



## AGENDA REPORT

**Meeting Date:** September 15, 2009

**Item Number:** D-1

**To:** Honorable Mayor & City Council

**From:** Susan Healy Keene, AICP, Director of Community Development

**Subject:** APPEAL OF THE ARCHITECTURAL COMMISSION'S DECISION DENYING ARCHITECTURAL REVISIONS TO A PREVIOUSLY APPROVED 13-UNIT CONDOMINIUM BUILDING LOCATED AT 155 NORTH HAMILTON DRIVE.

**Attachments:**

1. Appeal Petition
2. Architectural Commission Staff Reports and Minutes (1/21/2009, 3/18/2009, 4/22/2009, and 5/20/2009)
3. BHMC Section 10-3-3010 (Architectural Review Criteria)
4. Summary of Architectural Commission Meetings
5. Architectural Commission Findings
6. Architectural Plans (folded sets)

---

### RECOMMENDATION

It is recommended that the City Council support the Architectural Commission in its review of the subject project and require design modifications consistent with the Commission's direction. To implement this action the City Council would uphold the appeal, in part, but require special project conditions consistent with the Commission's direction.

### INTRODUCTION

This is an appeal of the May 20, 2009 decision of the Architectural Commission denying architectural revisions made to the exterior of a 13-unit condominium building located at 155 North Hamilton Drive. The condominium building was approved by the Planning Commission at its August 27, 2003 meeting, and the architectural detailing was subsequently approved by the Architectural Commission at its February 9, 2005 meeting. Since that time the project has been fully constructed; however, the as-built project is not consistent with the plans approved by the

Architectural Commission to have the as-built construction approved. After several meetings the architectural revisions were ultimately denied by the Architectural Commission. That denial is the subject of this appeal before the City Council.

## **BACKGROUND**

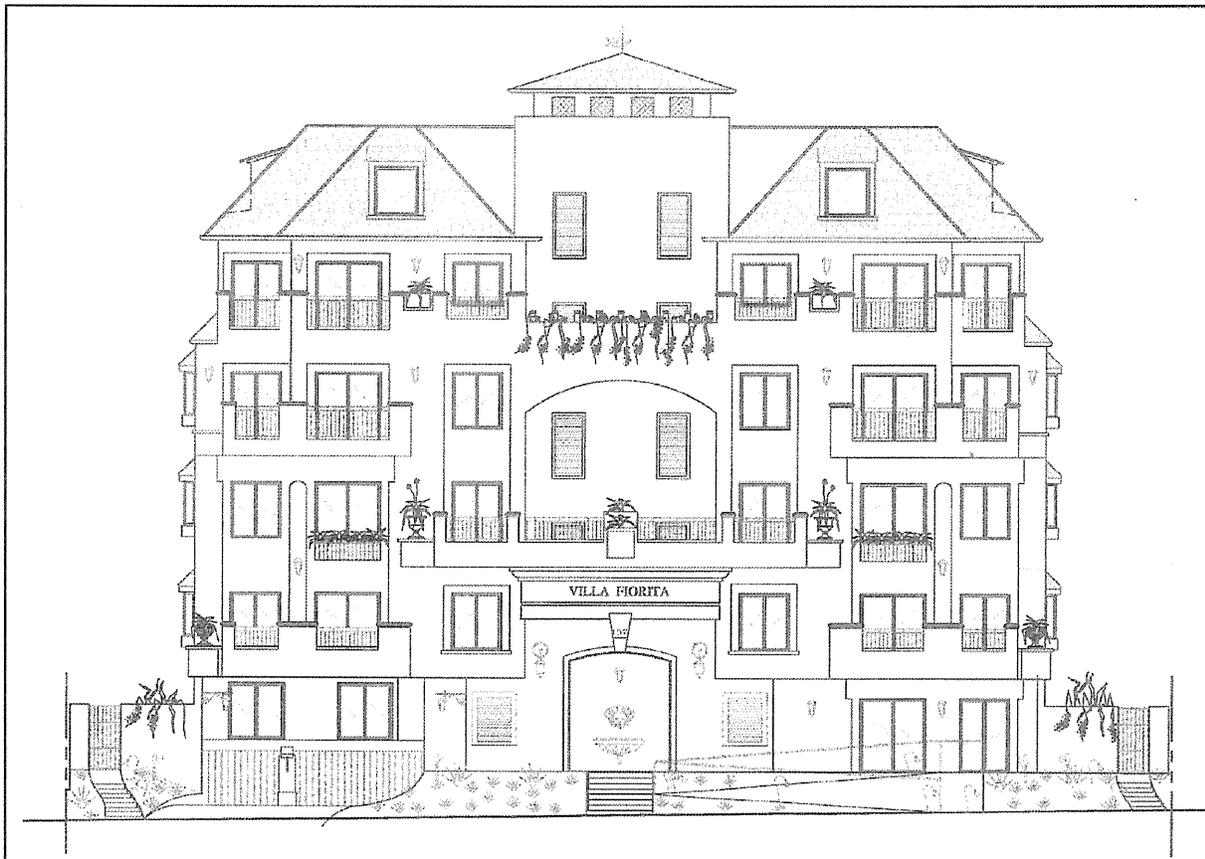
### **Architectural Commission Authority and Findings**

The Architectural Commission is charged with the review of all exterior portions and areas of all commercial and multi-family projects in order to ensure that the finished look of each project contributes to the image of Beverly Hills as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality. Beverly Hills Municipal Code Section 10-3-3001 specifically identifies the tendency of some in the City to disregard beauty and quality in construction and that these practices can potentially degrade and depreciate the image, beauty, and reputation of Beverly Hills.

Pursuant to Beverly Hills Municipal Code Section 10.3-3010(F), the Architectural Commission is required to make written findings for "disapproval" detailing how the City's findings for approval have not been met. The applicant filed an appeal in June 2009 prior to the adoption of the written findings by the Commission in August 2009. Both the appeal and the findings are attached.

### **Summary of Architectural Commission and Subcommittee Meetings**

The Architectural Commission originally approved the subject project on February 9, 2005. This approval was the result of three Commission meetings and numerous design changes. The originally approved front elevation is as follows:



In December of 2008, and during the final stages of construction, the City's Building Inspector conducted an inspection and determined that the as-built project did not substantially match the plans approved by the Architectural Commission. The as-built project is shown as follows:



The applicant was required to submit an application to the Architectural Commission for review and approval of the project revisions because the as-built structure did not match the previously approved plans. Modifications included lesser quality materials (most notably the windows) and the garage/gate design. A list of the modifications made to the structure that differ from the approval includes the following:

1. Window Material: Metal instead of wood windows were installed.
2. Entry: The building entry was reduced in scale and the molding above the entry was eliminated.
3. Façade Details: Architectural detailing along the façade, primarily around window and door openings, was virtually eliminated. Plants and a fountain (since installed) were not installed within the entry vestibule.
4. Tower Feature: The tower feature on the approved plans included faux windows/vents, a planted trellis, an elevated roof tower with

5. Garage gate:

clerestory windows, and elongated ridgelines with inset windows. These items were eliminated when the project was constructed. The garage entry was modified which resulted in the installation of a prominent iron grille above the garage entry (shown below).



Upon review of the proposed revisions the Architectural Commission analyzed the various elements that had either been changed or omitted from the original approval. The applicant stated that changes had taken place during the course of construction, and that the contractor had not followed the plans closely. The applicant indicated that the project changed ownership during the course of construction and that the new owner had not been involved in the architectural revisions. Additionally, the applicant stated that approval of the revisions was necessary in order to complete the project as quickly as possible, given the current economic circumstances. The Commission empathized with the applicant's comments and the difficult economic times, but determined that the applicant had ample opportunity since 2005 to return to discuss changes rather than to move forward with construction details that had not received approval.

One of the main design and quality issues for this project was the requirement for wood windows. Instead, metal windows were installed without any type of window surrounds. The Commission analyzed this design issue and determined that it would be extremely difficult to change out the windows at this point. Rather than require replacement of the windows, the Commission chose to instead focus on other conditions that could be more easily and expeditiously addressed, such as providing articulation in the design through paint, moldings, and the gate design.

An initial subcommittee meeting was held with the applicant in January 2009 wherein all parties agreed to changes to the project; however the plans subsequently prepared addressed very few of the changes. Over the course of four additional Architectural Commission meetings, the

Commission indicated that it had made major compromises with regard to the windows and gate and that the applicant had done little to respond to the Commission's requests for minor embellishments to this project. During the Commission's review of the project the applicant did make some modifications to the project, including new paint colors, the addition of a fountain, and the addition of new potted plants. Although these modifications had been made, the Commission ultimately determined that the project's design was not moving forward and that the required findings could not be made and, therefore, denied the project.

A summary of the five meetings held with the applicant is provided as Attachment 4.

## **APPEAL**

In his appeal petition, James Mortensen (Appellant), attorney for the applicant, identifies the following main points as basis for appeal:

1. The Architectural Commission violated Section 10-3-3010 of the Beverly Hills Municipal Code.
2. The Architectural Commission acted capriciously and arbitrarily without rational basis under the California and U.S. Constitution.
3. The Architectural Commission exceeded its jurisdiction.
4. The Architectural Commission is required to approve projects that meet specific criteria set forth in Section 10-3-3010 of the Beverly Hills Municipal Code. The Appellant states that all criteria have been met, and the project should therefore be approved.

## **APPEAL ANALYSIS**

On initial review and at the subcommittee meeting the Architectural Commission clearly stated problematic issues in the revisions to the building design and provided a concise list of modifications that would be necessary for the project to be approved. During each subsequent meeting the Commission determined that the changes proposed by the applicant did not appropriately address the issues raised by the Commission, and the project was ultimately denied because the requested changes were not met.

The appeal petition contains the Appellant's perspective of the project, and provides a history of the Architectural Commission's review of the proposed revisions. Additionally, the appeal petition identifies four reasons for the appeal. The following section restates each of the main points provided in the Appeal Petition and provides analysis of each point.

### ***The Architectural Commission violated Section 10-3-3010 of the Beverly Hills Municipal Code.***

The Appeal Petition does not clearly identify what part of Beverly Hills Municipal Code Section 10-3-3010 was violated by the Commission; however, it is staff's understanding that the Appellant is referring to the required findings for approval (see Attachment 3). In the Appeal Petition the Appellant has outlined reasons why the project complies with all required findings for approval and indicates that, based on compliance with the required findings, the project should be approved without providing any new substantive information. Additionally, the Appellant indicates that changes were requested by Commissioners to satisfy their individual tastes, and not to satisfy the required findings

set forth in the Municipal Code, particularly with regard to the use of quality materials and design.

Although staff recommended approval of the project at the May 20, 2009 meeting based on the belief that the required findings could be made subject to specific conditions of approval, the Architectural Commission determined that the required findings could not be made in support of the revisions.

Determining whether a project complies with all the required findings for approval is within the Architectural Commission's authority and not a violation of Section 10-3-3010 of the Beverly Hills Municipal Code.

***The Architectural Commission acted capriciously and arbitrarily without rational basis under the California and U.S. Constitution.***

The Appeal Petition states that the Architectural Commission acted arbitrarily and irrationally in an effort to satisfy each Commissioners' individual tastes, and that recommendations changed from meeting to meeting. While each Commissioner did provide guidance on the project, this is common practice for the Commission, and the eventual decision to deny the project was unanimous. It is true that several recommendations were changed at different points throughout the various meetings, but this is attributable to the fact that varying, and sometimes inaccurate information was provided by the applicant. Additionally, due to the numerous architectural details that were omitted from the as-built project, some discrepancies did not surface until late in the review process. Because there were issues in providing accurate information to the Commission it is staff's belief that the Commission did not act capriciously and arbitrarily, and instead worked with the applicant, but was unable to meet its goals due to continued variations in the plans submitted.

