

CALIFORNIA COASTAL COMMISSION

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Proposed Findings on Consistency Determination

Consistency Determination

No. CD-035-97

Staff:	TNP-SF
File Date:	3/17/97
45th Day:	5/1/97
60th Day:	5/16/97
Extended to:	8/18/97
Commission Vote:	8/13/97
Hearing on Findings:	9/9-9/12/97

Federal Agency: **U.S. Navy**

Development Location: Wilson Cove, San Clemente Island, Los Angeles County (Exhibits 1 and 2).

Development Description: Construction of bachelor enlisted quarters, dining hall, and associated support facilities (Exhibit 3).

Prevailing Commissioners: Allen, Armanasco, Flemming, Kehoe, Nava, Pavley, Potter, Reilly, Staffel, Tuttle, Chairman Areias

Executive Summary

On March 17, 1997, the Commission received a consistency determination from the Navy for construction of bachelor enlisted quarters and associated support facilities near Wilson Cove on San Clemente Island. The project is adjacent to a developed area. The construction of the facilities is necessary due to the deteriorating condition of the existing structures. The Navy has stated that rehabilitation of the structures is not economically feasible.

The island provides habitat for the island night lizard, a federally listed threatened species. The species occurs at the project site. Because the project potentially impacts a listed species, the Navy has commenced "Section 7" consultation (under the Endangered Species Act) with the

U.S. Fish and Wildlife Service. On August 13, 1997, the Commission received a letter from the U.S. Fish and Wildlife Service stating that "the proposed project is not likely to jeopardize the continued existence of the island night lizard." In addition, the Navy has committed to further working with the Fish and Wildlife Service, and will comply with any mitigation measures the Fish and Wildlife Service deems necessary for the project. Therefore, the island night lizard will be protected and the project is consistent with Section 30240 of the Coastal Act.

The project is consistent with the other policies of the Coastal Act. The project will not be visible from any publicly accessible ocean areas. Therefore, the project is consistent with the view protection policy (Section 30251) of the Coastal Act. The project also will not adversely affect water quality and is consistent with Section 30231 of the Coastal Act.

Staff Summary and Recommendation:

I. Staff Summary

A. *Project Description:* The Navy proposes to construct 38 two-story units for enlisted bachelor quarters, a new dining hall, and associated support facilities to replace inadequate and deteriorated facilities that are no longer in compliance with applicable Navy codes and standards for housing. The Navy states that renovating the existing barracks is not economically feasible. Associated support facilities include access roads, parking, landscaping, and connections to utilities. An existing dining hall will also be demolished. The project will not increase the population on the island.

The project site encompasses approximately 9.6 acres of disturbed area. A decayed cement catchment slab covers much of the project site. The site is bordered by South Wilson Cove Road to the north, existing barracks to the east, and unimproved land to the south and west (see Exhibit 2). The shoreline is approximately 2,000 feet to the east. The Navy will remove the existing catchment basin and pulverize it for use in the proposed road beds. The Navy will import dirt from a borrow pit located southeast of the construction site for use in the project.

B. *Status of Local Coastal Program:* The standard of review for federal consistency determinations is the policies of Chapter 3 of the Coastal Act, and not the Local Coastal program (LCP) of the affected area. If the LCP has been certified by the Commission and incorporated into the California Coastal Management Program (CCMP), it can provide guidance in applying Chapter 3 policies in light of local circumstances. If the LCP has not been incorporated into the CCMP, it cannot be used to guide the Commission's decision, but it can be used as background information. The Commission has not certified the LCP for the County of Los Angeles.

C. Federal Agency's Consistency Determination: The U.S. Navy has determined the project to be consistent to the maximum extent practicable with the California Coastal Management Program.

II. Staff Recommendation:

Staff recommends that the Commission adopt the following motion:

MOTION: I move that the Commission concur with the proposed findings.

