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Filed:	3/28/03
49th day:	5/16/03
Substantial Issue:	5/8/03
Continued:	8/6/03
Staff:	JB-SC
Staff report prepared:	11/20/03
Hearing date:	12/10/03

APPEAL STAFF REPORT
DE NOVO HEARING

Local government.....County of San Luis Obispo

Local decision ..... Local Permit # D010088D - Approved with conditions.

Appeal number.....A-3-SLO-03-040

Applicant.....Alex Benson

Appellants .....Concerned Citizens of Los Osos; Julie Tacker

Project location.....1370 2nd Street, Los Osos (APN(s) 038-182-039, 41, 43, 48).

Project description.....Development of a two-phased commercial project. Phase I consists of adding 8 new guest rooms (3,837 s.f.) to the existing Baywood Inn (9,721 s.f.), and construction of a new 10 guest room hotel building (7,345 s.f.). Phase II consists of two new hotel buildings. Building one will include 6 new guest rooms (3, 472 s.f.), and building two will include 16 new guest rooms (7,940 s.f.). The project also includes landscaping and drainage improvements.

File documents.....San Luis Obispo County certified Local Coastal Program; Coastal Development Permit D010088D.

Staff recommendation ...**Approval with Conditions**

Summary of the Staff Recommendation: On August 6, 2003 the Commission voted to continue the proposed development and directed staff to work with the applicant on a revised project. Staff has reviewed the reporter's transcripts and audio tapes of the Commission deliberations and it appears that two primary issues remain unresolved: 1) community character and visual resource concerns with respect to the size, location, and design of the 8-unit addition to the existing Baywood Inn; and 2) adequacy of onsite parking. Both of these concerns are interrelated in that the 8-unit expansion would create a building significantly larger in size and scale than any other in the LCP designated "Special Community", and at the same time would eliminate necessary onsite parking that is not to be relocated elsewhere on the project site.

At this time, no revised project plans have been formally submitted to the Commission staff for analysis. The applicant has indicated that some exterior design changes could be made, but has stated that

relocating the 8 units would not be feasible. The applicant has not indicated why relocation of these units is not feasible, but has requested that the original proposal be heard at the December meeting. Staff maintains its original position that the 8-unit expansion to the existing Baywood Inn is out of character with the small-scale village area and further maintains that alternative siting of the 8 units is feasible. Therefore, Commission staff is bringing forward the same recommendations.

The proposed project involves two phases. Phase I includes the expansion of the existing Baywood Inn and the construction of a new 10-unit hotel building (Baywood Village Inn). Phase II includes the construction of 2 new hotel buildings (Baywood Lodge). The total project involves an expansion leading to an increase from 17 to 57 units in two phases. The San Luis Obispo County approval of the second phase of the project is contingent upon connection to a community-wide sewer system.

The project site is located in the community of Baywood Park in Los Osos. The site is across the street from the sensitive habitat of the Morro Bay Estuary, one of the most significant wetland areas on the west coast. The project site presents planning challenges for commercial development due to the projects unique location in close proximity to sensitive resources, coupled with the fact that the site is within a LCP designated "Special Community" characterized by small-scale low-density development.

The proposed commercial development raises concerns regarding the protection of visual resources and community character, coastal water quality, public services, and public access and recreation opportunities in the Baywood Park community of Los Osos. In summary, parts of the project are too large for the small scale community area, the project relies on a phased development scheme in a time where public service capacities are uncertain, the project adds structures and paving that will result in greater amounts impervious surfacing than currently exists, and the project moves required parking offsite that will create user conflicts with respect to public access and recreation.

Staff has identified project modifications that would address the range of issues raised by the development and will bring it into conformance with the LCP. Staff is recommending approval of a modified project that: 1) ensures that adequate public service capacities are available prior to development; 2) keeps new development in character with the community, 3) minimizes adverse water quality impacts to the nearby estuary; and 4) protects and promotes public access opportunities to the coast.

To address these impacts, Staff recommends that the Commission **approve** the proposed development subject to a number of conditions in order to find the project consistent with the LCP. These conditions include the following requirements:

- A prohibition on Phase II development at this time;
- Submittal of Final Plans that: 1) relocates the 8-unit expansion of the existing Baywood Inn; and 2) shows all parking to be accommodated onsite.
- Submittal of a Drainage Plan that incorporates appropriate drainage and erosion control measures;
- Submittal of a revised Landscape Plan that includes drip irrigation and only drought tolerant and non-invasive plant species;
- Submittal of an Archeological Monitoring and Mitigation Plan.

As conditioned, the project will be consistent with the San Luis Obispo County certified LCP.

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1. Staff Recommendation On Coastal Development Permit

Staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development subject to the standard and special conditions below.

MOTION: I move that the Commission approve Coastal Development Permit Number A-3-SLO-03-040 pursuant to the staff recommendation.

STAFF RECOMMENDATION OF APPROVAL: Staff recommends a **YES** vote. Passage of this motion will result in approval of the coastal development permit as conditioned and adoption of the following resolution and findings. The motion passes only by an affirmative vote by a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT: The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the San Luis Obispo County certified LCP. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

2. Conditions of Approval

A. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

B. Special Conditions

1. Authorized Project. This Coastal Development Permit authorizes only: 1) development of a new 10 guest room Baywood Village Inn (7,345 s.f.); 2) 8 new guest rooms (3,837 s.f.) to be relocated consistent with the revised project plans detailed in Special Condition #2 below; and 3) landscaping and drainage improvements.