***The Architectural Commission exceeded its jurisdiction.***

The Appeal Petition states that the Architectural Commission exceeded its jurisdiction, but does not specifically identify the manner in which it exceeded its jurisdiction. As outlined above, the Commission acted within its authority in an attempt to make the required findings to approve the project. Ultimately, the Commission could not make the required findings due to the architectural design and quality of the project. In making this determination the Commission did not exceed its jurisdiction.

***The Architectural Commission is required to approve projects that meet specific criteria set forth in Section 10-3-3010 of the Beverly Hills Municipal Code. The Appellant states that all criteria have been met, and the project should therefore be approved.***

The Appeal Petition states that the Architectural Commission should have approved the project because it met the required criteria associated with the architectural review of a project. This statement appears to be duplicative of the information contained above, and again it is staff's belief that the Commission appropriately exercised its discretion in

determining whether the required findings could be made based on what was presented by the applicant.

In reviewing the project the Architectural Commission acted within its jurisdiction and used its discretion appropriately. This conclusion is based on the following facts:

- Since the inception of this project in 2003, the Architectural Commission has held seven meetings and one subcommittee meetings with the applicant. To date, the applicant has not complied with the Architectural Commission's direction.
- The Architectural Commission is tasked with the review of all exterior portions and areas of all commercial and multi-family development projects and as such was well within its authority to require that specific architectural modifications be made in order to approve the project and ensure compliance with the City's standards for good design.
- Upon its initial review and subcommittee meeting, the Architectural Commission identified a list of issues and provided a concise list of revisions. The Commission's direction remained constant throughout the review process.
- The Architectural Commission demonstrated a willingness to work with the applicant and requested changes that were relatively minor in scope compared to the deviations from the originally approved plan.

Notwithstanding the conclusions outlined above, it remains staff's belief that the required findings can be made in support of the project, provided that certain project-specific conditions of approval, intended to achieve the City's goals in developing appropriately designed multi-family residential projects, are included as part of any approval granted.

### **RECOMMENDED ACTION**

In light of the foregoing information, and based on the history of the project, it appears that an impasse has been reached between the applicant and the Architectural Commission. Because of the impasse, staff recommends that Council not return this item to the Architectural Commission, and instead take action to approve the architectural revisions, subject to the attached conditions of approval, which are consistent with the Architectural Commission's direction.

### **FISCAL IMPACT**

No fiscal impact to the City is anticipated from a Council decision in this matter.

### **PUBLIC NOTICE AND COMMENTS**

A public hearing notice (originally scheduled for July 21, 2009) was mailed on July 9, 2009 to the Appellant and applicant and published in the Beverly Hills Courier and the Beverly Hills Weekly, two newspapers of local circulation. The hearing date was subsequently set for September 15, 2009, with notice provided to the applicant/appellant.

**RECOMMENDED CONDITIONS OF APPROVAL**

Staff recommends that the following conditions be placed on the project to comply with the Architectural Commission's direction:

1. Two faux vents, each measuring 4'6" x 3'6", shall be installed on the upper portion of the elevator tower. The top of each vent shall be located approximately 4'6" below the eave line of the elevator tower.
2. The central bridge located above the fourth floor shall be finished with pre-cast molding to match that used on the building's balconies.
3. Small wrought iron detailing shall be added to the metal grille above the garage entry. The detailing shall be consistent with the plans reviewed by the Architectural Commission at its May 20, 2009 meeting.
4. The top half of all balconies on the second, third, and fourth floors shall be painted to match the ground floor of the building.

Susan Healy Keene, AICP  
Director of Community Development

  
Approved By

# ***ATTACHMENT 1***

## ***Appeal Petition***

APPEAL PETITIONS MUST BE FILED WITH THE CITY CLERK'S OFFICE WITHIN 14 CALENDAR DAYS AFTER THE DATE OF THE DECISION

APPEAL TO \_\_\_\_\_ COMMISSION OR CITY COUNCIL

PLEASE TYPE OR PRINT CLEARLY IN BLACK INK

6/2/09  
Date

In accordance with the appeals procedure as authorized by the provisions of the Beverly Hills Municipal Code, the undersigned hereby appeals from the decision of Architectural (Official, Board or Commission involved) rendered on May 20, 2009; which decision consisted of:

The grounds submitted for this appeal are as follows: (WARNING: State all grounds for appeal. Describe how decision is inconsistent with law. Use extra paper if necessary.)

- 1. Violation of BH 3-3010
- 2. Capricious & Arbitrary, w/o rational basis under California & U.S. Constitution,
- 3. Exceeds Jurisdiction of Commission,
- 4. BH 10-3-3010 mandatory approval meeting the criteria

Denial of approval of 155 N. Hamilton in Beverly Hills

See Attached Memorandum

The undersigned discussed the decision being appealed with: Ryan Gohllich & Donna Serex Planning Division

4 Hearings with Commission on 1/21, 3/18, 4/2, 5/20, 2009  
(Department Head(s) Involved) Date

It is requested that written notice of the time and place for the hearing on this appeal before the City Council be sent to:

James Montensen 3700 Wilshire suite 520  
Name Address Los Angeles, CA 90010

Signature of appealing party [Signature] 155 Hamilton Development LLC  
3700 Wilshire, Suite 520  
Address LA, CA 90010  
213-387-7414 213-387-8414  
Telephone Number & Fax Number

Fee Paid \$4,928.70 (For City Clerk's use) DATE RECEIVED

LOG NO. 19x09 Written Notice mailed to appellant:

Copies to: City Council, City Manager, City Attorney, Community Development/Planning  
Involved Department

RECEIVED  
CITY OF BEVERLY HILLS  
2009 JUN -2 P 12:20  
CITY CLERK'S OFFICE

1 James Mortensen CA BAR # 234364  
2 3700 Wilshire Blvd. #520  
3 Los Angeles, CA 90048  
4 PHONE: (213) 387-7414  
5 FAX: (213) 387-8414  
6 Attorney for 155 Hamilton Development, LLC (Developer)

7 CITY COUNCIL OF CITY OF BEVERLY HILLS  
8 STATE OF CALIFORNIA

9 )  
10 )  
11 ) APPEAL OF DENIAL BY ) **MEMORANDUM IN SUPPORT OF**  
12 ) ARCHITECTURAL COMMISSION OF ) **APPEAL**  
13 ) PROJECT AT : ) **DATE :**  
14 ) 155 North Hamilton Drive, Beverly Hills, CA ) **TIME :**  
15 ) (*VILLA FIORITA*) ) **PLACE :**  
16 )  
17 )  
18 )  
19 )

20 **MEMORANDUM IN SUPPORT OF APPEAL**

21 **INTRODUCTION**

22 The current owners of the developer started to be come involved in the project in  
23 2007, obtained the temporary Certificate of Occupancy in June 2008 and took ownership in  
24 the fall of 2008 with the financial viability of the *VILLA FIORITA* at stake. Since the fall of  
25 2008, the present owners have been attempting to get the final architectural approval from the  
26 Architectural commission so that the final Certificate of Occupancy can be issued. Repeated  
27 appearances before the Architectural Commission over the last six months and the  
28 expenditure of tens of thousands of dollars to execute their specific requests has ended with  
29 the commission unanimously voting to deny approval over the recommendation of their own

1 staff to approve.

2 The denial was after the owners seriously examined and enacted most of the  
3 commission's suggestions at great expense or included them in the proposed plans. The  
4 owners offered to essentially surrender control of the look of the project to the commission.  
5 At the March meeting if they would just make a joint decision that the applicants could rely  
6 on so that the project could be completed and receive the certificate of occupancy. These  
7 changes have caused resulted in significant financial costs and delays and will require more  
8 still.

9 This project began in 2003. The project ran into significant difficulty because of  
10 excess water in the soil and many other problems that increased the cost and delayed the  
11 project.

12 At this time, the current owners have spend several hundred thousand dollars  
13 completing and correcting the building and with further investment obtained all building and  
14 safety approvals in the fall of 2008.

15 The real estate market had made the project nonviable if further delays and expense  
16 are incurred to acquire the certificate of occupancy because of the depressed sales and value  
17 of the project compared with the cost of completion, sale, and debt service. A bankrupt and  
18 abandoned project entangled in litigation will certainly look much worse than the planned  
19 project than the attractive and substantially completed building presently on the location. If  
20 this state of affairs ensues, it will certainly persist for a very long period.

21 After taking ownership, it was determined that there were several undisclosed  
22 problems with the project relating to the Architectural Approval :

23  
24 1: The prior owners had been in a dispute with the architect and as a result, he had not been  
25 involved in the project for several months.

26 2: The prior owners and architect had initially had many problems when the project plans  
27 were initially approved with the commission.

28 3: The prior owner's field manager and / or general contractor made design changes to the  
29 face of the building in terms of some of the precast trim and layout of faux shutters that they

1 did not get approved by the commission.

2 4: The architect had made an ambiguity on the plans. The front elevations shows the  
3 windows of the recreation room such that they could be interpreted as being flush with the  
4 face of the building. Actually they are set back over the garage drive way several feet. The  
5 leaves an opening over the garage gates that makes the building unsecured. That opening was  
6 filled with wrought iron bars matching the garage gate to resolve the security issue. The result  
7 is a classic and regal looking garage entrance that the architect and owners believe was he  
8 best solution to the ambiguity in the plans.

9 5: The hand trawled plaster color scheme was simplified during the course of construction.

10 6: A fountain in the entrance that had been included in the initial commission approval was  
11 eliminated.

### 12 **THE GUIDELINES FOR APPROVAL**

13 Even with the changes from the original approval, the project complies with the  
14 architectural guidelines and should have been approved by the commission. The commission  
15 also made several suggestions for changes to match the personal tastes of the commissioners  
16 that the applicants complied with and in reliance spent tens of thousands of dollars and the  
17 project was further delayed. Finally, despite the money and time spent to satisfy the  
18 commissioners' preferences, the commissioners unanimously denied approval over their  
19 staff's recommendation to approve the project at the May 20, 2009 meeting.

20 The architectural commission has jurisdiction only over what parts of the building are  
21 visible from a city street or right of way.

22 The guidelines for approval in Beverly Hills that the commission was required to  
23 follow are and were BH 10-3-3010 :

24 **(a) The plan for the proposed building or structure is in conformity with the**  
25 **good taste and good design and in general contributes to the image of Beverly Hills as a**  
26 **place of beauty, spaciousness, balance, taste, fitness, broad vistas and high quality.**

27 Although this guideline is rather vague as to the specifics, the building successfully  
28 complies by providing a beautiful building with amenities significantly over the general level  
29 of the surrounding buildings and neighborhood. It would be difficult for anyone to seriously

1 argue that Villa Fiorita is the best building on the street in the best condition with the best  
2 quality of exterior appearance in terms of its hand trowled Tuscan plaster, imported marble  
3 entrance fountain, custom wrought iron gate and balcony rails, massing and tower, and  
4 overall theme and design.

5 **(b) The plan for the proposed building or structure indicates the manner in**  
6 **which the structure is reasonably protected against external and internal noise,**  
7 **vibrations, and other factors which may tend to make the environment left desirable.**

8 The building is fully constructed in all relevant aspects relating to noise and  
9 vibrations. *VILLA FIORITA* was inspected by building and safety during construction and  
10 afterward to ensure it complies with all requirements of the city in terms of soundproofing,  
11 structural stability in terms of vibration. It passed all such inspections in the spring of 2008  
12 and was granted its temporary certificate of occupancy.

13 **(c) The proposed building is not in its exterior design and appearance of inferior**  
14 **quality such as to cause the nature of the local environment to materially depreciate in**  
15 **appearance and value.**

16 As noted above, *Villa Fiorita* is the best building on its street in terms of condition,  
17 appearance, and consistent theme. If anything, it has improved the general standard of its  
18 neighborhood and caused an appreciative effect on its neighbors property values. Please  
19 observe the photos in exhibit one which show *Villa Fiorita* in comparison to some of its  
20 neighbors. Please see Exhibit 1.

