

ADDRESSING AIRPORT IMPACTS:

OPTIONS FOR THE CITY OF CARLSBAD

Sarah M. Rockwell

Peter J. Kirsch

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Today's Presentation and Discussion

- I. Legal background
 - A. Control of airport operations
 - B. Noise
 - C. Airport-related land use
- II. Q&A Discussion – Part 1
- III. Possible approaches to address impacts
- IV. Challenges and opportunities
- V. Q&A Discussion – Part 2



Basic legal principles for *San Diego County*

- County does not have complete control of its airport
- Airports are subject to complex federal supervision
- Complex interplay: local, state, federal requirements
- Rules that apply in other government realms do not apply here

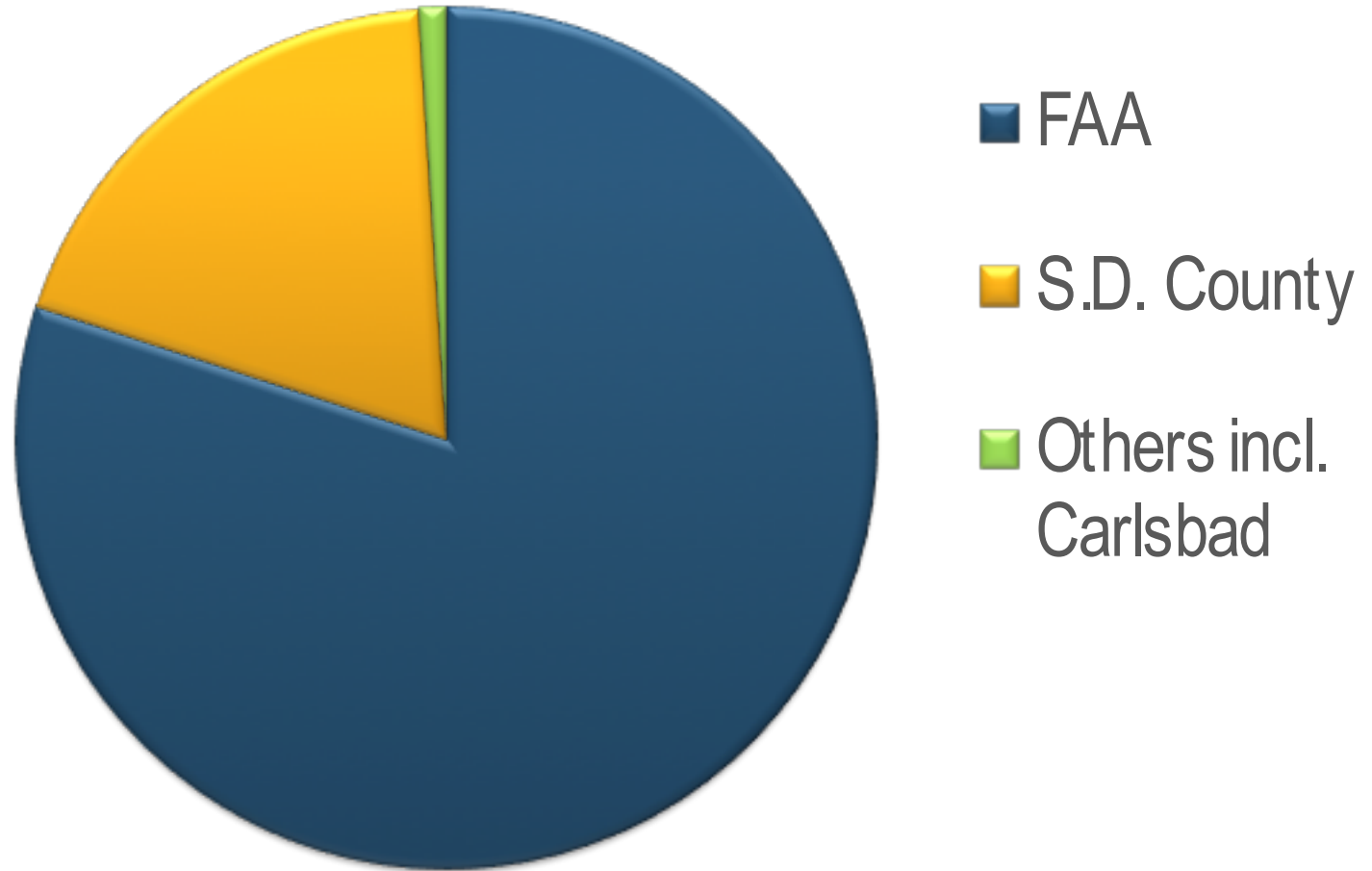


Basic legal principles for *Carlsbad*

- City has very limited legal authority inside the aeronautical areas of the Airport
- Off-Airport land use is largely within the City's jurisdiction
- Airport operations cannot be regulated by the City