2. Revised Project Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two sets of Revised Project Plans to the Executive Director for review and approval. The Revised Project Plans shall show the following changes to the project:

(a) New Development. Final plans shall show exclusion or relocation of the 8-unit expansion to the existing Baywood Inn as described below and depicted in Exhibit 8 attached to this report. Should the units be relocated, the following criteria shall be followed:

1) The relocated units shall avoid and be adequately setback from the existing septic system;
2) The relocated units shall be located in the shaded area depicted in Exhibit 8;
3) The relocated units must be contained in a single stand alone building, shall not exceed 3,837 square feet in size, and shall not be added to Building A (Baywood Village Inn) or Building B (Baywood Lodge). Relocated units shall be designed in a style consistent with adjacent development.

(b) Allowable Units. Final plans shall clearly indicate the number and location of new guest units. Seventeen new guest units are the maximum allowed. Units shall not exceed 25 feet in height as measured from average natural grade.

(c) Parking. All parking, as required by CZLUO Section 23.04.166(c) 9, shall be provided onsite.

The Permittee shall undertake development in accordance with the approved Revised Project Plans. Any proposed changes to the approved Revised Project Plans shall be reported to the Executive Director. No changes to the approved Revised Project Plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

3. Drainage, and Erosion Control Plans. PRIOR TO ISSUANCE OF THE PERMIT, the applicant shall submit, for Executive Director review and approval, two sets of drainage and erosion control plans. The plans shall provide that all site runoff is captured and filtered to remove sediment and typical runoff pollutants. Runoff from all surfaces subject to vehicular traffic shall be filtered through an engineered filtration system specifically designed to remove vehicular contaminants. The plan shall include sediment, grease, and oil-traps in the parking lots, or similar measures to eliminate non-point source pollutants (surface contaminants) from entering the Morro Bay Estuary. All filtered runoff shall be directed offsite in such a manner as to avoid erosion and/or sedimentation. The Plan shall also incorporate the following provisions:

Implementation of Best Management Practices During Construction. The Drainage and Erosion Control Plans shall identify the type and location of the measures that will be implemented during construction to prevent erosion, sedimentation, and the discharge of pollutants during construction. These measures shall be selected and designed in accordance

with the California Storm Water Best Management Practices Handbook and the criteria established by the San Luis Obispo County Resource Conservation District. Among these measures, the plans shall limit the extent of land disturbance to the minimum amount necessary to construct the project; designate areas for the staging of construction equipment and materials, including receptacles and temporary stockpiles of graded materials, which shall be covered on a daily basis; provide for the installation of silt fences, temporary detention basins, and/or other controls to intercept, filter, and remove sediments contained in the runoff from construction, staging, and storage/stockpile areas; and provide for the hydro seeding of disturbed areas immediately upon conclusion of construction activities in that area. The plans shall also incorporate good construction housekeeping measures, including the use of dry cleanup measures whenever possible; collecting and filtering cleanup water when dry cleanup methods are not feasible; cleaning and refueling construction equipment at designated off site maintenance areas; any the immediate clean-up of any leaks or spills.

The plans shall indicate that PRIOR TO THE COMMENCEMENT OF GRADING, the applicant shall delineate that the approved construction areas with fencing and markers to prevent land-disturbing activities from taking place outside of these areas.

Post Construction Drainage. All runoff from impervious surfaces such as roofs, driveways, parking lots, walks, patios, decks, etc., shall be collected and conveyed through an appropriate filtration mechanism (e.g. vegetated and/or gravel filter strips or other media device). The drainage plan shall identify the specific type, design, and location of all drainage infrastructure necessary to ensure that post construction drainage from the project does not result in erosion, sedimentation, or the degradation of coastal water quality. The capacity of filtration and treatment features shall be adequate to effectively remove sediments and pollutants during an 85th percentile runoff event. In areas where rocks or other energy dissipation structure are needed, the drainage plan shall include detailed plans that limit the size and footprint of such structure to the minimum necessary to achieve effective erosion control. The applicant/landowner or successor-in-interest shall be responsible for implementing and maintaining drainage and erosion control measures and facilities for the life of the project. This shall include performing annual inspections, and conducting all necessary clean-outs, immediately prior to the rainy season (beginning October 1), and as otherwise necessary to maintain the proper functioning of the approved drainage system. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant/landowner or successor-in-interest shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new Coastal Development Permit is required to authorize such work.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

4. Final Landscape Plan. PRIOR TO ISSUANCE OF THE PERMIT, the applicant shall submit, for Executive Director review and approval a final landscape plan. The final landscape plan shall clearly indicate that landscaping shall use non-invasive and drought tolerant plant species. Drip irrigation is required for new landscaping. Invasive, non-native (e.g., ice plant and Pampas Grass) and water intensive (e.g. turf grass) landscaping shall be prohibited on the entire site.