21 **(d) The proposed building or structure is in harmony with the proposed**  
22 **developments on land in the general area, with the General Plan for Beverly Hills, and**  
23 **with any precise plans adopted pursuant to the general plan.**

24 The project was approved in 2005 and its planned appearance has only changed in  
25 minor ways. The project was approved for its use and for the area in 2005 and does not  
26 conflict with the city's general land use plan or any specific land use plan promulgated by the  
27 city.

28 **(e) The proposed building or structure is in conformity with the standards of this**  
29 **code and other applicable laws insofar as the location and appearance of the buildings**  
**and structures are involved.**

1 As noted above, the building is substantially completed. It received approval as to it  
2 location and the character of the structure in 2005. In June of 2008 it had passed all plan  
3 checks and most significant inspections. At that time it received its temporary certificate of  
4 occupancy. It passed all remaining inspections in about October of 2008. *Villa Fiorita* has  
5 been verified by the city inspections that it is in full compliance with the building code and  
6 laws relating to appearance as early as September of 2008.

7  
8 **BH 10-3-3010 states that : If the criteria set forth in this section are met, the**  
9 **application shall be approved.**

10  
11 All of the changes and complaints of the Architectural Commission relate to personal  
12 taste items regarding the number of paint colors, their desire to have additional faux shutters  
13 installed, their dislike of the wrought iron garage gate, etc. All of these are essentially items  
14 of personal tastes. They do not identify any items that are not in compliance with codes and  
15 ordinances of the city. The complaints of the commission also focus exclusively on finished  
16 structures and areas and suggest that they might be changed in various ways. There is no  
17 indication that any part of the building is in conflict with any code or ordinance of the city  
18 relating to appearance or location.

19 **Attempt to Obtain Final Approval from Commission Staff**

20 In November and December of 2008, the current owners met with the architect, the  
21 architectural commission staff, and worked toward having the staff give final approval on the  
22 project and its variations from the original plans. This is the common procedure for projects  
23 with previous commission approval. The present owner had been trying to get an inspection  
24 from the staff for three months to verify the lowering of a transformer. The city had required  
25 that a green colored Con Edison transformer and concealed behind shrubbery be lowered into  
26 the ground to shorten its aspect by about 18" to make it less visible. This move required  
27 about \$25,000 and resulted in the transformer having to move downhill closer to the street.  
28 This eliminated any room for the shrubbery to be replaced between the sidewalk and the  
29 transformer.

1 In December, 2008, the staff informed the present owners that they would not give  
2 final approval. This required the present owners to ask the commission for approval of the  
3 variations from the original approval in 2005. Given plan submission deadlines, the next  
4 possible commission meeting to do this was January, 21, 2009. An examination of the  
5 meetings on the project shows that despite the project meeting all criteria for approval, the  
6 applicant went to great lengths to accommodate the commissions preferences. At the  
7 meetings, the architect and project were subjected to disparagement, open hostility, and ad  
8 hominem attacks related to the artistic design and the changes in construction by the  
9 previous owners of the project.

10 **THE COMMISSION MEETING ON JANUARY 21, 2009**

11 After meeting with architectural commission staff personnel, resolving disputes of the  
12 previous owners with the architect, the present owners paid the architect to create “as built”  
13 plans and renderings. These were submitted to the commission previous to the meeting.

14 At the meeting, the staff report noted that the more prominent changes tot he project  
15 were the deletion of some window surrounds, the reduction in the size of the molding around  
16 the entryway outside the front door, the removal of vents under the eaves of the tower roof (the  
17 venting was moved to the back of the tower for the elevator shaft), a faux trellis over the  
18 bridge was not installed, and the recreation room windows are now behind the upper part of  
19 the parking garage gate because of the security issue discussed above and the ambiguity in  
20 the plans. The actual location of the windows on the plans never changed.

21 The staff report recommended that the commission provide feedback to the applicants  
22 as to what changes they would like to see in the finished building, if any.

23 The architect appeared and addressed the commission. The architect noted that in  
24 2005, the commission objected to the ornate nature of the 2005 plans at that 2005 meeting  
25 and wanted the appearance of the project to be simplified and some of the detail eliminated.  
26 Most of the items eliminated from the 2005 plans were either specifically recommended by  
27 the commission in 2005 or were in line with the general recommendations of the commission  
28 included in the conditional approval or to simplify the appearance of the project as  
29 recommended by the commission.

1 The chairman strongly objected to the changes that were made during construction  
2 and noted that only two of the original commissioners were still on the commission.

3 Commissioner Pepp who was on the commission in 2005 stated that she never liked  
4 the project in 2005 and did not like it now. That she was very angry at the changes to the  
5 original plans and characterized the applicants as having just “disregarding the commission  
6 and doing whatever they wanted”. (It should be noted that the project desired by the original  
7 developers in 2005 was markedly different than the one approved but was changed  
8 considerably and many things were eliminated and changed at the request of the architectural  
9 commission in 2005 such as the elimination of an entire garage entrance.)

10 Commissioner Pepp went on to characterize *Villa Fiorita* as a “flat board” with no  
11 detail. She wanted changes to add detail on the face of the tower, objected to the garage gates  
12 and entrance,

13 Commissioner Meyers who had been on the commission in 2005 stated that the  
14 project looked better than the original plans because it was “less busy” and expressed a desire  
15 not to delay the project or require a lot of changes given the economy and terrible real estate  
16 market. He noted that any delays on a project like this are very costly and The chairman said  
17 that the commission wanted to assist in getting the building open so it could be put to use and  
18 not be bogged down any longer.

19 Commissioner Lang who was on the commission in 2005 stated that expressed a  
20 desire to make some changes through a subcommittee working with the applicant and noted  
21 that the commission only looked at the front side of the building and wanted changes on that.

22 Commissioner Rubins stated that the garage entrance looked like a “prison” and  
23 complained that the recreation room windows twenty feet behind the gate would be looking  
24 out from bars like a prison. During the coming meetings, three of the commissioners  
25 repeatedly disparaged the look of the building and repeatedly referred to the garage gates as  
26 “the cage”. The commission then sent the project to subcommittee for restudy.

### 27 The Subcommittee

28 The subcommittee recommended that the applicant add a fountain in the entranceway,  
29 add faux shutters to the tower, and dress up the gate to soften its look.

1 In response, the applicant prepared plans with several options in line with the  
2 suggestions of the commissioners. The options that were prepared included different faux  
3 window configurations on the tower and medallions, different trim arrangements, fountain  
4 options, different varieties of wrought iron trim to dress up the gate and the area over it in  
5 order to make it softer. An imported marble fountain was purchased and placed in the  
6 entranceway to restore the focal point as recommended by the subcommittee. A three color  
7 hand textured antique finish was prepared and for the commission's review per the  
8 subcommittees suggestions.

9  
10 **THE COMMISSION MEETING ON March 18, 2009**

11 The staff recommended that the commission give feedback on the options given and  
12 approve subject to conditions of what changes the commission thought were appropriate.

13 The areas of concern of the sub committee and the commission were addressed by the  
14 applicant as follows :

15 Commissioner Rubins complained that all three faux window options were too high  
16 and proposed that grate above the gate be removed and replaced with a hanging wall. To  
17 compensate for the darkness in the garage entrance, permanent lighting would be installed.  
18 This would leave the recreation room windows looking at the back of a blank wall.  
19 Commissioner Rubins referred to the gate as a prison and suggested that the solution was to  
20 frost the windows so that persons inside could not see out and use outside lights to make the  
21 inside of the window look like they did have a view to the outside.

22 Commissioner Rennet objected that the drain pipe plaster was not done well. This is  
23 despite the fact that the pipe was not visible from the street and therefore not in the  
24 commissions jurisdiction. He also suggested that the one single faux window be applied to  
25 the window instead of two.

26 At approximately 32 minutes into the audio record of the commission's review  
27 of the project, a commissioner can be heard to say "the hell with this", while the  
28 architect was addressing a question of the commission. After another half hour of  
29 criticism from the commission, it was sent back for restudy.

Commissioner Meyers suggested putting the same finish on the ground floor to the

1 fronts of the balconies to tie in the parts of the building to each other. He also preferred the  
2 option of having two faux windows on the tower, wanted to add a band on the tower on at the  
3 roof line, and adding precast across the bridge area. The commission generally agreed with  
4 these suggestions.

5 One of the commissioners commented that the several plants and planters were the  
6 “cheapest you could buy” and that obviously the owner did not want to fix anything. Possibly  
7 the HOA would realize that in the future and “fix” the building.

8 Approximately half of the commission wanted the gate dressed up and the other half  
9 commented that any embellishment would draw attention to the “jail”. The commission  
10 objected to any decorative iron work on the iron gate as an option for that reason. Other  
11 suggestions were to take out the iron work over the gate and replace it with a large pane of  
12 glass over the driveway or to replace it with a stucco wall that would block out the windows  
13 of the recreation room, both would be obviously unreasonable for safety, security, and  
14 aesthetics.

15 Again, *Villa Fiorita* was sent back for restudy.

16 **THE COMMISSION MEETING ON April 22, 2009**

17 Based on a drawing by commissioner Meyers, the applicant painted the balconies on  
18 the front of the building as suggested by commissioner Meyers and included four elevations  
19 for the front of the building showing options for addressing most of the suggestions of the  
20 commission.

21 Four options of faux windows on the tower were given, multiple options for the  
22 wrought iron work on the garage with and without decorative iron work. The new paint  
23 suggested was applied and shown on the plans. The precast trim on the bridge suggested by  
24 commissioner Meyers and original trellis on the bridge was shown as options. The  
25 commission was requested to pick whatever options they could reach agreement on and that  
26 the property owner would comply with whatever options for the various items the  
27 commission favored.

28 At this meeting, the commission expressed a desire to have the painting extended to  
29 the north, south and back side of the building. This was in contrast to the comments at the

1 January meeting where the commission stated that they were not concerned with the sides of  
2 the building, but only the front of the building. At this meeting, the commission noted that if  
3 they stood on La Cieniga, they could see over the intervening restaurant to the top of the back  
4 of the building and so they asserted jurisdiction over those sides too.

5 Also, for the first time, a commissioner objected to three galvanized zinc fireplace  
6 vents on an inside wall of the entrance way. Only part of one of these small vents is visible  
7 from the street. He believed that they had been newly added to the building since the last  
8 meeting and objected that they were not painted to match the wall.

9 These small vents are emitting the hot exhaust from the fireplaces in each  
10 condominium and cannot be painted because of their temperature when the fireplaces are in  
11 operation. The vents were installed when the building was built.

12 Commissioner Pepp was again under the impression that the recreation room was a  
13 residential unit and suggested that the grill over the garage gate be removed and bars be  
14 placed over the recreation room windows for security. Of course this would not secure the  
15 garage.

16 The commission ended by taking a "straw poll" on each item based on the options and  
17 elevations provided.

18 As to the faux windows on the tower, the commission had a majority in favor in two  
19 windows on the mid face of the tower - "option one".

20 As to the bridge, a majority was in favor of the precast molding - "option one".

21 As to the garage gate, the commission again referred to it as a "cage" several times  
22 and objected to any decoration or ornamentation but suggested that the wrought iron be  
23 replaced with glass. Since there were only six commissioners present, there was a tie on  
24 approving the garage gate as built.