Relative authority over noise



Primary sources of law

- US Constitution
 - Supremacy Clause
 - Commerce Clause
- Statutes
- Regulations
- FAA Grant Assurances
 - Assurance 22



U.S. Constitution

SUPREMACY CLAUSE

- Federal law trumps state and local law



U.S. Constitution

COMMERCE CLAUSE

- State and local governments cannot take actions to unduly burden or discriminate against interstate commerce
- Any airport restrictions must be:
 - Reasonable under the circumstances
 - Carefully tailored to local needs
 - Based upon data which support the need
 - Not unduly restrictive of interstate commerce



Understanding government powers

FAA



**SAN DIEGO
COUNTY**



500
FT.



CARLSBAD



Legal Authority - Statutes

1958

Federal
Aviation
Act

1968

Aircraft
Noise
Abatement
Act

1979

Aviation
Safety &
Noise
Abatement
Act

1990

Airport
Noise
And
Capacity
Act



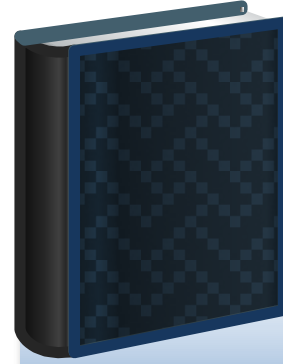
Legal Authority - Regulations



Part 36
Noise
Standards



Part 91
Operating
Limits



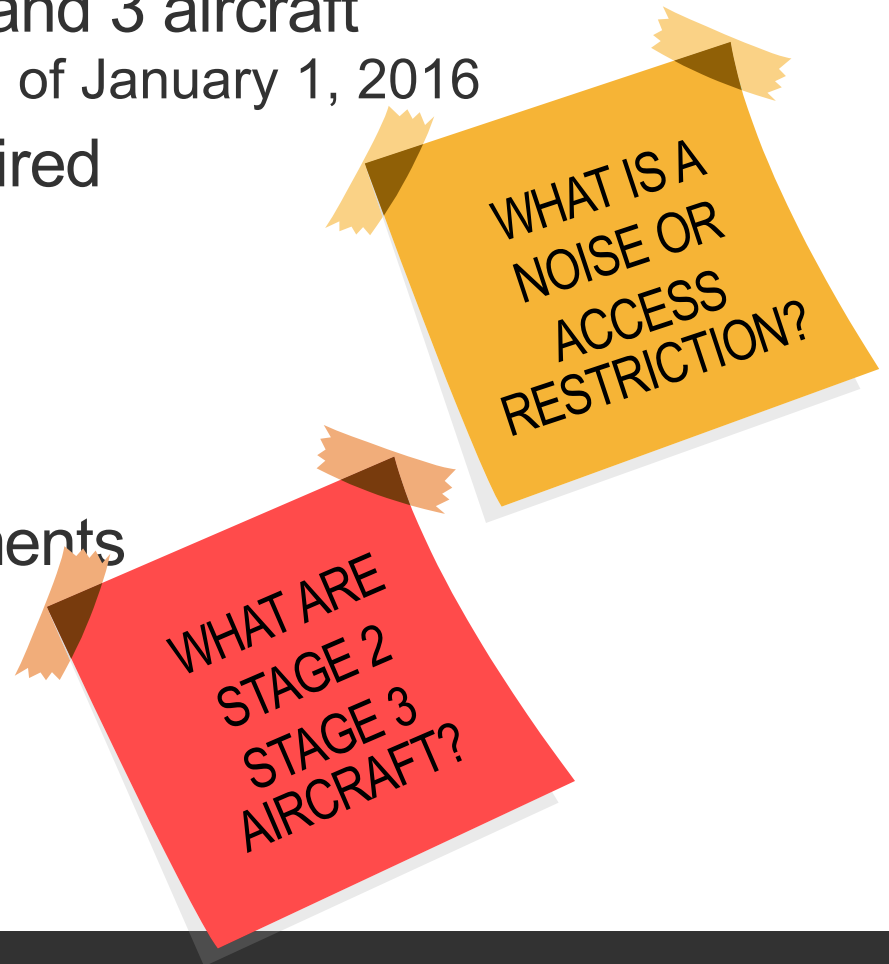
Part 150
Land Use
Planning



Part 161
Noise and
Access
Restrictions

Part 161: airport noise and access restrictions

- Federal program for reviewing “noise and access restrictions” affecting stage 2 and 3 aircraft
 - Stage 2 restrictions are moot as of January 1, 2016
- Comprehensive analysis required
 - Evidence of noise problem
 - Impacts analysis
 - Benefit-cost analysis
- FAA approval required
- Encourages voluntary agreements