5. Archaeology. PRIOR TO THE COMMENCEMENT OF EARTH MOVING ACTIVITIES, a qualified archaeologist and local Native American shall survey the site for cultural and archaeological materials. In addition, the applicant shall retain a qualified archaeologist, approved by the Executive Director, as well as a qualified local Native American, to monitor all earth disturbing activities. If an area of cultural deposits is discovered at any time during the course of the project, all construction shall cease in the vicinity of the resource until a mitigation plan, prepared by a qualified professional archaeologist in consultation with local Native American groups, is completed and implemented. Prior to implementation, the mitigation plan shall be reviewed and approved by the State Historical Preservation Office and by the Executive Director of the Commission. The plan shall include measures to avoid the resources to the maximum extent practicable, and shall provide mitigation for unavoidable impacts. A report verifying that the approved mitigation plan has been completed shall be submitted to the Executive Director for review and approval prior to recommencing project construction.

PRIOR TO COMMENCEMENT OF CONSTRUCTION, the archaeological monitor shall conduct a brief training session with construction personnel discussing the cultural sensitivity of the area and the protocol for discovery of cultural resources during construction. The archaeological monitor shall also inform all qualified local Native Americans of the timing of construction and their opportunity to participate in construction monitoring.

6. County Conditions. Except for Conditions 1, 2, 7, 14, 15, 16, 17, 18, 21, and 22, all conditions of San Luis Obispo County's approval of the Project become conditions of this permit. All conditions of San Luis Obispo County's approval pursuant to planning authority other than the Coastal Act continue to apply.

Recommended Findings and Declarations

The Commission finds and declares as follows:

3. Project Background

The San Luis Obispo County Planning Commission approved the proposed project on January 17, 2002. The Concerned Citizens of Los Osos appealed the project to the County Board of Supervisors. The San Luis Obispo County Board of Supervisors approved the proposed project subject to 22 conditions on March 4, 2003. The Concerned Citizens of Los Osos appealed this action to the Commission on March 28, 2003. On May 8, 2003 in Monterey, the Commission held a substantial issue hearing on the project and found that the appeal raised a substantial issue in terms of the projects consistency with the San Luis

Obispo County LCP. As a result, the Commission took jurisdiction over the coastal development permit (CDP) for the project.

4. Project Description

The project is located in the commercial area of Baywood Village of Los Osos in San Luis Obispo County. The project site includes four parcels totaling approximately 1.5 acres (65,135 s.f.). The subject property contains the existing Baywood Inn, a separate restaurant, two parking lots, and a large undeveloped area on the northern and eastern portions of the site (see Exhibit 3). This undeveloped area along Third Street contains a large mounded leach field system for the existing Baywood Inn. The developed areas of the property are landscaped with non-native ornamental plants species including grass lawn, groundcover, trees and assorted shrubs.

The project site is located in a LCP designated "Special Community" due its unique community character and visitor-serving orientation towards the environmental resources of the estuary and peninsula. The area is characterized by its small-scale low-density nature consistent with the topography and vegetation of the area. The shoreline of the Morro Bay Estuary is located directly across the street, approximately 100 feet from the nearest property boundary. The adjacent property to the south not included in this project is undeveloped, and according to the Biological Assessment (Morro Group, June 15, 2001), contains areas of mature coastal scrub habitat.

The applicant proposes to develop a two-phased project. Phase I consists of adding 8 new guest rooms (3,837 s.f.) to the existing Baywood Inn, and a new 10 unit hotel building (7,345 s.f.) to be called the Baywood Village Inn. Phase II consists of two new hotel buildings to be called the Baywood Lodge. Building One will include 6 new guest rooms (3, 472 s.f.), and Building Two will include 16 new guest rooms (7,940 s.f.). The applicant proposed an outdoor amphitheater as part of the original submittal, but this portion of the project was omitted during the Planning Commission hearing due to neighbors concerns over noise, outdoor lighting, and other issues.

5. Coastal Development Permit Determination

A. Public Services

1. Relevant Local Coastal Program Provisions

As required by Public Works Policy 1, all new development must demonstrate that there are sufficient public service capacities to serve the development:

> ***Public Works Policy 1: Availability of Service Capacity***
> *New development (including divisions of land) shall demonstrate that adequate public or private service capacities are available to serve the proposed development. Priority shall be given to infilling within existing subdivided areas. Prior to permitting all new development, a finding shall be made that there are sufficient services to serve the proposed development given the already outstanding commitment to existing lots within the urban*

service line for which services will be needed consistent with the Resource Management System where applicable…

2. Consistency Analysis

The LCP requires that new development be environmentally-sustainable, both in terms of available infrastructure and in terms of potential impacts to environmental resources such as groundwater. Public Works Policy 1 requires that there are "sufficient services to serve the proposed development given the already outstanding commitment to existing lots within the urban service line" prior to permitting all new development.

Groundwater contamination and saltwater intrusion due to over-drafting has strained the Los Osos groundwater basin for decades. This is well documented and has been discussed at length in the 2001 Periodic Review. In January 1988, the Regional Water Quality Board imposed a septic tank discharge moratorium due to water quality degradation of the Bay and the groundwater basin from septic disposal. A prohibition zone has been established where expansions of existing buildings and new residential construction has been halted until the County provides a solution to the water degradation problem.