25 The commission also wanted the painting to be done on all balconies on all floors and  
26 shown on the plans.

27 Chairman Rubins also wanted the fireplace vents on the inside of the entrance to be  
28 painted to match the wall.  
29

1                   **THE COMMISSION MEETING ON May 20, 2009**

2                   At the May 20, 2009 meeting, the applicant addressed the directions of the  
3 commission from the last meeting as follows :

4                   As to the faux windows on the tower, the 5 commission had a majority in favor in two 6 windows on the mid face of the tower - "option one".	The applicant provided a new elevation drawing of the building proposing the faux window arrangement favored by the commission.
7                   As to the bridge, a majority was in favor of 8 the precast molding - "option one".	The applicant incorporated the precast molding option into the bridge area as favored by the commission.
9                   As to the garage gate, the commission again 10 referred to it as a "cage" several times and 11 objected to any decoration or ornamentation 12 but suggested that the wrought iron be replaced with glass. Since there were only six commissioners present, there was a tie on approving the garage gate as built.	The applicant incorporated minimal ornamentation into the garage gate as suggested by the commission but did not incorporate the commission's ideas to suspend a large sheet of glass over the driveway or suspend a wall in front of the recreation room windows.
13                  The commission also wanted the painting as 14 completed on the front of the building to be 15 done on all balconies on all floors and shown on the plans.	The applicant had the painter paint the sides and back of the building on the balconies and reflected this on the elevation drawing.
16                  Chairman Rubins also wanted the fireplace 17 vents on the inside of the entrance to be 18 painted to match the wall.	The applicant check on the possibility of painting these fireplace vents but found the high temperatures during the use of the fireplaces would make any paint peel from the galvanized metal and discolor from the heat.

19  
20                  **The commission staff recommended approval of the project** conditioned on  
21 making the changes matching the submitted plans, because the applicant had substantially  
22 addressed all the requests of the commission.

23                  At the hearing, commissioner Cohen complained that no color renderings were  
24 submitted to show the paint color on the building. When it was pointed out that the  
25 commissioners had visited the actual building with the paint substantially completed on two  
26 or more occasions times, she commented that it was not possible to evaluate the look of the  
27 paint on the building from looking at the actual building.

28                  Commissioner Cohen also complained that a rain gutter down spout on the South side  
29 of the building was in a contrasting color to the wall and was not on the plans. (The architect

1 considered this immaterial for the plans and focused on the building itself.) What is  
2 interesting is that this down spout 1) was pre finished matching all the rain gutters and down  
3 spouts on all sides of the building, 2) Had been on the building for over a year with the other  
4 down spouts and rain gutters and was present for the multiple physical inspections and bus  
5 tours of the commission starting in January, 2009, and 3) is arguably not in the commission's  
6 jurisdiction since it is on the side of the building and not easily visible from the road without  
7 standing in traffic or very careful positioning. 4) This is the first time it was mentioned as a  
8 problem by the commission.

9 After some discussion, the commissioners unanimously voted to deny approval.

10 This appeal follows.

11 **CONCLUSION AND REQUEST FOR RELIEF**

12 155 Hamilton Development, LLC and its current owners ask the city council to  
13 approve building as presently built so that they can obtain their permanent certificate of  
14 occupancy. With this and luck, they can still preserve the project and prevent it from  
15 becoming another victim of the current real estate decline and thereby a legal, financial, and  
16 visual quagmire on the doorstep to the city. It is not proper for the commission to insert itself  
17 in place of the owner and architect to bully changes in appearance based on personal  
18 preference and deny approval of projects that comply with all applicable codes and  
19 ordinances. Not only is it not proper, it creates unnecessary costs in the untold millions of  
20 dollars for the owners and builders and interferes with the artistic visions of the architects on  
21 these projects. It makes Beverly Hills a much less desirable place to invest in, develop, and  
22 renovate properties.

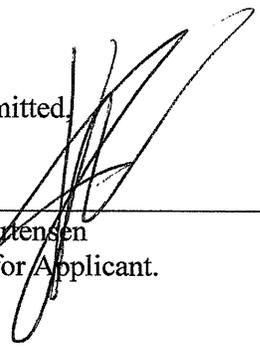
23  
24 Most preferable, the applicant asks the city council to approve the project as built and  
25 requested of the commission at the January meeting, since it fulfills all the requirements for  
26 approval as discussed in the beginning of this memorandum.

27  
28 Second most preferable, the applicant asks the council to approve the project without  
29 the faux windows on the tower. The owner and architect prefer the soaring look of the tower

1 with the unbroken expanse on the upper portion but inserted the faux windows on the plan  
2 because a majority of the commission indicated they would approve the project with that  
3 change, then denied approval.  
4

5 If the council does not approve one of the above options, then the applicant asks that  
6 the plan and elevation presented to the commission at its last meeting in May, 2009 be  
7 approved.

8  
9 Date : 8/2/09

Respectfully submitted,  
  
\_\_\_\_\_  
James Mortensen  
Attorney for Applicant.

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

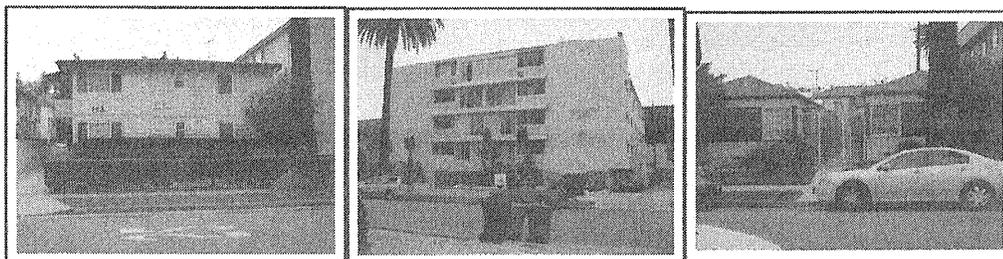
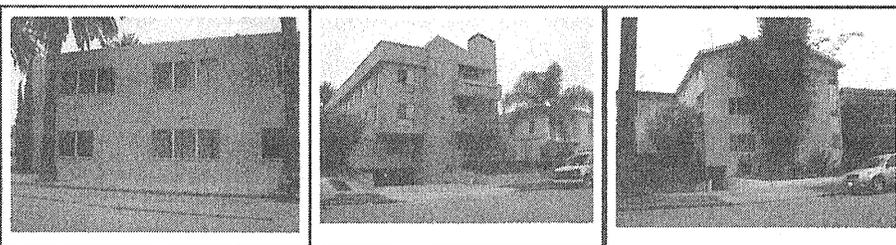
**EXHIBIT 1**

**VILLA FIORITA COMPARED WITH THE OTHER MULTIFAMILY BUILDINGS ON  
HAMILTON BETWEEN WILSHIRE AND SAN VICENTE**

**VILLA FIORITA**



**Other Multifamily Buildings on the Same Street**



## ***ATTACHMENT 2***

***Architectural Commission Staff Reports and Minutes***

***(1/21/2009, 3/18/2009, 4/22/2009, and 5/20/2009)***



**STAFF REPORT**  
**CITY OF BEVERLY HILLS**

**For the Architectural Commission  
Meeting of January 21, 2009**

**TO:** Architectural Commission

**FROM:** Ryan Gohlich, Assistant Planner

**SUBJECT:** **PL 0310469 - Villa Fiorita**  
155 North Hamilton Drive  
Architectural revisions to previously approved 13-unit condominium building

**PROJECT INFORMATION**

<b>Applicant/Owner</b>	Michael Naim, on behalf of the property owner
<b>Address</b>	155 North Hamilton Drive
<b>Project Name</b>	Villa Fiorita
<b>Project Type</b>	New 13-unit condominium building

**PROJECT DESCRIPTION**

The project is located west side of North Hamilton Drive, between Wilshire Boulevard and Clifton Way. The project is a 5-story 13-unit condominium building that was previously approved with conditions by the Architectural Commission at its February 9, 2005 meeting. The project has now been fully constructed, and upon final conformity review for a Certificate of Occupancy, it was determined that the finished project does not substantially conform to the original approval granted by the Architectural Commission. Due to the changes made to the building's design, the project is being brought before the Commission for the purpose of reviewing the architectural revisions.

## **ANALYSIS**

The project before the Commission is a new 13-unit condominium building that was reviewed several times between 2003 and 2005. After numerous meetings with the Architectural Commission and several modifications to the plans, the project was ultimately approved with conditions by the Commission at its February 9, 2005 meeting. The front elevation shown on Sheet A-11.1 (marked as "Original Approval") in the Commission's plan set was approved, subject to the following conditions of approval:

1. The windows and balcony shall be changed back to the previous materials and design.
2. The skylights shall be eliminated.
3. The shutters shall be metal.
4. Final plans shall match the preliminarily approved plans dated October 8, 2003.

Sheet A-11.1 (marked as "As Built") in the Commission's plan set, and the photograph on the cover sheet, represent the as-built architectural details of the project. Upon staff's review of the as-built plans, the most prominent discrepancies between the approved plans and the as-built plans appear to be as follows:

1. Window surrounds appear to have been eliminated from the project.
2. The entry to the building was reduced in scale and the large molding piece above the entryway was eliminated.
3. A large amount of detail was eliminated from the central stair/elevator tower, which includes shutters, tile vents, and molding pieces.
4. The degree of overall detail has been reduced along the building's façade.
5. Plantings and a trellis structure have been removed from the central archway located at the fourth floor.

Based on the conditions of approval and project alterations discussed above, staff recommends that the Commission reconsider the project, and determine which project details need to be corrected in order to comply with the original approval and make the necessary findings in support of the project.

## **CRITERIA**

Pursuant to Municipal Code Section 3-3010 the Architectural Commission may approve, approve with conditions, or disapprove the issuance of a building permit in any matter subject to its jurisdiction after consideration of the following criteria:

The following findings were previously made in support of the project by the Architectural Commission.

- (a) The plan for the proposed building or structure is in conformity with good taste and good design and in general contributes to the image of Beverly Hills as a place of beauty, spaciousness, balance, taste, fitness, broad vistas and high quality.**
  
- (b) The plan for the proposed building or structure indicates the manner in which the structure is reasonably protected against external and internal noise, vibrations, and other factors which may tend to make the environment less desirable.**
  
- (c) The proposed building is not in its exterior design and appearance of inferior quality such as to cause the nature of the local environment to materially depreciate in appearance and value.**
  
- (d) The proposed building or structure is in harmony with the proposed developments on land in the General area, with the General Plan for Beverly Hills, and with any precise plans adopted pursuant to the General Plan.**
  
- (e) The proposed building or structure is in conformity with the standards of this Code and other applicable laws insofar as the location and appearance of the buildings and structures are involved.**

### **RECOMMENDATION**

Based on the foregoing criteria and pending the information and conclusions that may result from testimony received during the Architectural Commission deliberations, staff recommends that the Architectural Commission provide the applicant with feedback and direction to more closely comply with the project's original approval.

  
\_\_\_\_\_  
Ryan Gohlich, Assistant Planner

building. Commissioner Langh suggested that the applicant rethink the landscape plan.

Commissioner Pepp stated that she appreciated applicant for working with the color palettes and stated that these colors look better than the first ones, and expressed concerns regarding the horizontal banding.

Commissioner Hammerstein felt that it was a very difficult building to do anything with, and suggested that adding shutters to the windows might work.

It was the consensus of the Commission that the project should be returned.

Staff member Jerex recommended that there could be a subcommittee to work with staff and the applicant to avoid returning to the Commission. A subcommittee was appointed consisting of Commissioners Rubins, Rennett and Hammerstein to meet with the applicant and resolve the issues.

**ACTION:**

Moved by: Commissioner Pepp and seconded by Commissioner Rubins; that the plans be approved by the subcommittee.

1. The applicant to meet with staff and a subcommittee (Commissioners Hammerstein and Rubins) to approve the project.

AYES: Commissioners Rubins, Meyer, Langh, Hammerstein, Pepp, and Chair Rennett.

NOES: None

**CARRIED.**

- 7. 155 North Hamilton Drive  
VILLA FIORITA**  
Architectural Revisions to Previously Approved 13-Unit  
Condominium Building  
(PL 031 0469)

Present: Michael Naim  
Representing the Applicant

Staff member Gohlich gave a report on this item and it was entered into the record.

The applicant gave a presentation on this item.