Effect of Part 161

- Many, many pre-1990 restrictions (before Part 161)
- NO new restrictions on stage 3 aircraft since 1990
- ONE new restriction on stage 2 aircraft since 1990
- Only small handful of attempts



Grant Assurances

- Contractual commitment by S.D. County to the U.S. government in exchange for grant funds
 - Related to airport use, operation, development, maintenance, etc.
- Required by federal law
- FAA has administrative enforcement process



State requirements

- Minimal oversight of airport operations
- State Aeronautics Code
 - Amended airport permit is required for some Master Plan projects (including runway)
 - Aeronautics code requires City Council approval (PUC 21664.5) but approval cannot be subject to voter approval.



Land use principles related to City powers

- Section 21.53.015: voter approval
- Conditional Use Permit requirements
- Airport Land Use Commission (ALUC) requirements

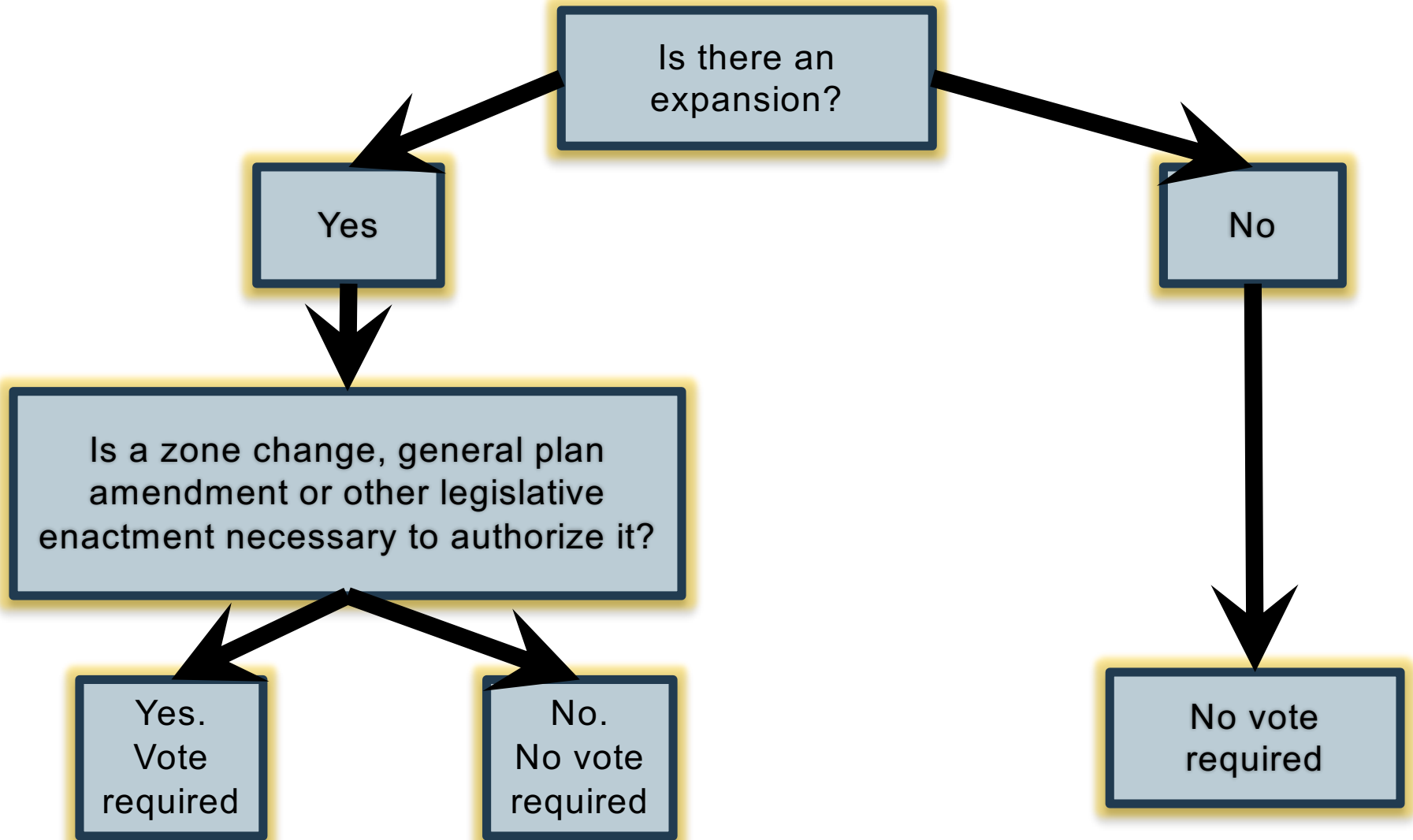


Section 21.53.015 – voter approval - text