Projects in Los Osos within the prohibition area (as is the case here) are limited to replacement of existing discharges. In this case, the Regional Water Quality Control Board (RWQCB) has allowed the removal of the existing restaurant at the Baywood Inn to be replaced with 19 additional motel units. According to the RWQCB, wastewater discharge from the proposed 19 additional motel units (estimated at 1140 gallons per day) is of comparable quantity and pollutant concentration to that historically discharged by the restaurant. See letters from the RWQCB dated July 11, 2001 and April 30, 2003 in Exhibit #6 of this report.

Basically, there are two ways to in which to calculate water use and sewage flow rates: 1) Theoretical; and 2) Actual. Using the theoretical approach, calculations are performed based on waste discharge information from a variety of sources. These may include, but are not limited to, design manuals, estimates from similar projects, and the Uniform Plumbing Code. A second, more accurate approach would be to calculate actual water use and sewage flow based on water bills and meter readings. The applicant did provide a theoretical calculation using the "Estimated Waste/Sewage Flow Rates" of the Uniform Plumbing Code – appendix K in support of the proposed waste credit exchange. In this case, however, the RWQCB required the applicant to provide a more realistic calculation based on actual water supply bills and use rates. Using actual data to determine the amount of restaurant water use, the RWQCB concurred that the total waste/sewage flow rate per day generated by the restaurant is approximately 1,614 gallons (see Exhibits #5 and #6 for calculations and RWQCB concurrence letters). Given the wide range of variables associated with this type of evaluation, staff recognizes that these methods may not provide an exact sewage flow figure. However, the calculations and conclusions provided appear reasonable based on the data provided.

Sewer

The proposed project was approved in two phases by San Luis Obispo County; Phase I commencing initially and Phase II taking place when that portion of the project can be connected to a community

sewer system (County Condition #1(b), Exhibit 4). Aside from the fact that this phased development scheme is the only manner that the project as a whole could be considered due to the current sewer moratorium, a secondary reason for this phasing scheme is that phase two expansion will take place directly on top of the area onsite that currently contains the motel's septic system and leach lines. It is only when a community sewer system comes online that this second phase could even be considered due to the fact that it would require covering up the existing septic system with structural development.

Even though Phase II development can only occur once a community sewer system in place, the phasing scheme approved by the County raises some significant public service capacity concerns. First, it is uncertain if, and when, a community sewer system will be online. As discussed in preceding paragraphs, there has been over 20 years of community discussion surrounding substandard septic systems and adverse impacts to the quality of groundwater. The need for a new sewage treatment plant has long been debated in Los Osos. While progress has been made recently to site and design a community sewage treatment plant, the details of future design, location, capacity, and schedules of service remain uncertain. However, when the sewer system comes online the applicant may apply for an amendment to this permit for the additional units. The Commission does not however include any implied approval of those units in this action. When and if such an amendment is submitted, it will be reviewed under the applicable regulations at that time.

Secondly, circumstances may change affecting the way in which the proposed future Phase II project would be analyzed. In the amount of time it takes to resolve the technical issues surrounding the future communitywide sewer system, a number of changed circumstances may occur. Changed circumstances can include a change in statewide resource policies, new knowledge about environmental threats, or newly listed endangered species in Los Osos, such as occurred in 1994 when the endangered Morro shoulderband snail (*Helminthoglypta walkeriana* was federally listed. Changed circumstances such as this would drastically affect the way in which new development projects in the area would be evaluated.

Water Supply

Most recently, the Los Osos Community Services District prepared a Safe Yield Analysis for Los Osos. The report was prepared by Cleath & Associates and was made part of the Los Osos Water Master Plan August 2002. While Commission Staff has not had an opportunity to thoroughly analyze the data included, a summary of principal findings concludes that current groundwater production is below safe yield. The findings states that under current conditions the Los Osos Valley ground water basin is estimated to have a yield of 3,560 acre-feet per year. Current ground water production in the basin has averaged 3,380 afy over the past 10 years. However, as noted in the 2001 Periodic Review, eight of the past fifteen years have been in overdraft. With a community wastewater disposal system in place, the findings state that the basin is estimated to have a safe yield of 3,940 afy, of which the three water purveyors are apportioned 2,900 afy. Although the most recent data suggests that sufficient water supplies are available to serve the new development, a thorough review and analysis of the new information through the LCP Estero Area Plan Update is needed.

3. Public Services Conclusion

Given the uncertainty surrounding existing and future public service capacities, the emergence of new technical data, and the potential for changing environmental resource constraints in Los Osos, it is still

appropriate to take a precautionary approach and not approve Phase II development at this time. By prohibiting Phase II development (see Special Condition 1), the project will not rely on speculative public service capacities or water availability and will thereby avoid potential adverse impacts to coastal resources in the future. Only with this condition can the Commission approve the project consistent with the Public Works policies of the LCP.