Chair Rennett questioned the applicant regarding the changes made to the project after the project had received approval. The applicant stated that he was not involved with the project when the changes were made. Chair Rennett stated that the Commission has great concerns when changes are made that are different from what the Commission approved.

Commissioner Hammerstein stated that the changes did not appear to be that different from the previous approval and that he was somewhat sympathetic to developers in this economy, but the applicant still did the wrong thing by making changes without approval.

Commissioner Pepp stated that she was not that sympathetic to this project, noting that the Commission and sub-committees had several meetings with the applicant to achieve the best design for Beverly Hills and stated that the building does not match what was approved. Commissioner Pepp noted that she was willing to work with the applicant and stated that more details around the windows are needed and the articulation for the tower should be put back.

Commissioner Langh concurred with his fellow Commissioners' comments and stated that the changes need to be in compliance with the original approval. He also stated that the landscaping needs to be addressed. The applicant should have and could have come back to the Commission to request the changes rather than making the changes without approval.

Commissioner Meyer questioned the applicant regarding the number of units that were approved. The applicant stated that 13 units were approved.

Commissioner Meyer stated that a lot of time has been spent on this project and the reasonable solution would be to return the project for restudy. Although the economy is an issue, he felt this was a blatant disregard for the Commission's approval.

Commissioner Rubins concurred with his fellow Commissioners' comments and stated that the windows on the elevation towers are different from the ones on the original drawings and felt that the railings need to be changed.

Commissioner Hammerstein stated that no structural changes could be made but architectural features be added could improved.

It was the consensus of the Commission that the project be returned for restudy.

**ACTION:**

Moved by: Commissioner Langh and seconded by Commissioner Pepp; that the plans be returned for restudy with the following guidance:

- 1) The applicant to meet with staff and a subcommittee (Commissioners Langh, Rubins, and Rennett) prior to returning to the Architectural Commission.

AYES: Commissioners Rubins, Meyer, Langh, Hammerstein, Pepp, and Chair Rennett.

NOES: None.

CARRIED.

**8. 156 North LaCienega Boulevard**  
**GONPACHI RESTAURANT**  
Sign Accommodation for Multiple Signs  
(PL 086 6030)

Present: Vincent Barrios  
Representing the Applicant

Staff member Gohlich gave a report on this item and it was entered into the record.

The applicant gave a presentation on this item.

Chair Rennett expressed concerns regarding the size of the south wall and wanted to know the maximum size allowed. Staff member Gohlich stated that the maximum size allowed would be to 75 square feet.

Commissioner Langh expressed concerns regarding the lighting. The applicant stated that there was no lighting behind the buildings.

Commissioner Meyer expressed concerns regarding the maintenance of the building.

Chair Rennett expressed concerns on the lighting for the residents.

**ACTION:**

Moved by: Commissioner Meyer and seconded by Commissioner Pepp; that the plans be approved subject to the following conditions.

- 1) Signage on the building's south elevation shall be reduced in size by 25% to more closely match the signage proposed on the building's north elevation.
- 2) Should the applicant decide to change the material to a brown color, it shall be returned to staff for approval.

AYES: Commissioners Rubins, Meyer, Langh, Hammerstein, Pepp, and Chair Rennett.



**STAFF REPORT**  
**CITY OF BEVERLY HILLS**

**For the Architectural Commission  
Meeting of March 18, 2009**

**TO:** Architectural Commission

**FROM:** Ryan Gohlich, Assistant Planner

**SUBJECT:** **PL 0310469 - Villa Fiorita**  
155 North Hamilton Drive  
Architectural revisions to previously approved 13-unit condominium building

**PROJECT INFORMATION**

<b>Applicant/Owner</b>	Michael Naim, on behalf of the property owner
<b>Address</b>	155 North Hamilton Drive
<b>Project Name</b>	Villa Fiorita
<b>Project Type</b>	New 13-unit condominium building

**BACKGROUND**

The project is located on the west side of North Hamilton Drive, between Wilshire Boulevard and Clifton Way. The project is a 5-story 13-unit condominium building that was previously approved with conditions by the Architectural Commission at its February 9, 2005 meeting. The project has now been fully constructed, and upon final conformity review for a Certificate of Occupancy, it was discovered that the finished project does not substantially conform to the original approval granted by the Architectural Commission.

The as-built project was reviewed by the Commission at its January 21, 2009 meeting to assess what modifications, if any, would be required to bring the project into conformance with the February 2005. A subcommittee was formed and met to review the project on January 27, 2009. The table below identifies the changes agreed to by the applicant, owner and subcommittee at this January meeting, as well as the applicant's proposed solutions to these items.

<b>Changes Requested by Subcommittee</b>	<b>Solutions Proposed by Applicant</b>
1. The driveway gate that extends above the garage entrance and covers some of the ground floor windows needs to be redesigned to appear more residential and prevent the windows from looking closed off.	1. The applicant has proposed two options of adding decorative iron work to the gate covering the windows, and has indicated that reconfiguring the gate to eliminate this situation is not feasible.
2. Additional details should be added to the entry such as a fountain, planters, or windows on both sides of the entry, and signage should be repositioned. All plumbing and electrical components need to be concealed, and plant types should be shown.	2. The applicant has shown (and already installed) a fountain within the entryway that is visible from the street. Four planters have also been added inside and at both sides of the entryway (plant types have not been shown). All plumbing and electrical components appear to be concealed. Additionally, signage was repositioned to be above the entry way, and sign that reads "Villa Fiorita" has been proposed inside the entryway. All signage is to be cast bronze.
3. The "drain pipe" at the entry looks like it leads directly to the front entrance. The element needs to be identified and/or reworked so that it does not drain to entry.	3. To date the applicant has been unable to identify the exposed pipe in the entryway, but has stated that it does not drain water. The pipe has not been concealed.
4. The central tower needs to be restudied, and either one or two windows should be added to the top of the tower. Examples of both options should be provided.	4. Three options have been provided for the central tower, consisting of installation of a single window/vent, installation of two smaller windows/vents, or installation of five very small vents at the top of the tower. The applicant has also proposed adding a trim/trellis detail to the top of the bridge feature located above the fourth floor.
5. Color options should be provided along the ground floor of the building to provide additional visual interest.	5. The applicant has indicated that a tri-color sponged brush faux finish will be applied to the ground floor of the building. To date, a color sample of the proposed finish has not been provided.
6. Visible drain pipes need to be restudied/revised to look more attractive.	6. The applicant has indicated that the drains along the building's façade are for decoration only, and that drainage for the balconies is actually served by concealed floor drains. The design of the exposed drains has not been modified.

Based on the conditions of approval and project alterations discussed above, staff recommends that the Commission reconsider the project, and determine whether the abovementioned changes have sufficiently addressed the Commission's comments in order to make the necessary findings in support of the project. The following findings need to be made by the Commission in order to approve the project.

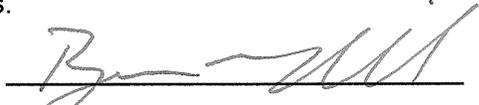
### **CRITERIA**

Pursuant to Municipal Code Section 3-3010 the Architectural Commission may approve, approve with conditions, or disapprove the issuance of a building permit in any matter subject to its jurisdiction after consideration of the following criteria:

- (a) ***The plan for the proposed building or structure is in conformity with good taste and good design and in general contributes to the image of Beverly Hills as a place of beauty, spaciousness, balance, taste, fitness, broad vistas and high quality.***
- (b) ***The plan for the proposed building or structure indicates the manner in which the structure is reasonably protected against external and internal noise, vibrations, and other factors which may tend to make the environment less desirable.***
- (c) ***The proposed building is not in its exterior design and appearance of inferior quality such as to cause the nature of the local environment to materially depreciate in appearance and value.***
- (d) ***The proposed building or structure is in harmony with the proposed developments on land in the General area, with the General Plan for Beverly Hills, and with any precise plans adopted pursuant to the General Plan.***
- (e) ***The proposed building or structure is in conformity with the standards of this Code and other applicable laws insofar as the location and appearance of the buildings and structures are involved.***

### **RECOMMENDATION**

Based on the foregoing criteria and pending the information and conclusions that may result from testimony received during the Architectural Commission deliberations, staff recommends that the Architectural Commission provide the applicant with feedback on the various options proposed. If the Commission determines that the modifications have been appropriately addressed, the Commission may approve the project. Additionally, the Commission may consider adding conditions to any approval it grants.

  
\_\_\_\_\_  
Ryan Gohlich, Assistant Planner

**ACTION:**

Moved by: Commissioner Langh and seconded by Commissioner Rennett;  
that the plans be approved subject to the following conditions:

- 1) An Encroachment Permit must be obtained from the Department of Public Works prior to the placement of anything within the public right of way and prior to the issuance of any building permits on the project.
- 2) Any signage on the awning above the adjacent ground floor storefront shall return to staff for review and approval prior to the issuance of permits and shall be limited to one line of text, a maximum of seven inches in height.
- 3) Final plans shall return to staff for review and approval prior to the issuance of any permits.

AYES: Commissioners Rubins, Meyer, Rennett, Langh, and Chair Cohen.

NOES: None.

**CARRIED.**

***(RETURNED TO ORDER)***

***F. CONTINUED ITEMS***

3. **155 North Hamilton Drive**  
**VILLA FIORITA**  
Architectural Revisions to Previously Approved 13-Unit Condominium Building  
(PL 031 0469)

Present: Michael Naim, Architect  
James Morton, Attorney  
Jeanie Yamaguchi, Property Owner

Staff member Gohlich gave a report on this item which included changes requested by the Commission & subcommittee and the solution proposed by the Applicant; and it was entered into the record:

<b>Changes Requested by Subcommittee</b>	<b>Solutions Proposed by Applicant</b>
1. The driveway gate that extends above the garage entrance and covers some of the ground floor windows needs to be redesigned to appear more residential and prevent the windows from looking closed off.	1. The applicant has proposed two options of adding decorative iron work to the gate covering the windows, and has indicated that reconfiguring the gate to eliminate this situation is not feasible.
2. Additional details should be added to the entry such as a fountain, planters, or windows on both sides of the entry, and signage should be repositioned. All plumbing and electrical components need to be concealed, and plant types should be shown.	2. The applicant has shown (and already installed) a fountain within the entryway that is visible from the street. Four planters have also been added inside and at both sides of the entryway (plant types have not been shown). All plumbing and electrical components appear to be concealed. Additionally, signage was repositioned to be above the entry way, and sign that reads "Villa Fiorita" has been proposed inside the entryway. All signage is to be cast bronze.
3. The "drain pipe" at the entry looks like it leads directly to the front entrance. The element needs to be identified and/or reworked so that it does not drain to entry.	3. To date the applicant has been unable to identify the exposed pipe in the entryway, but has stated that it does not drain water. The pipe has not been concealed.
4. The central tower needs to be restudied, and either one or two windows should be added to the top of the tower. Examples of both options should be provided.	4. Three options have been provided for the central tower, consisting of installation of a single window/vent, installation of two smaller windows/vents, or installation of five very small vents at the top of the tower. The applicant has also proposed adding a trim/trellis detail to the top of the bridge feature located above the fourth floor.
5. Color options should be provided along the ground floor of the building to provide additional visual interest.	5. The applicant has indicated that a tri-color sponged brush faux finish will be applied to the ground floor of the building. To date, a color sample of the proposed finish has not been provided.
6. Visible drain pipes need to be restudied/revised to look more attractive.	6. The applicant has indicated that the drains along the building's façade are for decoration only, and that drainage for the balconies is actually served by concealed floor drains. The design of the exposed drains has not been modified.

The applicant gave a presentation on this project.

Commissioner Rubins recalled the Subcommittee meeting with the applicant and stated that the placement of the windows was too high and should be centered. Commissioner Rubins also stated that there were concerns regarding the gate and suggested taking the top part out and filling it so that it looks like the rest of the building.