The staff recommends a YES vote on this motion. A majority vote of the prevailing commissioners in the affirmative will result in adoption of the following resolution and findings:

Concurrence:

The Commission hereby concurs with the consistency determination made by the U.S. Marine Corps for the proposed project, finding that the project is consistent to the maximum extent practicable with the California Coastal Management Program (CCMP).

III. Findings and Declarations:

The Commission finds and declares as follows:

A. Environmentally Sensitive Habitat:

Section 30240 of the Coastal Act provides for the protection of sensitive habitat areas. This section states, in part:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The island night lizard, a federally listed threatened species, occurs at the project site. The Commission usually considers federally and state listed threatened and endangered species to constitute environmentally sensitive habitat areas for the purposes of review under Section

30240. The night lizard utilizes rocky habitat, which is found on at least one portion of the site. Construction of the project will remove habitat for the night lizard and may directly "take" some individuals. Because the lizard is a threatened species, any loss of habitat can lead to a significant disruption of habitat and jeopardize the species' survival.

At the same time, it must be noted that the island night lizard habitat is widespread on San Clemente Island. According to the Navy, there are over 20 million island night lizards on the island. Furthermore, the project site is a previously disturbed area. On August 13, 1997, the U.S. Fish and Wildlife Service submitted a letter to the Commission stating that "the proposed action is not likely to jeopardize the continued existence of the island night lizard." The Navy has also committed to complying with any mitigation measures for this project that the Fish and Wildlife Service determines are necessary to ensure protection of the night lizard. Based on the above opinion from the Fish and Wildlife Service and the Navy's commitment to comply with the Service's mitigation recommendations, the Commission finds the island night lizard will be protected and that the project is therefore consistent with Section 30240 of the Coastal Act.

B. Marine Environment: Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

In its consistency determination, the Navy states that the proposed project will lead to a slight increase in waste water discharge. However, because the increase in waste water is minimal, it is not expected to have a significant impact on the marine resources of the area.

Runoff from the construction site also has the potential to negatively affect the marine resources of the area. As part of the project, the Navy requires its contractors to obtain an NPDES permit from the Regional Water Quality Control Board prior to construction; through its review, the Board will ensure that runoff from construction activities will not adversely affect downstream waters and that adequate erosion control measures will be in place prior to construction. The Navy is unable to submit a plan for water runoff prior to Commission action on the project; however, the Navy has agreed to submit the NPDES permit and runoff control measures to the Commission staff for its review prior to commencement of construction to assure that runoff impacts will be minimized and coastal waters protected. With the commitment to submit the NPDES permit for Commission staff review, the Commission finds the project consistent with Section 30231 of the Coastal Act.

C. Visual Resources: Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. ...

The proposed project is located approximately 2,000 feet from the shoreline and is behind a prominent ridge. The project is adjacent to a site that is developed with existing barracks and other military structures. The Navy will limit building heights to a maximum of eight meters (approximately 26 feet). The island is entirely owned by the U.S. Navy and existing Navy policy requires that the public maintain a distance of at least 300 yards away from the island's shoreline. Due to the distance of the project from public areas and the topography of the site, the proposed project will not be visible from, or degrade the visual quality of, the area as seen from the ocean. Therefore, the Commission finds the project will not adversely affect public views and is consistent with Section 30250 of the Act.

D. Public Access: Sections 30210 through 30212 of the Coastal Act require public access opportunities to and along the coast to be protected and maximized, consistent with public safety, resource constraints, and military security needs. Section 30212 states, in part:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

- (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,
- (2) adequate access exists nearby, or,
- (3) agriculture would be adversely affected.

The project is on a military base, where the Navy prohibits public access based on military security needs. The Commission has traditionally determined that legitimate military security needs in situations where public access burdens are not generated by proposed activities means that no additional public access needs to be provided in order to find the project consistent with Coastal Act policies on access. This project will not generate any burdens on public access opportunities. Therefore, the Commission finds the project consistent with the public access policies of the Coastal Act.

