building permit submittal.

5. *Will not adversely affect the health or safety of persons using the improvement or endanger property located in the surrounding area.*

Engineering for the proposed foundation improvements and the site drainage improvements are required to meet all San Anselmo codes and regulations. The project will adhere to wildland urban interface requirements and all applicable building codes to protect the health and safety of persons on the property and in the surrounding area.

6. *Does the project have adequate screening?*

The parcel, within a narrow valley and only visible from a few properties across the valley, is not highly visible. Existing and proposed landscaping will provide adequate screening. No

new fencing is proposed, however fence will be required for the pool and the fencing must meet the requirements of the BHAP.

7. *List how the selection of architectural features and colors enable the structure to blend with its environment which results in a low visual profile.*

The structure's bulk, height and mass, its earth tone colors and placing the structure on the lower portion of the lot, will all result in a low visual profile. The second story is set back from the exterior walls of the first story which is consistent with the requirements of the Bald Hill Area Plan.

### **Grading Permit Ordinance**

The Public Works Department has reviewed the project's drawings as they pertain to right-of-way, site earthwork, site drainage, driveway improvements, and erosion control. The project drawings comply with all requirements from the Public Works Department for approval of the grading permit. Furthermore, the Public Works Department is able to make all of the required findings required by the Town's Grading Ordinance No. 1074 listed below. In order to grant the grading permit application, the Planning Commission must make the following findings

1. *The health, welfare, and safety of the public will not be adversely affected.*

Construction will be required to be in compliance with all adopted building codes and public works standards, thereby ensuring the health and safety of persons in or near the property. The lot is at the end of Laurel Avenue where there is little to no traffic below the area to be graded. Silt fencing, straw wattles and temporary retaining walls will be installed if necessary to keep soil contained. A hydrant meter will be used to supply 1-1/2 diameter fire hoses to keep the dust down during grading.

2. *Adjacent properties are adequately protected by project investigation and design from geologic hazards as a result of the work.*

The adjacent properties are adequately protected from geologic hazards that could result from this project. The proposed excavation is approximately 75 feet away from the nearest adjacent building. A soils report by a licensed engineer will be provided as part of the building permit submittal and it will be approved by the Public Works Department prior to issuance of a building permit. The adjacent properties will all be considered and insurance shall be in place prior to construction.

3. *Adjacent properties are adequately protected by project design from drainage and erosion problems as a result of the work.*

Detailed drainage and erosion control plans that protect adjacent properties from drainage and erosion will be required as part of the building permit submittal. All drainage shall pass through the bio retention area below the driveway retaining wall and pervious areas in the yard and parking areas will be used to mitigate surface water.

4. *The amount of excavation, grading, or fill proposed is not more than is required to allow the property owner reasonably beneficial use of his or her property.*

The proposed earthwork for the project is reasonable to construct the proposed residence at this location. Excavation, grading and fill have been minimized given the site topography and required building setbacks. The only areas to be graded are for the placement of the house, yard and access to the garage. The majority of the property shall not be graded.

5. *The visual and scenic enjoyment of the area by others will not be unreasonably adversely affected by the project.*

The grading work will not unreasonably adversely affect the visual and scenic enjoyment of the area within the vicinity of this project. Landscaping is proposed to screen the retaining walls. Currently there is a house and a yard in the same location. There will be a general improvement to the scenic enjoyment of the area.

6. *Natural landscaping will not be removed by the project more than is necessary and that any removed vegetation will be replanted in a timely manner.*

Natural landscaping will only be removed where necessary to accommodate the proposed work. Areas removed of vegetation will be replanted as soon as possible to ensure slope protection prior to the rainy season.