The Commission expressed concerns regarding the tower, the paint, the landscaping, the parking entrance, the ironwork, and the institutional look of the project.

Commissioner Rennett questioned the applicant regarding the tower and stated that it was too high. Commissioner Rennett also stated that even though the drain pipe through the entryway has been covered, the patching looks terrible and felt that given the history of the project and changes are continuing to be made, detailed plans would be needed before the project could be approved.

Commissioner Meyer offered a couple of observations to the Commission and the applicant that included working with some of the elements that were already there. He suggested the oak color used on the ground floor be added to the base of the balcony and the tower proportion should be the two-window/opening option, and should be proportionate.

It was the consensus of the Commission that the project be returned for restudy.

**ACTION:**

Moved by: Commissioner Langh and seconded by Chair Cohen; that the plans be returned for restudy with the following guidance:

- 1) Final Plans to be a complete set of drawings to include painting the bottom of the balcony, adding a fascia at the 2<sup>nd</sup> floor; and adding precast along the railings.
- 2) The security grills are to be given more a residential feel for the standards of Beverly Hills.

AYES: Commissioners Rubins, Meyer, Rennett, Langh, and Chair Cohen.

NOES: None.

**CARRIED.**



**STAFF REPORT**  
**CITY OF BEVERLY HILLS**

**For the Architectural Commission**  
**Meeting of April 22, 2009**

**TO:** Architectural Commission

**FROM:** Ryan Gohlich, Assistant Planner

**SUBJECT:** **PL 0310469 - Villa Fiorita**  
155 North Hamilton Drive  
Architectural revisions to previously approved 13-unit condominium building

**PROJECT INFORMATION**

<b>Applicant/Owner</b>	Michael Naim, on behalf of the property owner
<b>Address</b>	155 North Hamilton Drive
<b>Project Name</b>	Villa Fiorita
<b>Project Type</b>	New 13-unit condominium building

**BACKGROUND**

The project is located on the west side of North Hamilton Drive, between Wilshire Boulevard and Clifton Way. The project is a 5-story 13-unit condominium building that was previously approved with conditions by the Architectural Commission at its February 9, 2005 meeting. The project has now been fully constructed, and upon final conformity review for a Certificate of Occupancy, it was discovered that the finished project does not substantially conform to the original approval granted by the Architectural Commission.

The as-built project was reviewed by the Commission at its January 21, 2009 meeting, at which time a subcommittee was formed to review the project. On March 18, 2009 the project was returned to the Commission for review to assess design modifications made based on information received at the subcommittee meeting. At the March 18, 2009 meeting the Commission determined that the applicant had not done enough to address the Commission's concerns, and the project was returned for further redesign. The table below identifies the changes discussed and recommended by the Commission at its March 18, 2009 meeting, as well as the applicant's proposed solutions to these changes.

Changes Requested by Commission	Solutions Proposed by Applicant
1. Install two vents along the upper level of the elevator tower to help break up the mass of the tower.	1. The applicant has proposed two vents along the upper portion of the elevator tower, consistent with the Commission's recommendation.
2. Install pre-past molding along the upper level of the elevator tower to help break up the mass of the tower.	2. The applicant has proposed pre-cast molding along the upper level of the elevator tower, consistent with the Commission's recommendation.
3. Install pre-cast molding along the top of the central arch located at the building's fourth floor.	3. The applicant has proposed pre-cast molding along the top of the central arch located at the building's fourth floor, consistent with the Commission's recommendation.
4. Paint the lower portions of balconies on the third and fourth floors to match the color used on the building's ground floor.	4. The applicant has indicated that it was not possible to reach the lower portions of the balconies without installing scaffolding. Therefore, the applicant painted the upper portions of the balconies instead.
5. Additional thought should be given to the metal grille above the garage entrance. It should be redesigned to appear more residential.	5. The applicant has proposed adding decorative elements to the grille to help soften its appearance. Details are provided on the submitted plans.
<p>Please note that all changes discussed above are shown on the first sheet of the submitted plans. In addition to the changes listed above, the applicant has provided several other options for the Commission's review, which are included in the submitted set of plans.</p>	

Based on the conditions of approval and project alterations discussed above, staff recommends that the Commission reconsider the project, and determine whether the abovementioned changes have sufficiently addressed the Commission's comments in order to make the necessary findings in support of the project. The following findings need to be made by the Commission in order to approve the project.

**CRITERIA**

Pursuant to Municipal Code Section 3-3010 the Architectural Commission may approve, approve with conditions, or disapprove the issuance of a building permit in any matter subject to its jurisdiction after consideration of the following criteria:

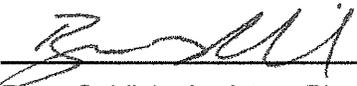
- (a) ***The plan for the proposed building or structure is in conformity with good taste and good design and in general contributes to the image of Beverly Hills as a place of beauty, spaciousness, balance, taste, fitness, broad vistas and high quality.***

- (b) ***The plan for the proposed building or structure indicates the manner in which the structure is reasonably protected against external and internal noise, vibrations, and other factors which may tend to make the environment less desirable.***
- (c) ***The proposed building is not in its exterior design and appearance of inferior quality such as to cause the nature of the local environment to materially depreciate in appearance and value.***
- (d) ***The proposed building or structure is in harmony with the proposed developments on land in the General area, with the General Plan for Beverly Hills, and with any precise plans adopted pursuant to the General Plan.***
- (e) ***The proposed building or structure is in conformity with the standards of this Code and other applicable laws insofar as the location and appearance of the buildings and structures are involved.***

### **RECOMMENDATION**

Based on the foregoing criteria and pending the information and conclusions that may result from testimony received during the Architectural Commission deliberations, staff recommends that the Architectural Commission provide the applicant with feedback on the various options proposed. The Commission has the following decision options:

1. If the Commission determines that the modifications have been appropriately addressed and that all required findings can be made, the Commission may approve the project as presented.
2. If the Commission determines that, with project-specific conditions of approval, all required findings can be made, the Commission may approve the project subject to conditions of approval in order to ensure appropriate execution of the project.
3. If the Commission determines that all required findings cannot be made, the Commission may deny the project as presented.

  
\_\_\_\_\_  
Ryan Gohlich, Assistant Planner

**F. CONTINUED ITEMS**

- 2. 155 North Hamilton Drive  
 VILLA FIORITA**  
 Architectural Revisions to Previously Approved 13-Unit Condominium  
 Building  
 (PL 031 0469)

Present: Michael Naim, Architect  
 James Morton, Attorney  
 Jeanie Yamaguchi, Property Owner

Staff member Gohlich gave a report on this item which included changes requested by the Commission & subcommittee and the solution proposed by the Applicant; and it was entered into the record:

<b>Changes Requested by Commission</b>	<b>Solutions Proposed by Applicant</b>
1. Install two vents along the upper level of the elevator tower to help break up the mass of the tower.	1. The applicant has proposed two vents along the upper portion of the elevator tower, consistent with the Commission's recommendation.
2. Install pre-past molding along the upper level of the elevator tower to help break up the mass of the tower.	2. The applicant has proposed pre-cast molding along the upper level of the elevator tower, consistent with the Commission's recommendation.
3. Install pre-cast molding along the top of the central arch located at the building's fourth floor.	3. To applicant has proposed pre-cast molding along the top of the central arch located at the building's fourth floor, consistent with the Commission's recommendation.
4. Paint the lower portions of balconies on the third and fourth floors to match the color used on the building's ground floor.	4. The applicant has indicated that it was not possible to reach the lower portions of the balconies without installing scaffolding. Therefore, the applicant painted the upper portions of the balconies instead.
5. Additional thought should be given to the metal grille above the garage entrance. It should be redesigned to appear more residential.	5. The applicant has proposed adding decorative elements to the grille to help soften its appearance. Details are provided on the submitted plans.

The applicant gave a presentation on this item.

The Commission questioned the applicant regarding the painting, metal boxes on the front entrance door, and the railings. The Commission stated to the applicant that they need a plan of what they plan to do.

Commissioner Pepp stated that she could only accept Option 1 and could not endorse the project with the cage, noting that nothing has been done to code. Commissioner Pepp also stated that she could not approve the project unless it was executed correctly.

Commissioner Meyer stated that there were no vents on the tower and stated that there was no way for smoke to come out of the shafts. The applicant stated that he became aware at the previous meeting of the problem. Commissioner Meyer stated that he did not find it acceptable for Option 4.

Commissioner Rubins expressed concerns regarding the roof.

Commissioner Cohen questioned the applicant regarding Option 4 and wanted to know if it could be lined up and more square and take out the trellis at the bottom. Commissioner Cohen stated that she did not like the flower ornament.

The Commission expressed concerns regarding the ornaments. Staff member Jerex informed the applicant that the Commission was only recommending minor changes and stated that the project could be denied. Staff member Jerex also informed that applicant that the Commission was not trying to send the project to the City Council, but merely just giving him an option.

Commissioner Rennett stated that he would like to find a solution to resolve the project and try to get an approval.

Commissioner Hammerstein stated that it is not an attractive project and felt that it was not much more that could be done through this process.

The Commission stated that they have worked with the applicant and the applicant has not taken their direction on several items.

Commission Meyer stated that he could live with the precast on the balcony and stated that the applicant has deviated from the Commission directions.

It was the consensus of the Commission that the project should be returned for restudy with specific instructions for Option 1

be added to the base of the balcony and the tower proportion should be the two-window/opening option, and should be proportionate.

It was the consensus of the Commission that the project be returned for restudy.

**ACTION:**

Moved by: Chair Rennett and seconded by Vice Chair Rubins; that the plans be returned for restudy with the following guidance:

- 1) The faux windows on the tower shall be similar to or shown to what is on Alternative 1.
- 2) The precise on Alternative 1 shall be as shown.
- 3) Something shall be done with the cage other than just leaving it with bars or put some decorative on the bars that is already there.
- 4) Change L and M are okay.
- 5) Change J with the paint Final Plans to be a complete set of drawings to include painting the bottom of the balcony, adding a fascia at the 2<sup>nd</sup> floor; and adding precast along the railings.
- 6) The security grills are to be given more a residential feel for the standards of Beverly Hills.

AYES: Commissioners Meyer, Cohen, Hammerstein, Pepp, Vice Chair Rubins, and Chair Rennett.

NOES: None.

**CARRIED.**

**G. PUBLIC HEARINGS**

**3. 9033 Wilshire Boulevard**

**9033 WILSHIRE OFFICE BUILDING**

Sign Program Including Sign Accommodation to Allow Alternative Location for Building Identification Sign and to Allow Canopy Signs with 14" High Letters for Business Identification Signs  
(PL 080 6223)

Present: Amir Doronbahsh, Archway Realty  
Representing the applicant



**STAFF REPORT**  
**CITY OF BEVERLY HILLS**

**For the Architectural Commission  
Meeting of May 20, 2009**

**TO:** Architectural Commission

**FROM:** Ryan Gohlich, Assistant Planner

**SUBJECT:** **PL 0310469 - Villa Fiorita**  
155 North Hamilton Drive  
Architectural revisions to previously approved 13-unit condominium building

*Continued from the meeting of April 22, 2009*

**PROJECT INFORMATION**

<b>Applicant/Owner</b>	Michael Naim, on behalf of the property owner
<b>Address</b>	155 North Hamilton Drive
<b>Project Name</b>	Villa Fiorita
<b>Project Type</b>	New 13-unit condominium building

**BACKGROUND**

The project is located on the west side of North Hamilton Drive, between Wilshire Boulevard and Clifton Way. The project is a 5-story 13-unit condominium building that was previously approved with conditions by the Architectural Commission at its February 9, 2005 meeting. The project has now been fully constructed, and upon final conformity review for a Certificate of Occupancy, it was discovered that the finished project does not substantially conform to the original approval granted by the Architectural Commission.