B. Visual Resources and Community Character

1. Relevant Local Coastal Program Provisions

The project site is located in an LCP designated "Special Community due to its unique character. The following LCP policies apply:

> ***Policy 6 – Special Communities and Small-Scale Neighborhoods:*** *Within urbanized areas defined as small-scale neighborhoods or special communities, new development shall be designed and sited to compliment and be visually compatible with existing characteristics of the community which may include concerns for the scale of new structures, compatibility with unique or distinguished architectural historical style, or natural features that add to the overall attractiveness of the community. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PUSUANT TO CHAPTER 23.11 (DEFINITIONS) OF THE CZLUO.]*
>
> ***CZLUO Section 23.11.030 – Special Communities****. Areas and communities with unique, visually pleasing characteristics which serve as visitor destination points and include:*
>
> ***e.*** *South Bay - Baywood Commercial Village Area*

2. Consistency Analysis

The project is located in an LCP designated "Special Community" due to its unique character and orientation towards the special resources of the shoreline. LCP Visual Resource and Community Character Policy 6 protects these communities by requiring new development to be designed and sited to compliment and be visually compatible with existing characteristics of the community. The Baywood Park area is unique in that it is highly scenic and development is geared toward the enjoyment of the habitat. Development as it exists today is nestled within a protected wetland setting. The area is characterized by small-scale low-intensity development that is compatible with the surroundings. The outstanding visual qualities of the area dominate the setting, and pedestrian friendly access to the shoreline compliment the unique character of the special community.

Small residential structures surround the commercial center where the project is proposed. The small scale neighborhood transitions into the commercial center as the shoreline of the estuary remains visible in the distance. The commercial center itself is not a bustling commercial district as one may imagine. The small artisan shops, eateries, coffee shops, and overnight lodging facilities are generally small single story structures that compliment the special coastal resources. A good example of this can be found in the area directly across the street from the project site, where one can enjoy a cup of coffee at the local coffee shop and observe visitors launching canoes, kayaks, and small vessels from the

Baywood Pier launch into the waters of the adjacent estuary. The proposed project does include elements consistent with the character of the community. As a whole, the development is clustered around a central location and breaks the guest units up into separate, moderately sized buildings, allowing convenient pedestrian access to the shoreline and views of the estuary waters (See Exhibit 7 for photos of surrounding developments).

However, certain projects elements are too large in terms of size, bulk, and scale in relation to surrounding development. The component of this project that raises most concern with respect to community compatibility is the 8-unit expansion of the existing Baywood Inn. Currently, at 9,721 square feet, the Baywood Inn it is significantly larger than any other nearby development. Should the existing Baywood Inn building be expanded, it would be approximately 13,558 square feet in size and clearly the largest structure in the area. A passerby would see a two-story building with little design relief, spanning the entire 240-foot width of this parcel from corner to corner. It is also important to note that this calculation does not include other developments proposed at this location. For example, the County approved project also includes an additional 10 unit building (Baywood Village Inn), and includes the Phase II expansion, which would consist of an additional 22 units in two buildings. Approval of this project, especially the 8-unit expansion of the Baywood Inn, is inconsistent with the size, scale, and massing of existing development in Baywood.

The issue of community character in Baywood Park is not new to the Commission. The issue was brought up in 1994, when the Commission approved a modest expansion to the existing Back Bay Inn. The Back Bay Inn, which is located directly across Second Street from this project site, received a coastal permit to expand from roughly 4,000 square feet to 7,000 square feet. The Back Bay Inn expanded to a total of 14 units in the first phase and still awaits an expansion of an additional 9 units, making a grand total of 23 units after two phases. The motel expansion was found to be consistent with the character of the special community. In fact, even <u>after</u> the motel project across the street was expanded, it remains smaller in size and scale than the <u>existing</u> Baywood Inn. A comparison of these to two similar projects shows that the proposed development, especially the 8-unit Baywood Inn expansion, has not been designed to be visually compatible with existing characteristics of the community.

The “feel” of a community is another component of community character that goes beyond simple height and setback requirements. The area of Baywood is unique in this respect. As described, the project site is located adjacent to Second Street and El Morro Ave. This parcel is located at a critical transition point for travelers along the shoreline. While traveling north towards the intersection of Second Street and El Morro Avenue the area is dominated by small-scale residential structures, then transitions into the small commercial area as one bends around the peninsula. Traveling in this direction, views of the estuary to the west and a large tree canopy above create the sense of a special community subordinate to its natural topography and surrounding vegetation (see Exhibit 7 – photo #1).

The expanded development would add 8 units totaling 3,837 square feet to the existing structure. This equates to approximately 100 linear feet of new structure oriented toward the shoreline. While some of this development would be screened by existing vegetation, large portions on the southwest end would encroach into this important “transition zone.” The siting and orientation of structures is an important

consideration when evaluating community character. Again, it is only the 8-unit expansion of the Baywood Inn that compromises the visual resources along the shoreline. The last residential structure you see before entering the small business area is the historic "Otto" house constructed in the 1920's that still belongs to the family of the founding developer of Baywood Park. From this direction, the expanded motel section will encroach into the line of sight of travelers along the shoreline, breaking up a pleasant transition between Baywood residences and the small business center. The appellant has provided a computer simulation of what the new expansion would look like in this area (See Exhibit 7-photo #4). While the accuracy of this image may not be precise, it does allow one to imagine the impacts of a large two-story structure within 100 feet of the shoreline. From 3rd Street, in the rear of the proposed development and still within the Baywood Commercial village, the estuary waters and dunes are visible. The 8-unit expansion would block these views with a solid two-story structure (see Exhibit 7 – photo #2). Inconsistent with the LCP, this development will intrude into the view corridor and does not appear to be sited in a manner that compliments and is visually compatible with existing characteristics of the community.