(a) The city council shall not approve any zone change, general plan amendment or any other legislative enactment necessary to authorize expansion of any airport in the city nor shall the city commence any action or spend any funds preparatory to or in anticipation of such approvals without having been first authorized to do so by a majority vote of the qualified electors of the city voting at an election for such purposes.



Understanding 21.53.015



What does the Master Plan contemplate?

- Airfield improvements, changes
- Runway relocation and extension
- Facility improvements
- NO land acquisition (??)



Our conclusion: no airport expansion

- Expansion refers to enlargement of airport boundaries
 - Definition preserves validity of the ordinance
 - Historical context
 - Legislative context




Airport boundary

LEGEND

 Proposed Project (231 acres)

West of El Camino Real

 APN 213-020-18 (241.06 acres)

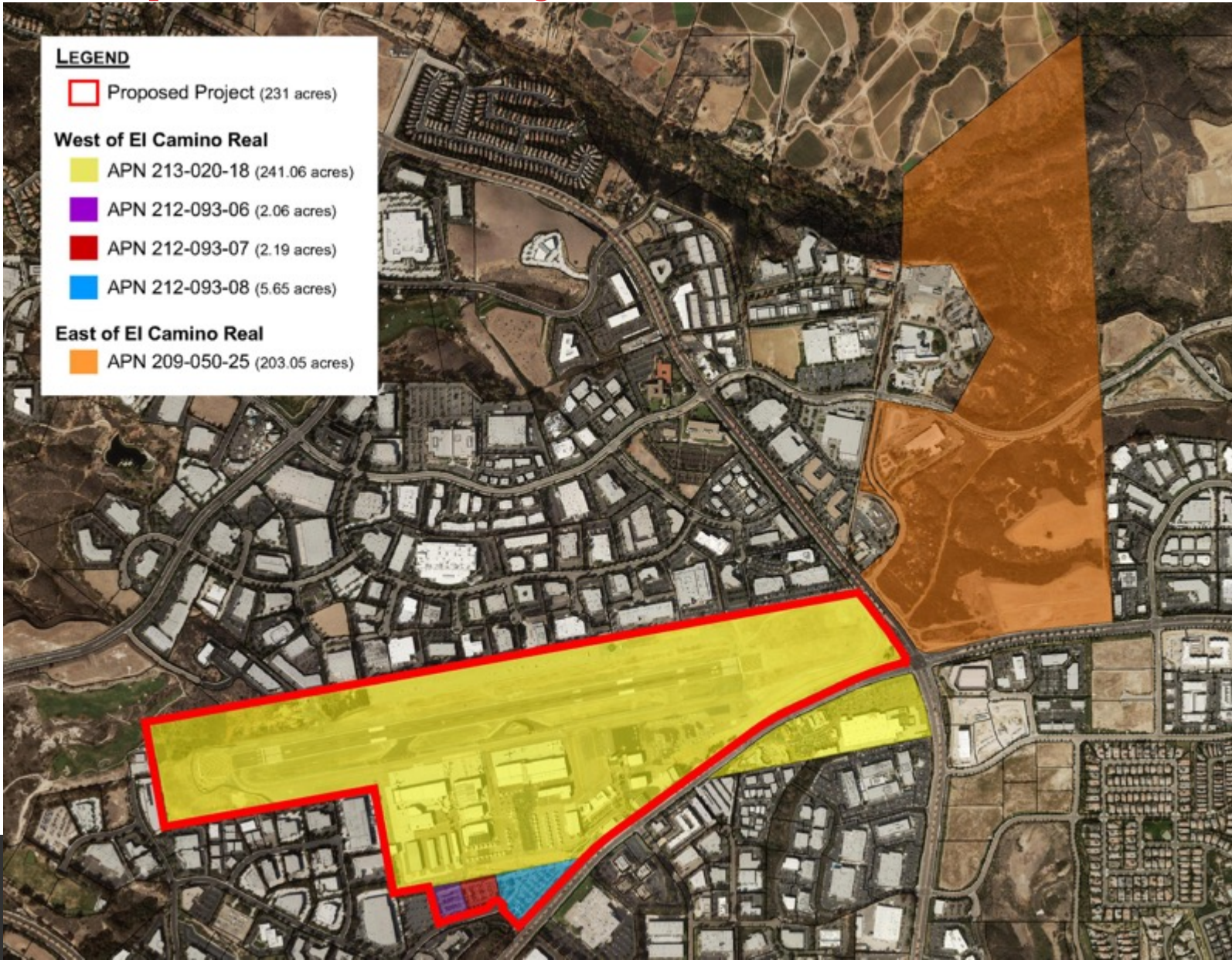
 APN 212-093-06 (2.06 acres)