The as-built project was reviewed by the Commission at its January 21, March 18, and April 22, 2009 meetings. At its most recent meeting, the Commission identified several outstanding issues regarding the project's design and the accuracy of the plans submitted. The table below identifies the changes discussed and recommended by the Commission at its April 22, 2009 meeting, as well as the applicant's proposed solutions to these changes.

Changes Requested by Commission	Solutions Proposed by Applicant
1. Install two vents along the upper level of the elevator tower to help break up the mass of the tower.	1. The applicant has proposed two vents along the upper portion of the elevator tower, consistent with the Commission's recommendation.
2. Provide plans that accurately reflect the proposed architectural details.	2. The applicant has prepared a final set of plans that accurately reflects all existing and proposed painting, as well as all existing and proposed architectural details.
3. Restudy the metal grille located above the entrance to the parking garage entrance. An alternative design should be selected that softens its appearance.	3. The applicant has considered numerous options for redesigning the metal grille, but has determined that none of the contemplated design options would appropriately fit the architectural style of the building while maintaining natural light to the recreation/workout room. To enhance the appearance of the grille work the applicant proposes to install small iron detailing at the top of the grille to enhance its appearance and be more consistent with the iron work used throughout the façade.

Based on the conditions of approval and project alterations discussed above, staff recommends that the Commission reconsider the project, and determine whether the abovementioned changes have sufficiently addressed the Commission's comments in order to make the necessary findings in support of the project. The Commission may approve, approve with conditions, or deny the proposed project. In order to approve the project the following findings need to be made by the Commission:

**CRITERIA**

Pursuant to Municipal Code Section 3-3010 the Architectural Commission may approve, approve with conditions, or disapprove the issuance of a building permit in any matter subject to its jurisdiction after consideration of the following criteria:

- (a) ***The plan for the proposed building or structure is in conformity with good taste and good design and in general contributes to the image of Beverly Hills as a place of beauty, spaciousness, balance, taste, fitness, broad vistas and high quality.***
- (b) ***The plan for the proposed building or structure indicates the manner in which the structure is reasonably protected against external and internal noise, vibrations, and other factors which may tend to make the environment less desirable.***
- (c) ***The proposed building is not in its exterior design and appearance of inferior quality such as to cause the nature of the local environment to materially depreciate in appearance and value.***

- (d) ***The proposed building or structure is in harmony with the proposed developments on land in the General area, with the General Plan for Beverly Hills, and with any precise plans adopted pursuant to the General Plan.***
- (e) ***The proposed building or structure is in conformity with the standards of this Code and other applicable laws insofar as the location and appearance of the buildings and structures are involved.***

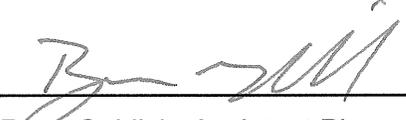
**RECOMMENDATION**

Based on the foregoing criteria and pending the information and conclusions that may result from testimony received during the Architectural Commission deliberations, staff recommends that the Architectural Commission approve the project, subject to the conditions of approval listed below.

Staff further recommends that the Commission should ***not*** request further restudies on this matter. If the findings for approval cannot be made, staff believes the Commission should deny the project without prejudice. The applicant would then have the option of filing a revised application or appealing the Commission's decision to the City Council. Although this is not a desired result, it provides the applicant and the City an opportunity for closure on this matter. A certificate of occupancy will not be issued until a resolution has been achieved.

Recommended conditions of approval:

1. The project shall be built in conformance with the plans approved by the Architectural Commission at its May 20, 2009 meeting.
2. A final Certificate of Occupancy shall not be issued for the project until all architectural revisions have been completed. Staff shall consider whether the posting of a bond is appropriate to ensure that the applicant complies with the approved plans.

  
\_\_\_\_\_  
Ryan Gohlich, Assistant Planner

**CITY OF BEVERLY HILLS  
MINUTES  
REGULAR ARCHITECTURAL COMMISSION MEETING  
May 20, 2009**

The regular meeting of the Beverly Hills Architectural Commission was held in City Hall Conference Room 180-A at 2:00 p.m.

**A. ROLL CALL**

Present: Commissioners Meyer, Cohen, Hammerstein, Pepp, Vice Chair Rubins, and Chair Rennett.

Absent: Commissioner Langh (excused).

**B. COMMUNICATIONS FROM THE COMMISSION**

There was no report on the monthly Mayors' Cabinet meeting.

**C. COMMUNICATIONS FROM THE AUDIENCE**

None.

**D. CONSIDERATION OF THE MINUTES**

**ACTION:**

The minutes were approved as amended, by Order of the Chair

**APPROVAL OF AGENDA**

**E. CONSENT CALENDAR**

*There were no Consent items this month.*

**F. CONTINUED ITEMS**

2. **155 North Hamilton Drive  
VILLA FIORITA**  
Architectural Revisions to Previously Approved 13-Unit Condominium Building  
(PL 031 0469)

Present: James Mortensen, Attorney  
Jenny Yamaguchi, Property Owner

Staff member Gohlich gave a report on this item which was continued from April 22 and it was entered into the record. The changes requested in April were:

1. Install two vents along the upper level of the elevator tower to help break up the mass of the tower.
2. Provide plans that accurately reflect the proposed architectural details.
3. Restudy the metal grille located above the entrance to the parking garage.

The applicant was able to determine that additional venting was not actually required to meet Code; the plans were modified to accurately reflect the (existing) painting scheme on all sides of the building as well as the architectural details selected by the applicant and their placement; several options were considered regarding the grille above the parking garage but determined none of the options would have addressed the Commission's (design) issues, so the applicant has proposed to install a small decal similar to the ironwork that exists on the building. In addition, a pre-cast molding was removed that had previously been shown on the upper portion of the tower.

The applicant stated that the building had been painted and that the elevator shaft had been vented at the back so they decided to put back the false windows in place of where the vents had been proposed on the front of the tower.

Vice Chair Rubins questioned the applicant to clarify which version of the plans had been agreed to by the Commission. He asked why the molding had not been put on the tower portion, and why cast bronze letters had been used above the door for the "Villa Fiorita" name rather than painted letters as requested by the Commission. The question was also asked as to how the (entry) card reader could be used at the front gate as it was on the right hand side. (These were shown on the left side on the plans.)

The applicant felt that the molding no longer lined up well with the roofline and the principals of the projects did not like the idea of using painted letters on that size of a building so they stuck with the bronze metal letters.. As for the card reader, cars will need to stop and get out in order to be buzzed in.

Vice Chair Rubins asked why one of the balconies on the south side of the building had not been painted, and the applicant stated that he would have the painter paint it if that was the case.

Commissioner Pepp stated that she had trouble with the plans because there were so many things that had not been done that she didn't see any reason to hold up the meeting further to go through each one.

Commissioner Meyer said he felt there was a security issue with the gate and the design was an unfortunate necessity, but it's essentially there now.

Chair Rennett said he wished there was a way to make the gate more palatable.

Commissioner Cohen asked if the plans submitted were complete and final since they did not match what exists on the building including downspouts (vertical and diagonal) on the south elevation.

Commissioner Meyer added that they had looked at several versions of the vent locations only to learn that they weren't required in the first place and this was one of the reasons it was difficult to make a decision on this project (constant small changes).

The applicant stated that they had put in false windows instead of the vents to break up the expanse of the tower because that seemed to be the Commission's preferred design option.

Commissioner Cohen commented that adding the windows to the tower seemed to be one of the only things the applicant had done since this project was first reviewed in January and that things had been brought in bits and pieces, so it was hard to determine what had been done.

The applicant responded that they had added plants and a fountain to match one of the things in the original proposal; painted balconies; and added pre-cast details on the bridge rather than the trellis that was in the original plan.

Commissioner Hammerstein felt that so much time was spent on this project and that the Commission should either approve it or make a motion to deny.

Chair Rennett felt the project looked better than it had when they first saw it but that it still is not what it should have been based on the original plans that were approved. He agreed that some sort of security barrier was needed above the garage door area but that it could have looked better.

Commissioner Rubins suggested that the upper portion of the garage gate could be painted a lighter color so that it disappeared more as seen from the street.

Commissioner Rennett asked the Commission if they felt there was any chance to get this project through if the applicant came back again or if they would prefer just to deny it and move on from there.

Chair Rennett asked staff to clarify the difference between a denial and a denial without prejudice, which was suggested as one of the options in the staff report. Staff responded that a denial without prejudice would allow the applicant to re-file the application with the Commission.

Commissioner Pepp stated that she felt terrible for the new owner of the building, but nothing (on this project) was done in a businesslike fashion and it has taken a tremendous amount of energy on the Commission's part. She asked to let the record reflect that the applicant did not do anything he was directed to do if it wasn't convenient (for example, the bottom of the balconies was not painted because it was not convenient for the applicant to put up scaffolding to do the work).

**ACTION:**

Moved by: Commissioner Pepp and seconded by Vice Chair Rubins; that the plans be denied as presented for the following reasons: There were a number of problems encountered by the Commission in reviewing the project including the +/- 7 meetings held by the Commission to review the project (both the original application and the revisions after the project was not built per plan); and that the applicant has not been able to obtain a final Certificate of Occupancy due to the fact that the building was not built to plan.

AYES: Commissioners Meyer, Cohen, Hammerstein, Pepp, Vice Chair Rubins, and Chair Rennett.

NOES: None.

**CARRIED.**

**G. PUBLIC HEARINGS**

**3. BOUCHON BEVERLY HILLS**

**235 North Canon Drive**

Revised Sign Program Including a Sign Accommodation to Allow Multiple Business Identification Signs/Logos in Conjunction with Awnings with Signs and Outdoor Dining Area Furniture and Railing Enclosure  
(PL 091 4857)

Present: Eric Lilavios  
Stacy Wilder  
Representing the applicant

Staff member Naziri gave a report on this item and it was entered into the record:

The applicant gave a presentation on this item.

Commissioner Pepp questioned the applicant regarding the railing in the front and wanted to know if it was post-in-sleeve. The applicant stated no and stated that they preferred not to drill into the stone. Staff stated that this project was a little different in terms of how it would be reviewed because it is considered a public gallery within the public right-of-way.

Commissioner Cohen commended the applicant on a wonderful packet and stated that the signs on the awnings, umbrellas, and tower should be taken out. Commissioner Cohen also stated that the railings should be simple without the logos and the tables should match the mosaic.

***ATTACHMENT 3***

***BHMC Section 10-3-3010***

***(Architectural Review Criteria)***

### **10-3-3010: CRITERIA:**

The architectural commission may approve, approve with conditions, or disapprove the issuance of a building permit in any matter subject to its jurisdiction after consideration of whether the following criteria are complied with:

- A. The plan for the proposed building or structure is in conformity with good taste and good design and, in general, contributes to the image of Beverly Hills as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality;
- B. The plan for the proposed building or structure indicates the manner in which the structure is reasonably protected against external and internal noise, vibrations, and other factors which may tend to make the environment less desirable;
- C. The proposed building or structure is not, in its exterior design and appearance, of inferior quality such as to cause the nature of the local environment to materially depreciate in appearance and value;
- D. The proposed building or structure is in harmony with the proposed developments on land in the general area, with the general plan for Beverly Hills, and with any precise plans adopted pursuant to the general plan; and
- E. The proposed development is in conformity with the standards of this code and other applicable laws insofar as the location and appearance of the buildings and structures are involved.
- F. In addition to the foregoing criteria, in connection with any application to convert an existing residential apartment building determined by the planning commission to be a "character contributing building" in accordance with section 10-2-707 of this title, the architectural commission shall not approve a renovation to the exterior of a character contributing building unless it makes the following additional finding:
  - 1. The proposed development is designed in a manner that protects and preserves those exterior elements of the building which the planning commission found contributed to

the determination of the project as a "character contributing building" in accordance with section 10-2-707 of this title.