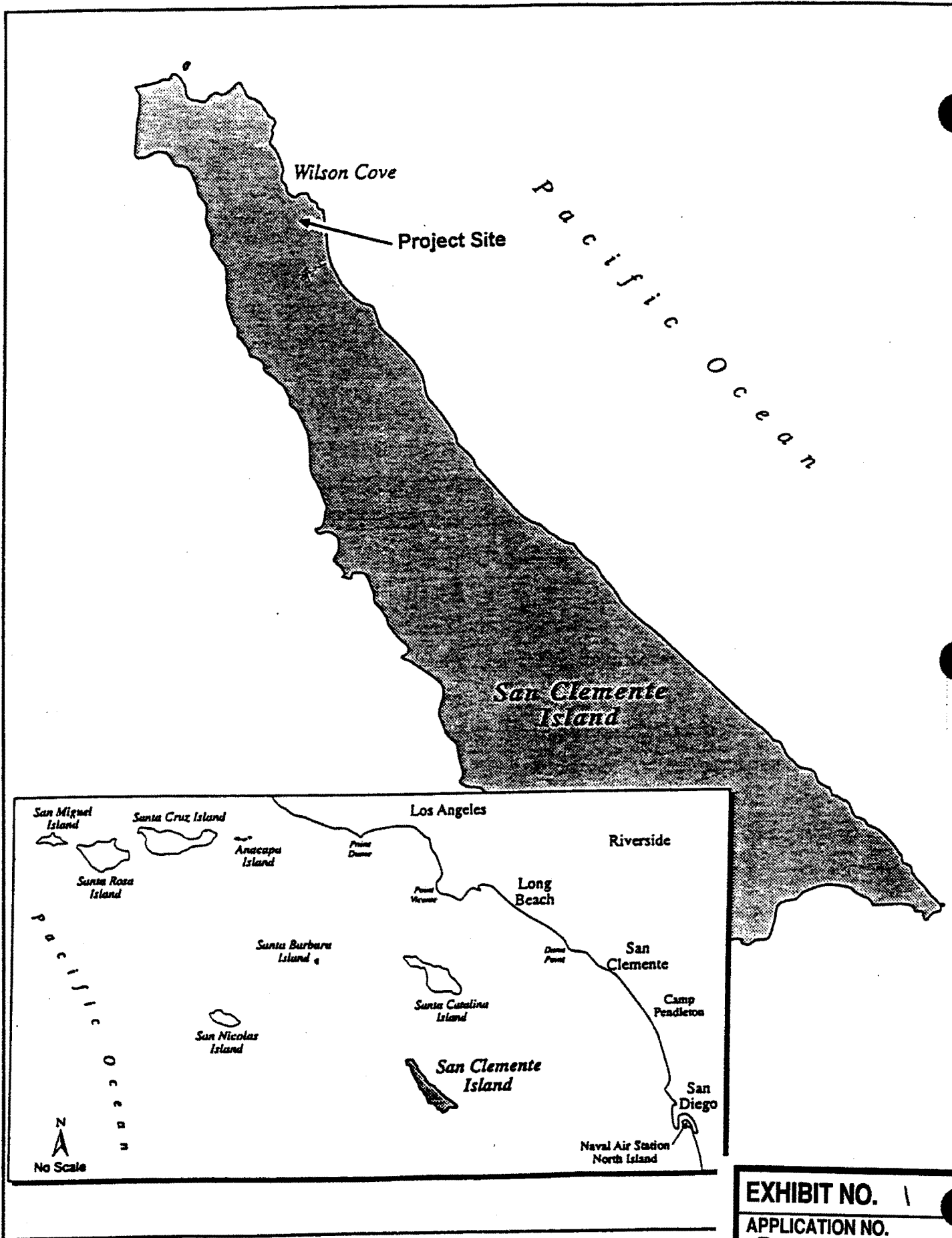


Figure 1. Regional location map.