 APN 212-093-07 (2.19 acres)

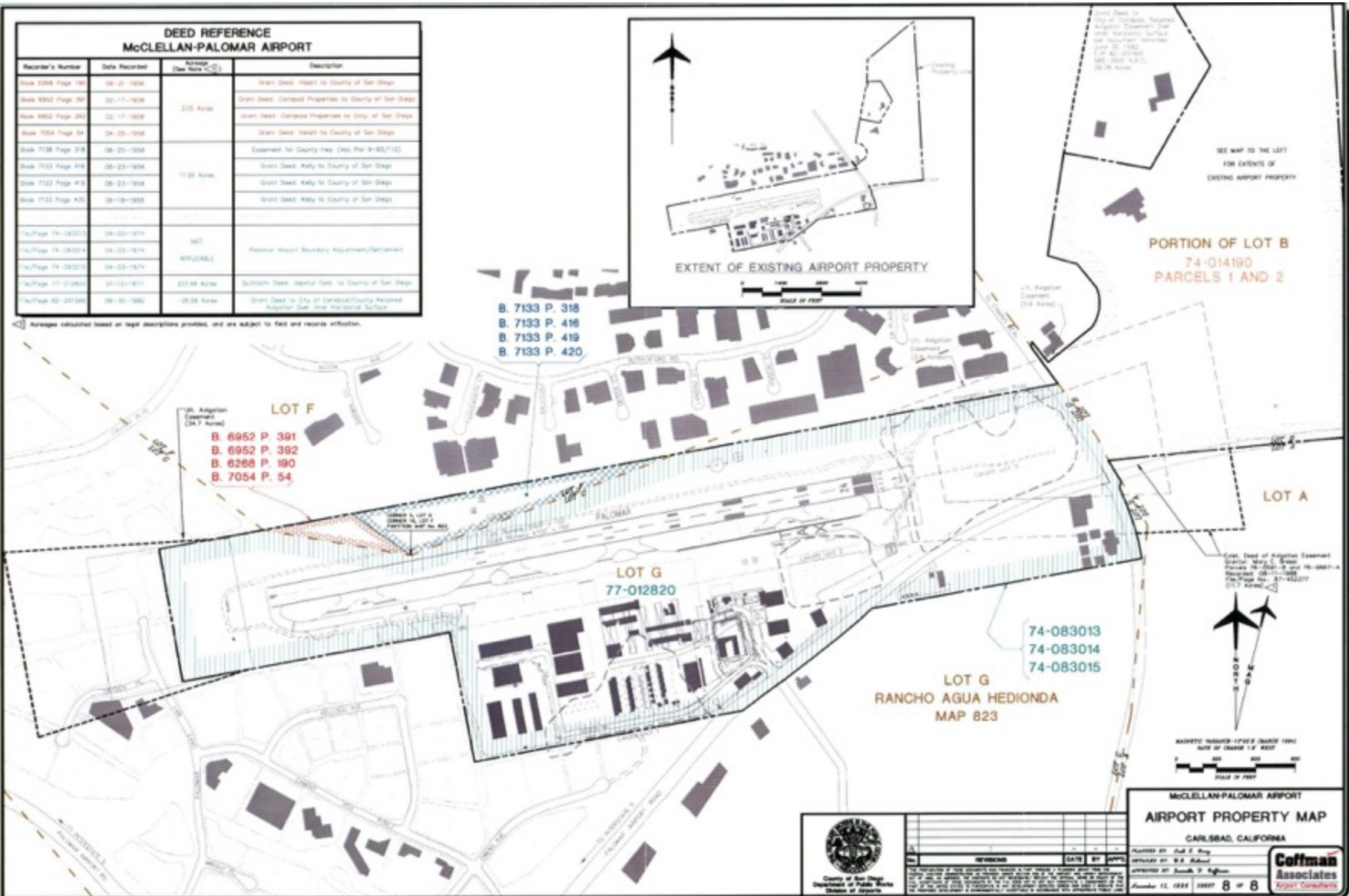
 APN 212-093-08 (5.65 acres)