3. Visual Resource and Community Character Conclusion

The proposed project is located within the LCP designated "Special Community" of Baywood Park. Despite the County finding that the project is consistent with the LCP, elements of the project do not meet the special community character policies described above that would allow an expansion of great magnitude in this area. While the County approved project is consistent with general height and setback requirements of the LCP, the projects lack of consistency with the size, bulk, scale, and overall character of the community. This is especially true with the 8-unit expansion of the existing Baywood Inn.

LCP visual resource and community character policies require that development be visually compatible and integrated with the character of the surrounding area. Some portions of the Phase I development, namely the Baywood Village Inn – building A, can be found in character with surrounding neighborhood due to its moderate size and the fact that it is designed as a stand alone building clustered around a central development. In contrast, other portions of the project such as the expansion of the existing Baywood Inn cannot be found consistent with the LCP. Expansion of this existing building would result in a structure distinctly different than the existing size, scale, bulk, and design of surrounding commercial development. In addition, the expansion of the existing Baywood Inn would project a large structure into an important visual "transition zone" as one travels the shoreline between the small residences of Baywood and the commercial area. As such, the Commission finds that the project, as proposed, is not consistent with the LCP's visual resource and community character cited in this finding.

In order to find the project consistent with the LCP's visual and community character resource policies, the project must be modified. Thus, Special Condition 2 requires revised project plans that prohibit the 8-unit expansion to occur in this site location. The condition does allow the 8 units to be located elsewhere on the site. Should the units be relocated, the condition requires that the units remain a single stand-alone structure, that is, they cannot be added to another building. The condition also requires the relocated units to be a maximum of 25 feet in height, consistent with the LCP. Only with this condition

can the project be approved consistent with the Visual Resource and Community Character policies of the LCP.

Finally, prohibiting development from this site location will also help address the parking issues cited later this report (see Access discussion on page 17). Based on the plans submitted by the applicant it appears that approximately 6-8 parking spaces currently exist at this location. Consistent with the LCP, not removing these parking spaces will allow the project to better accommodate vehicles onsite (see also Special Condition 2).

C. Public Access and Recreation

1. LCP Parking Policies

The proposed project raises coastal access issues due to the fact that the subject parcel is uniquely situated adjacent to popular public access destinations and has the potential to conflict with existing users. Central to this discussion is the manner in which parking is handled for the new project. Hotels and motels are subject to LCP standards that require onsite parking as set forth by Section 23.04.166c(9) and shown in the table below.

Use	Parking Required
Hotels & Motels	2 spaces, plus 1 space per unit, plus 1 space per ten units = **39 spaces**

2. Consistency Analysis

The subject parcel is located adjacent to the shoreline and in the commercial area of Baywood Village. This small commercial area consists of restaurants, a variety of shops, and overnight lodging accommodations. The subject parcel lies at the intersection of two public roads El Morro Avenue and Second Street, which converge adjacent to the Morro Bay shoreline. Second Street is already used as a parking facility for area businesses and coastal visitors alike. While pedestrian access to the shoreline will not be directly impacted by this project, the parking arrangement proposed for the motel expansion raises some significant access issues.

As required by the LCP, the total required parking for Phase I development is 39 onsite spaces.[1] The applicant has proposed to modify the parking standards by providing 28 onsite spaces and 11 spaces off-site. The off-site parking spaces would be accommodated on the streets adjacent to the motel buildings (Second and Third Streets). With an increased intensity of use due to an increase in the number of guest units, the motel expansion will add to the level of community parking needed. A review of 1995 Commission findings made for the Back Bay Inn expansion project, located directly across the street, indicated that parking along Second Street is already limited due to the fact that this street is already

[1] This analysis assumes that only Phase One development is allowed to occur at this time.

operating at or near parking capacity.[2] If adequate parking is not provided in this already impacted area, it will diminish the public's ability to access the Morro Bay shoreline as well as the other amenities that the commercial area provides.

In this case, it is important to analyze the type of development proposed as well as the type of use that will be created through the new development. If the use proposed were a retail store or eatery, for example, shared and on-street parking would make good sense in that one could assume a "spillover" effect as patrons visit their planned destination then make use of the wide spectrum of services and access opportunities provided in the area. In fact, the Mare Blue Restaurant that currently exists onsite benefits from 7 on-street parking spaces. In contrast, the new motel use, by its very nature, will require parking to be provided onsite. One can assume that each visitor will visit the area in an automobile, and will necessarily want a parking space provided onsite. This is a parking space that could not be shared or accommodated elsewhere within the commercial district. In this context, it does not seem appropriate to allow the LCP parking standards to be waived.