EXHIBIT NO. 1
APPLICATION NO. CD-35-97

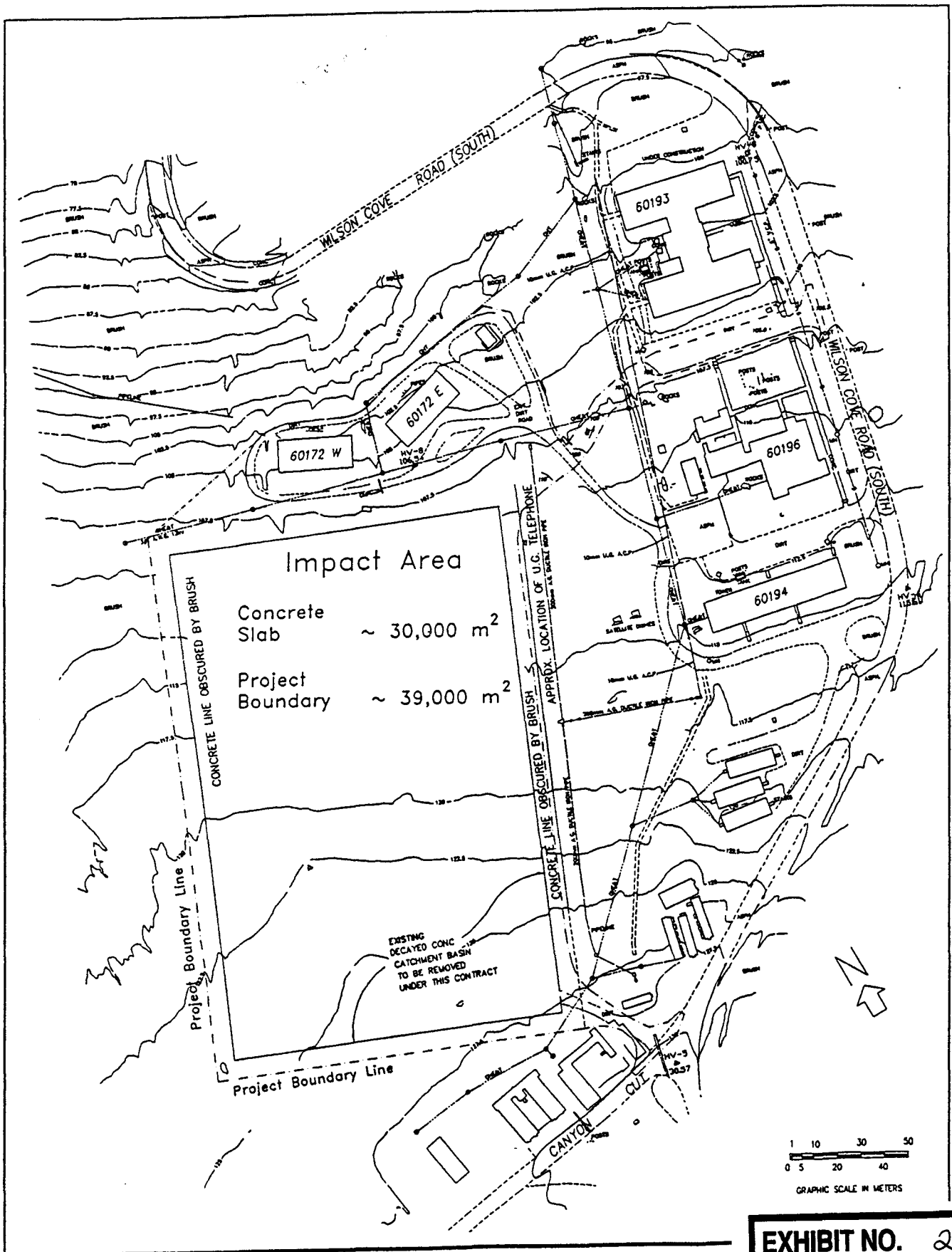


Figure 2. Proposed Site Location

EXHIBIT NO.	2
APPLICATION NO.	CD-35-97