East of El Camino Real

 APN 209-050-25 (203.05 acres)



Airport property map (1997)



Our conclusion: Even if expansion, 21.53.015 is not triggered

- Master Plan does not require
 - Zone change or
 - General Plan amendment or
 - Any other City legislative enactment



Conditional Use Permit 172: key provisions

- “Development shall occur substantially as shown unless otherwise noted”
- Permitted uses set forth in Table 1
 - Airport structures and facilities necessary for airport operations
- CUP amendment needed for airport expansion or for any uses not on Table 1





Our conclusion: No CUP amendment required

- No new uses – Master Plan uses are listed on CUP
- CUP allows flexibility
- No expansion of airport facility



CUP amendment would not trigger 21.53.015

- 21.53.015 applies to any “legislative enactment”
- Even if a CUP amendment were required, adopting an amendment is not a legislative enactment
 - Not every City Council act is a “legislative enactment”
 - CUP amendment is a “quasi judicial” action



Airport Land Use Commission (ALUC)

- County will need to update 2010 Airport Land Use Compatibility Plan (ALUCP)
- City may need to update City General Plan to be consistent with updated ALUCP
- City update not required for Airport Master Plan implementation



City General Plan **must** be made consistent with Airport land use



CEQA – Draft PEIR

- Draft EIR issued by County as lead agency
- City not a responsible agency
- City provided formal comments on draft
- Awaiting information from County