Feasible on-site parking alternatives exist. As discussed earlier, the site contains two existing parking areas totaling 28 spaces. It would be possible to meet the LCP required parking requirements by simply adding spaces to the existing lots. Because this permit does not allow the Phase II expansion at this time, it is possible to use some of this space to accommodate Phase I parking requirements. A second alternative would be to relocate the Baywood Inn expansion element and use this space for parking (which already exists). Site plans show this 8-unit expansion to add approximately 3,837 square feet of structure. 11 additional parking spaces would require approximately 3,000 square feet of space. Both of these alternatives would allow an expansion of guest units and still accommodate all LCP parking standards.

In discussions with Commission staff, the applicant indicated that he had designed the project to meet the guidelines proposed in the draft Estero Plan Update for the Baywood Commercial Area. The draft Estero Update calls for shared parking as well as on-street parking in the commercial area. At this time the draft Estero Update has not been certified and is therefore not the standard of review. However, the phasing element of this project does provide additional opportunities to gather more information about parking and user conflicts as it relates to this overall project. Should the applicant intensify use at a later date (Phase II) and wish to modify the parking requirements again by requesting on-street parking, staff is recommending that the applicant conduct a study of existing parking and user conflicts prior to Phase II application. While not a guarantee of approval, it is possible that the results of the study will show that waiving Phase II onsite-parking requirements is appropriate.

3. Public Access and Recreation Conclusion

As described above, the lack of parking spaces provided for the new project will lead to access and user conflicts in the Baywood area. Special Condition 2 of this permit therefore requires that all parking spaces required by CZLUO Section 23.04.166c(9) be accommodated onsite. Specifically, Special

[2] A-3-SLO-94-051

Condition 2 requires that eleven (11) additional parking spaces be provided onsite. With this condition the project will be consistent with the LCP parking standards, will not create user conflicts in the area, and most importantly will not interfere with the public's ability to access coastal resources.

D. Water Quality

1. Relevant Local Coastal Program Provisions

Coastal Watershed Policy 1: Preservation of Groundwater Basin
The long-term integrity of groundwater basins within the coastal zone shall be protected. The safe yield of the groundwater basin, including return and retained water, shall not be exceeded except as part of a conjunctive use or resource management program which assures that the biological productivity of aquatic habitats are not significantly adversely impacted. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Coastal Watershed Policy 2: Water Extractions
Extractions, impoundments and other water resource developments shall obtain all necessary county and/or state permits. All pertinent information on these uses (including water conservation opportunities and impacts on in-stream beneficial uses) will be incorporated into the database for the Resource Management System and shall be supplemented by all available private and public water resources studies available. Groundwater levels and surface flows shall be maintained to ensure that the quality of coastal waters, wetlands and streams is sufficient to provide for the optimum populations of marine organisms, and for the protection of human health. (Public works projects are discussed separately.) [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Coastal Watershed Policy 8: Timing of Construction and Grading
Land clearing and grading shall be avoided during the rainy season if there is a potential for serious erosion and sedimentation problems. All slope and erosion control measures should be in place before the start of the rainy season. Soil exposure should be kept to the smallest area and the shortest feasible period. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PUSUANT TO SECTION 23.05.036 OF THE CZLUO.]

Coastal Watersheds Policy 9: Techniques for Minimizing Sedimentation
Appropriate control measures (such as sediment basins, terracing, hydro-mulching, etc.) shall be used to minimize erosion and sedimentation. Measures should be used from the start of site preparation. Selection of appropriate control measures shall be based on evaluation of the development's design, site conditions, predevelopment erosion rates, environmental sensitivity of the adjacent areas and also consider costs of on-going maintenance. A site specific erosion control plan shall be prepared by a qualified soil scientist or other qualified professional. To the extent feasible, non-structural erosion techniques, including the use of native species of plants, shall be preferred to control run-off and reduce increased sedimentation. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PUSUANT TO SECTION 23.05.036 OF THE CZLUO.]

Coastal Watersheds Policy 10: Drainage Provision
Site design shall ensure THAT drainage does not increase erosion. This may be achieved either through on-site drainage retention, or conveyance to storm drains or suitable watercourses. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PUSUANT TO SECTION 23.05.034 OF THE CZLUO.]

2. Consistency Analysis

Ground Water Quality

As previously discussed, the quality of the Los Osos groundwater basin has been adversely impacted due to substandard septic systems and groundwater overdrafting. As a way of gaining waste discharge credits, the applicant has closed an existing restaurant onsite. According to the RWQCB the quantity and concentration of sewer discharge is comparable to historical levels. The applicant was given an allowance of 19 additional guest units by the RWQCB in exchange for elimination of the existing restaurant. Two (2) of these 19 units were used during a subsequent remodel and prior to this permit request.[3] This would allow the applicant at this time to add an additional 17 guest units. A close look at the plans submitted by the applicant show an additional 18 units to be added in Phase I development (8 unit expansion of Baywood Inn + 10 unit new Baywood Village Inn). Inconsistent with the RWQCB concurrence letter and the LCP, the project as proposed exceeds the allowable number of units by one (1). Adding an additional motel unit has to the potential to impact ground water through additional quantities and concentrations of waste discharge. Thus, the project has been conditioned to eliminate one (1) guest unit (Special Condition 2).