7. *The time of year during which construction will take place is such that work will not result in excessive siltation from storm runoff or prolonged exposure of unstable excavated slopes.*

Grading work will not be allowed prior to April 15<sup>th</sup>. All grading work must be completed prior to October 15<sup>th</sup>. The drain at the bottom of the driveway will have filter fabric and straw wattles surrounding the inlet to catch silt. Uphill from the drain shall be a series of straw wattles and silt fencing. In the event of unseasonal rain, exposed soil will be covered with plastic. As soon as all retaining walls or footings are finished, drainage infrastructure will be installed per plan.

8. *The proposed excavation, grading, or fill does not violate the Town's General Plan or Zoning Codes.*

The proposed grading work is consistent with the Town's General Plan and Zoning Ordinance.

9. *Sufficient erosion control measures will be employed to offset any impact by the proposed excavation, grading, or fill.*

No grading work will be allowed prior to April 15<sup>th</sup>. Marin County's Storm Water Pollution Prevention Program guidelines for erosion control will be implemented. Disturbed areas of construction must be replanted and established prior to October 1<sup>st</sup> or erosion control measures in accordance with the erosion control plan must be in place.

### **III. CONDITIONS OF APPROVAL**

1. Planning Commission approval is based on the plans and materials titled Weiss Residence, by Western Construction, date stamped received by the San Anselmo Planning Department on July 23, 2014
2. Plans submitted for building permit must include a vegetation management plan to be reviewed and approved by the Ross Valley Fire Department.
3. All conditions of approval shall be printed at the top of sheet 1 of the building permit drawings.
4. A building permit must be obtained prior to the start of any construction work that requires a permit per the Town of San Anselmo regulations. Please contact the San Anselmo Building Department at 415-258-4616 or [townofsananselmo.org/building](http://townofsananselmo.org/building) for requirements and further information.

5. Hours of construction must be in conformance with the Bald Hill Area Plan, which are weekdays 8:00 a.m. to 4:30 p.m. and no construction on weekends and holidays.
6. Prior to issuance of a building permit and consistent with the Bald Hill Area Plan, the applicant shall post a road improvement financial guarantee (bond, cash, certificate of deposit, etc.) in a form and in an amount determined by the Director of Public Works, or provide other assurances to the Town, as determined by the Director of Public Works that the damage to such roads resulting from construction vehicle access will be repaired upon completion of construction.
7. If a complete building permit application has not been submitted to the Town within one year from the date of final action, the planning action becomes null and void. However, this discretionary action may be renewed by the Planning Director for a maximum period of one (1) year provided the applicant places such a request in writing to the Planning Director and shows good cause prior to the expiration of the discretionary action.
8. If new or replacement fencing is proposed, it shall meet the requirements of the Bald Hill Area Plan.
9. Plans submitted for building permit must meet the Green Building requirements of the Town of San Anselmo.
10. A detailed construction management plan shall be submitted with the building permit application. This plan shall be reviewed and approved by the Public Works/Building Department.
11. Additional details for the bio-retention area shown on the plan shall be submitted with the building permit application. Consider utilizing the new planter areas as bio-retention facilities as level areas will retain more water than the sloped area currently shown on the plans. Consider use of pervious pavers and asphalt concrete to reduce storm water run-off from the site.
12. Provide additional detail with the building permit application for the design of site drainage and discharge to the existing storm drain system.
13. For a project of this magnitude, construction of sidewalk is typically required along the property frontage under the Town's ADA Transition Plan and Complete Streets Policy. Based on the site constraints, location at the end of the Laurel Avenue, and proximity to adjacent driveways, a sidewalk is not being required at this time.
14. The property owner shall indemnify and hold harmless the Town of San Anselmo and its officers and/or employees in the event of any legal action related to or arising from the granting of this approval and shall cooperate with the Town in the defense of any such action, and shall indemnify the Town for any award of damages and/or attorneys' fees and associated costs that may result.

Prepared By:

Phil Boyle  
Senior Planner

Attachments:

1. Application and supplemental questionnaire
2. Color elevation
3. Visual simulation
4. Tree Application and Arborist's Report
5. Emails and letters from neighbors and applicant
6. Plans

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