If the criteria set forth in this section are met, the application shall be approved. Conditions may be applied when the proposed building or structure does not comply with such criteria and shall be such as to bring such building or structure into conformity. If an application is disapproved, the architectural commission shall detail in its findings the criterion or criteria that are not met. The action taken by the architectural commission shall be reduced to writing and signed by the chairman, and a copy thereof shall be made available to the applicant upon request.

A decision or order of the architectural commission or the director of planning shall not become effective until the expiration of fourteen (14) calendar days after the date upon which a ruling of the architectural commission or the director of planning has been made.

Nothing required by this article shall be construed to supersede the requirements set forth in chapter 2, article 7 of this title regarding the conversion of the form of ownership of an existing rental apartment building that has been determined by the planning commission to be a "character contributing building" in accordance with section 10-2-707 of this title to a common interest development within the meaning and definitions of that article. (Ord. 1223, eff. 3-1-1966; amd. Ord. 74-O-1511, eff. 4-11-1974; Ord. 06-O-2497, eff. 4-6-2006)

# ***ATTACHMENT 4***

## ***Summary of Architectural Commission Meetings***

## Summary of Architectural Commission and Sub-Committee Meetings

155 North Hamilton Drive

September 15, 2009 City Council Meeting

---

*The following meetings occurred to address revisions made by the applicant that had not received Architectural Commission approval.*

### 1. January 21, 2009: First Architectural Commission Meeting

On January 21, 2009 the Architectural Commission reviewed the proposed modifications to the originally approved plans. Upon review the Architectural Commission determined that the required findings could not be made in support of the proposed modifications and requested that the project be restudied in order to address several design issues. In order to expedite the review process the Architectural Commission formed a subcommittee to help guide the applicant and identify specific architectural features that needed to be redesigned.

### 2. January 27, 2009: Subcommittee Meeting

A subcommittee consisting of Commissioners Rennett, Langh, and Rubins met with staff and the applicant team to discuss potential options for redesign of the project. Upon conclusion of the subcommittee meeting the applicant team and staff agreed to six changes that were relatively minor in scope and requested that plans be prepared reflecting the agreed upon changes. The requested changes and the applicant team's response were as follows:

- The subcommittee requested that the driveway gate that extends above the garage entrance and covers some of the ground floor windows lining the common area (recreation/workout room) be redesigned to appear more residential and prevent the windows from looking closed off.
  - The applicant proposed two options of adding decorative iron work to the gate covering the windows and indicated that reconfiguring the gate to eliminate the situation in question was not feasible.
- The subcommittee requested that details be added to the entry such as a fountain, planters, or windows on both sides of the entry, and signage should be repositioned. All plumbing and electrical components should be concealed, and plant types should be shown on the revised plans.
  - The applicant installed a fountain within the entryway that is visible from the street. Four planters were added to the inside of, and adjacent to, the entryway, but plant types were not identified. All plumbing and electrical components of the fountain and planters were concealed. Signage was repositioned above the entryway and a sign reading "Villa Fiorita" was proposed inside the entryway.

- The subcommittee stated that a “drain pipe” at the entry appeared to lead directly to the front entrance. It was requested that the pipe be identified and/or reworked so as to not drain to the entry.
  - The applicant was unable to identify the purpose of the pipe, and did not make any changes to conceal the pipe.
- The subcommittee requested that the central tower be restudied, and either one or two windows/vents be added to the top of the tower. Examples of both options should be provided.
  - The applicant provided three options for the central tower, consisting of installation of a single window/vent, installation of two smaller windows/vents, or installation of five very small vents at the top of the tower. The applicant also proposed adding a trim/trellis detail to the top of the bridge feature located above the fourth floor.
- The subcommittee requested that color options be provided along the ground floor of the building to provide additional visual interest.
  - The applicant indicated that a tri-color sponged brush faux finish would be applied to the ground floor of the building; however, the applicant did not provide a color sample of the proposed finish.
- The subcommittee requested that visible drain pipes be restudied/revise to look more attractive.
  - The applicant indicated that the drains are for decoration only and that all functional drains are concealed. The applicant did not propose any changes to the exposed drains.

### **3. March 18, 2009: Second Architectural Commission Meeting**

The Architectural Commission reviewed the applicant team’s responses to the subcommittee’s recommendations outlined above and determined that a) the applicant had not addressed all of the subcommittee’s recommendations, and b) that the recommendations that had been addressed fell short of the Commission’s expectations.

Because the proposed changes did not appropriately address the revisions requested by the subcommittee the Commission determined that it was again not possible to make the required findings in support of the project. The Commission returned the project for restudy and provided the applicant with further direction to modify the project. The requested changes and the applicant team’s response were as follows:

- The Commission requested that two vents be installed along the upper level of the elevator tower to help break up the mass of the tower.
  - The applicant proposed two vents along the upper portion of the elevator tower.

- The Commission requested that pre-cast molding be installed along the upper level of the elevator tower to help break up the mass of the tower.
  - The applicant proposed pre-cast molding along the upper level of the elevator tower.
- The Commission requested that pre-cast molding be installed along the top of the central arch located at the building's fourth floor.
  - The applicant proposed pre-cast molding along the top of the central arch located at the building's fourth floor.
- The Commission requested that the lower portions of the balconies on the third and fourth floors be painted to match the darker color used on the building's ground floor.
  - The applicant indicated that it was not possible to paint the lower portions of the balconies without installing scaffolding and instead painted the upper portions of the balconies that could be reached without scaffolding.
- The Commission requested that additional thought be given to the design of the metal grille located above the gated entrance to the parking garage, and that its design be made to appear more residential.
  - The applicant proposed adding decorative elements to the grille.

#### **4. April 22, 2009: Third Architectural Commission Meeting**

The Architectural Commission reviewed four different versions of façade improvements. The Commission felt that one of the proposals (not preferred by the applicant) addressed most, but not all, of the Commission's requested changes. The Commission noted that the proposed modifications to the metal grille above the gated entrance to the parking garage were not appropriate, and actually degraded the building's architectural design further, and that the project would not be approved without appropriately addressing the design of the metal grille.

Additionally, with regard to painting, the applicant did the exact opposite of what was requested by painting the upper portions of the balconies rather than the lower portions. Although this was not consistent with the Commission's request, the Commission determined that painting the upper portions of the balconies was an acceptable alternative.

The Commission also requested that the plans be revised to accurately reflect existing conditions at the subject property, and all changes proposed by the applicant. The requested changes and the applicant team's response were as follows:

- The Commission requested that two vents be installed along the upper level of the elevator tower to help break up the mass of the tower.
  - The applicant proposed two vents along the upper portion of the elevator tower, consistent with the Commission's recommendation.

- The Commission requested that the applicant provide plans accurately reflecting the existing and proposed architectural details.
  - The applicant prepared a final set of plans that accurately reflected all existing and proposed painting, as well as all existing and proposed architectural details.
  
- The Commission requested that the applicant restudy the design of the metal grille above the gated entrance to the parking garage. The Commission stated that any revised design should soften the appearance of the grille rather than draw attention to it.
  - The applicant considered numerous design options and ultimately determined that none of the options appropriately fit the architectural style of the building. Because of this the applicant proposed small iron detailing at the top of the grille to soften its appearance. No other alternative was prepared by the applicant.

#### **5. May 20, 2009: Fourth Architectural Commission Meeting**

The Commission reviewed the applicant team's responses to the Commission's recommendations outlined above. While some of the requested changes had been addressed, others that the Commission previously agreed upon had not been carried forward to the final set of plans. The Commission also indicated that aesthetic issues related to the metal grille above the parking garage had still not been addressed and remained a significant outstanding issue. Finally, the Commission commented that although minor improvements had been made to the project it was still far from what it should have been based on the originally approved plans. Because all requested changes were not appropriately addressed, the Commission felt that the project was no longer moving in a forward direction, and the project was denied by a unanimous vote.

---

# *ATTACHMENT 5*

## *Architectural Commission Findings*

## Architectural Commission Findings

Regular Meeting of the Architectural Commission on August 19, 2009

The following findings are intended to outline the criteria by which the proposed architectural revisions to the project located at 155 North Hamilton Drive were denied by the Architectural Commission:

- (a) ***The plan for the proposed building or structure is in conformity with good taste and good design and in general contributes to the image of Beverly Hills as a place of beauty, spaciousness, balance, taste, fitness, broad vistas and high quality.***

*The Commission was not able to make this finding in support of the project.*

The building and its proposed architectural revisions were not built in conformity with the previously approved design. The project lacks previously approved architectural details, including window and door surrounds, faux vents on the central tower, a trellis structure along the central portion of the building, and decorative molding, all of which were important to the overall architectural theme of the building. Further, quality building materials that were previously a component of the project's design were changed to lesser-quality materials without receiving approval from the Commission. More specifically, a smaller-than-approved fountain was installed, wood windows were changed to aluminum windows, a large metal grille was installed above the garage entrance, and the primary entry to building was reduced in size. Because important architectural details were eliminated and building materials modified, the project cannot be found to be in conformity with good taste and good design, and in general does not contribute to the image of Beverly Hills as a place of beauty, spaciousness, balance, taste, fitness, broad vistas and high quality.

- (b) ***The plan for the proposed building or structure indicates the manner in which the structure is reasonably protected against external and internal noise, vibrations, and other factors which may tend to make the environment less desirable.***

*The Commission was able to make this finding in support of the project.*

The structure, as originally approved, was found to be reasonably protected against external and internal noise, vibrations, and other factors which may tend to make the environment less desirable. Because the architectural revisions do not appear to alter the way in which the structure is reasonably protected against external and internal noise, vibrations, and other factors, the finding can still be made in support of the project.

- (c) ***The proposed building is not in its exterior design and appearance of inferior quality such as to cause the nature of the local environment to materially depreciate in appearance and value.***

*The Commission was not able to make this finding in support of the project.*

The project lacks previously approved architectural details that were integral to the design of the project and helped to enhance the building's aesthetic value while reducing its appearance of scale and mass. Additionally, several previously approved building materials were changed to lesser-quality materials that have negatively impacted the project's design and appearance. Based on the elimination of architectural detailing and the reduction in quality building materials, the required finding cannot be made in support of the project.

- (d) ***The proposed building or structure is in harmony with the proposed developments on land in the General area, with the General Plan for Beverly Hills, and with any precise plans adopted pursuant to the General Plan.***

*The Commission was not able to make this finding in support of the project.*

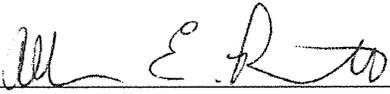
The project is consistent with the General Plan and designated land uses established for the subject site insofar as its use, density, and height. There are no precise plans established in the vicinity of the project site that would be in conflict with the project. However, because specific architectural details were eliminated or modified, the project's ability to reduce its appearance of scale and mass has been diminished. Controlling the building's appearance of scale and mass is important because the project is five stories in height and surrounding development is generally two to three stories in height. Because the project's ability to reduce its appearance of scale and mass has been diminished, the project is no longer in harmony with developments on land in the general area and the required finding cannot be made in support of the project.

- (e) ***The proposed building or structure is in conformity with the standards of this Code and other applicable laws insofar as the location and appearance of the buildings and structures are involved.***

*The Commission was not able to make this finding in support of the project.*

The project is in conformity with the development standards of the Beverly Hills Municipal Code and other applicable laws; however, because several of the required findings outlined above cannot be made, the project is not in conformity with Section 10-3-30 (Architectural Commission, Architectural Review, And Procedure) of the Beverly Hills Municipal Code insofar as meeting the required findings for approval by the Commission and complying with established architectural design standards. Therefore, the required finding cannot be made in support of the project.

8/19/2009

  
\_\_\_\_\_  
Allen E. Rennett  
Chair of the Architectural Commission of  
the City of Beverly Hills, California

***ATTACHMENT 6***

***Architectural Plans***

***(folded sets)***