Surface Water Quality

To address non-point source pollution from urban development, LCP policies focus on controlling erosion and sedimentation, on managing drainage patterns to reduce erosion and runoff, and on siting development off steeper slopes (Watershed Policies 8, 9, and 10). The County implements these goals by requiring sedimentation or erosion control plans and/or drainage plans (CZLUO Section 23.05.036 and Section 23.05.040).

The project has the potential to have adverse impacts through the proposed alteration of natural drainage patterns, and contributing sediments and pollutants to coastal waters. New development adjacent to and in close proximity (in this case within 100 feet) to the Morro Bay Estuary can impact coastal water quality by discharging debris and pollutants into watercourses, and by causing erosion and sedimentation through the removal of vegetation and the movement of dirt. The increase in impervious surfaces that will result from the project will also impact coastal water quality by altering natural drainage patterns and providing areas where for the accumulation of pollutants that will eventually be carried into coastal waters by storm water.

3. Drainage and Erosion Control Conclusion

Given the set of circumstances described above, it is important that site drainage be adequately handled to minimize the potential for increased site runoff, heightened erosion, and sedimentation into the nearby Estuary. It is also important that storm flows be directed to a drainage system adequate to handle all site

[3] Minor Use Permit/Coastal Development Permit D010202P, February 15, 2002.

drainage. In this case, capturing, filtering, and conveying site drainage through a mechanized drainage system is most appropriate.

Condition 3, therefore, requires that the applicant submit a final drainage and erosion control plan to ensure that proper measures are taken to collect and direct rainwater and surface runoff to appropriate stormwater drains, without impacting adjoining properties, or the Estuary. Performance standards are included that will ensure that runoff during peak storm events are adequately handled. In addition, specific landscaping criteria have been implemented to avoid soil saturation, minimize intensive water use is sensitive areas, and avoid excessive runoff and erosion into the nearby Estuary (Special Condition 4).

With respect to groundwater contamination, is important that new volumes and concentrations of sewer discharge do not exceed historical uses. Therefore, Special Condition #2 requires Phase I development not to exceed 17 new units. With these conditions, the project complies with all applicable LCP drainage and water quality protection provisions. As such, and only as conditioned, the Commission approves the project and finds it consistent with the San Luis Obispo Certified LCP.

E. Archaeology

1. Relevant Local Coastal Program Provisions

The following LCP Policies apply:

> ***Policy 1: Protection of Archaeological Resources****. The County shall provide for the protection of both known and potential archaeological resources. All available measures, including purchase, tax relief, purchase of development rights, etc., shall be explored at the time of a development proposal to avoid development on important archaeological sites. Where measures are not feasible and development will adversely affect identified archaeological or paleontilogical resources, adequate mitigation shall be required. [THIS POLICY SHALL BE IMPLEMETNED AS A STANDARD.]*
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> ***Policy 4: Preliminary Site Surveys for Development within Archaeologically Sensitive Areas****. Development shall require a preliminary site survey by a qualified archaeologist knowledgeable in Chumash culture prior to a determination of the potential environmental impacts of the project. [THIS POLICY SHALL BE IMPLEMENTED PUSUANT TO SECTION 23.07.106 OF THE CZLUO.]*
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> ***Policy 6: Archaeological Resources Discovered during Construction or through Other Activities****. Where substantial archaeological resources are discovered during construction of new development, or through non-permit related activities (such as repair and maintenance of public works projects) all activities shall cease until a qualified archaeologist knowledgeable in the Chumash culture can determine the significance of the resource and submit alternative mitigation measures. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.05.140 AND 23.07.106 OF THE CZLUO.]*

2. Consistency Analysis

Archaeology Policies 1, 4, and 6 require surveys within designated archaeologically sensitive areas, protection of any resources that were identified, and protection of resources discovered during construction.

The project site is within a LCP designated Archaeological Sensitive (AS) combining designation. A surface survey was performed (Cultural Resource Management Services; August 2001) as part of the applicant's Initial Study. According to the study, no resources were identified within the proposed project site. However according to the County staff report there are several recorded sites in the immediate area.

3. Archaeology Conclusion

Because of the known presence of significant archaeological resources in the vicinity of the project site, particular care must be exercised during construction of the project to avoid impacts to such resources. Due to the possibility of unidentified cultural resources being found during construction, the project has been conditioned to prepare and implement an archaeological mitigation plan, in consultation with local Native Americans, the Executive Director, and the State Historic Preservation Office, if archaeological resources are encountered. With this condition, the proposed development is consistent with LCP archaeological resource policies. The condition requires a survey, in consultation with a qualified Native American prior to ground disturbing activities, and includes monitoring during construction to ensure that no archaeological resources, cultural resources, or burials are disturbed. Qualified local Native Americans must also be provided with the opportunity to participate in the construction monitoring, to ensure that the disturbance of such areas is effectively avoided. Only with these conditions will the project protect sensitive archaeological resources consistent with the LCP.

6. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This staff report has analyzed the environmental impacts posed by the project and identified changes to the project that are necessary to reduce such impact to an insignificant level. Based on these findings, which are incorporated by reference as if set forth herein in full, the Commission finds that only as modified and conditioned by this permit will the proposed project avoid significant adverse effects on the environment within the meaning of CEQA.