- Expect recirculation of some parts





Q&A Discussion Part 1



II. Possible approaches to addressing impacts of McClellan-Palomar Airport









Best approach: A stair-step process





STEP ONE

**IDENTIFY THE
PROBLEM
IN THE
CARLSBAD
COMMUNITY**



1



STEP TWO

These are measures that City can implement itself

**IDENTIFY &
IMPLEMENT LAND
USE MEASURES**

2



STEP THREE

These measures
need the
County's
cooperation

**IDENTIFY & IMPLEMENT
NON-RESTRICTIVE &
VOLUNTARY
MEASURES
(IF NECESSARY)**

3



STEP FOUR



**IDENTIFY & IMPLEMENT
RESTRICTIVE MEASURES
(IF NECESSARY)**

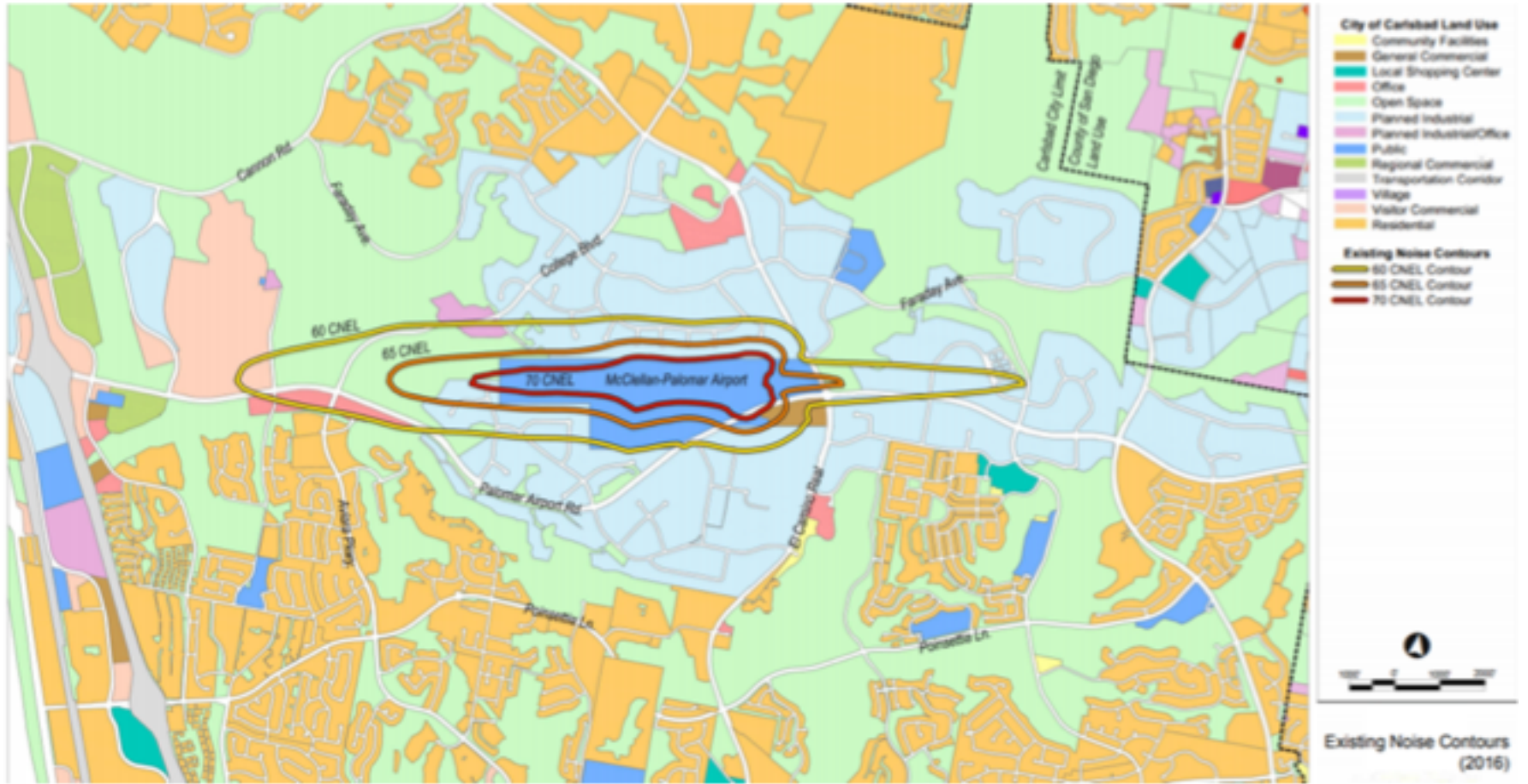
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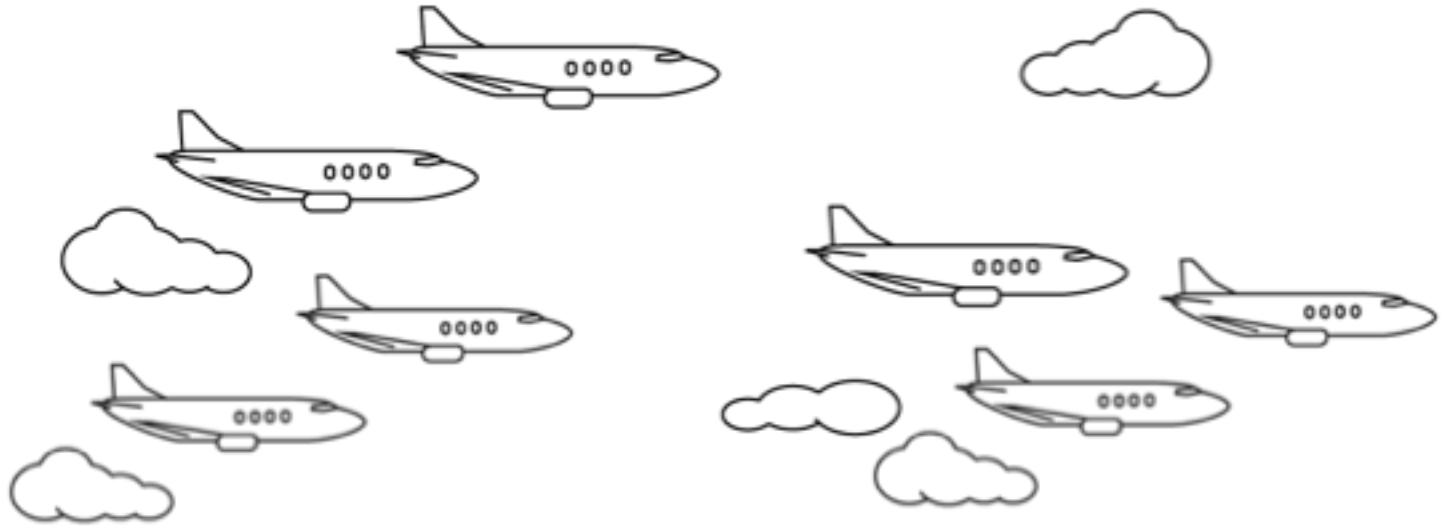
Identify the local problem