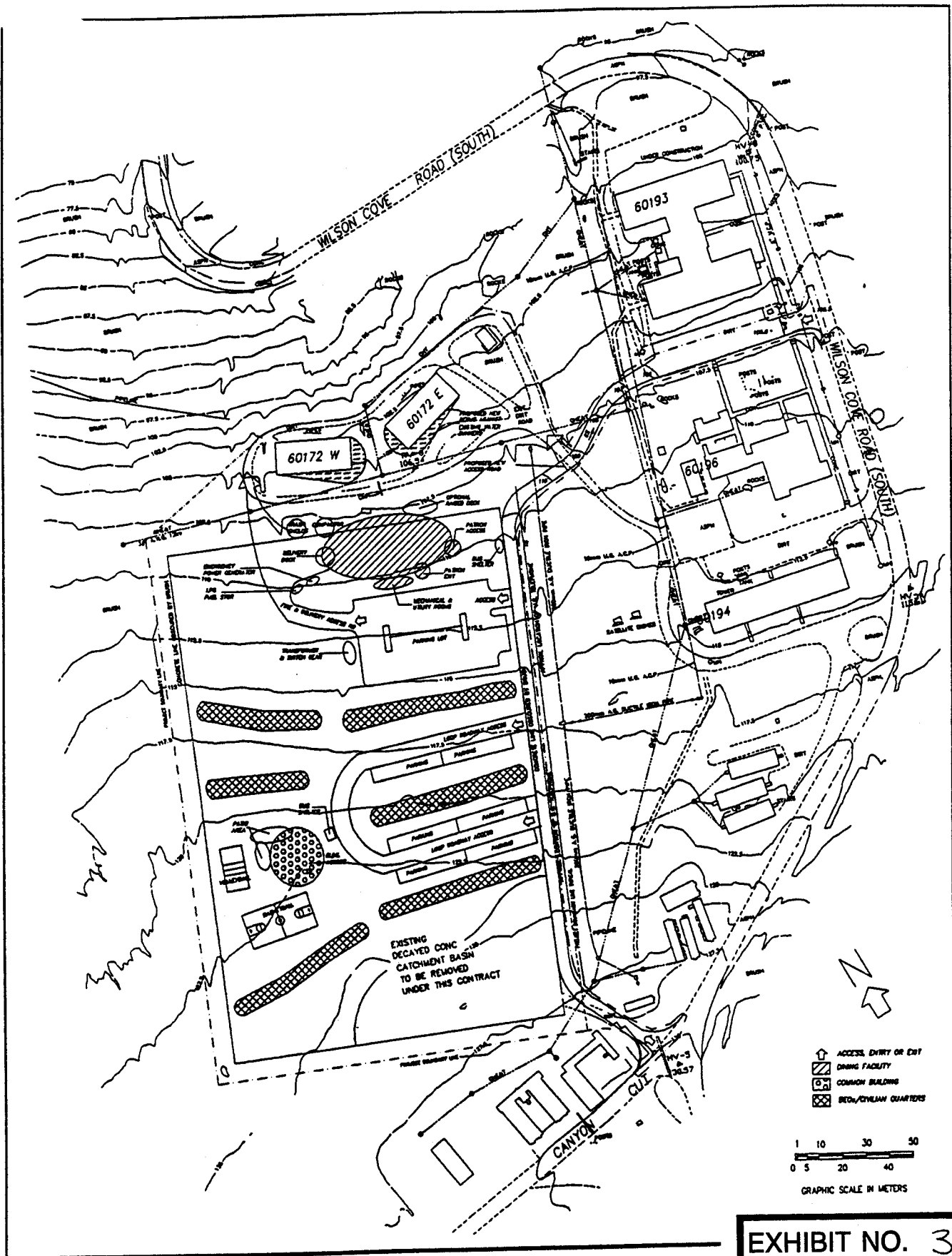


Figure 3. Proposed Site Layout

EXHIBIT NO. 3
APPLICATION NO. CD-35-97
California Coastal Commission