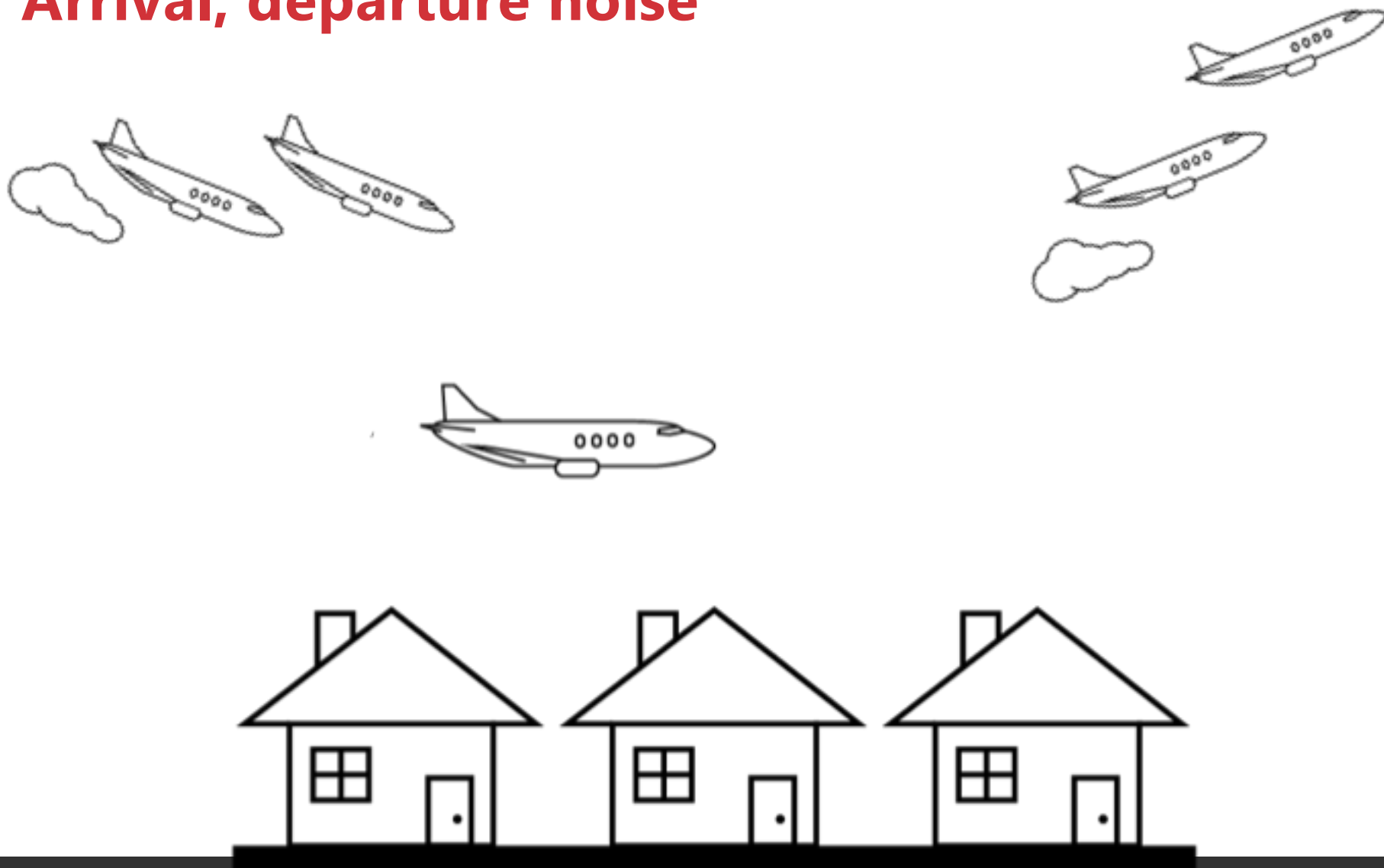
Noise?



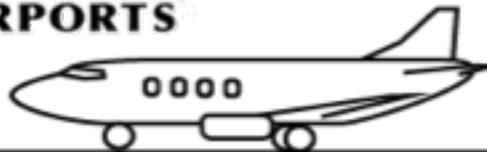
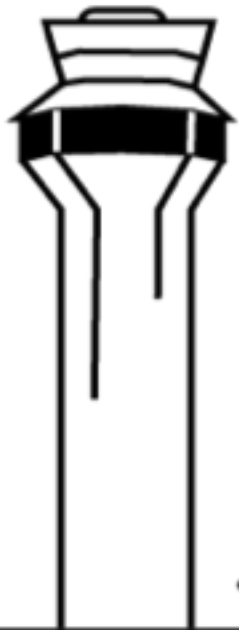
Enroute noise



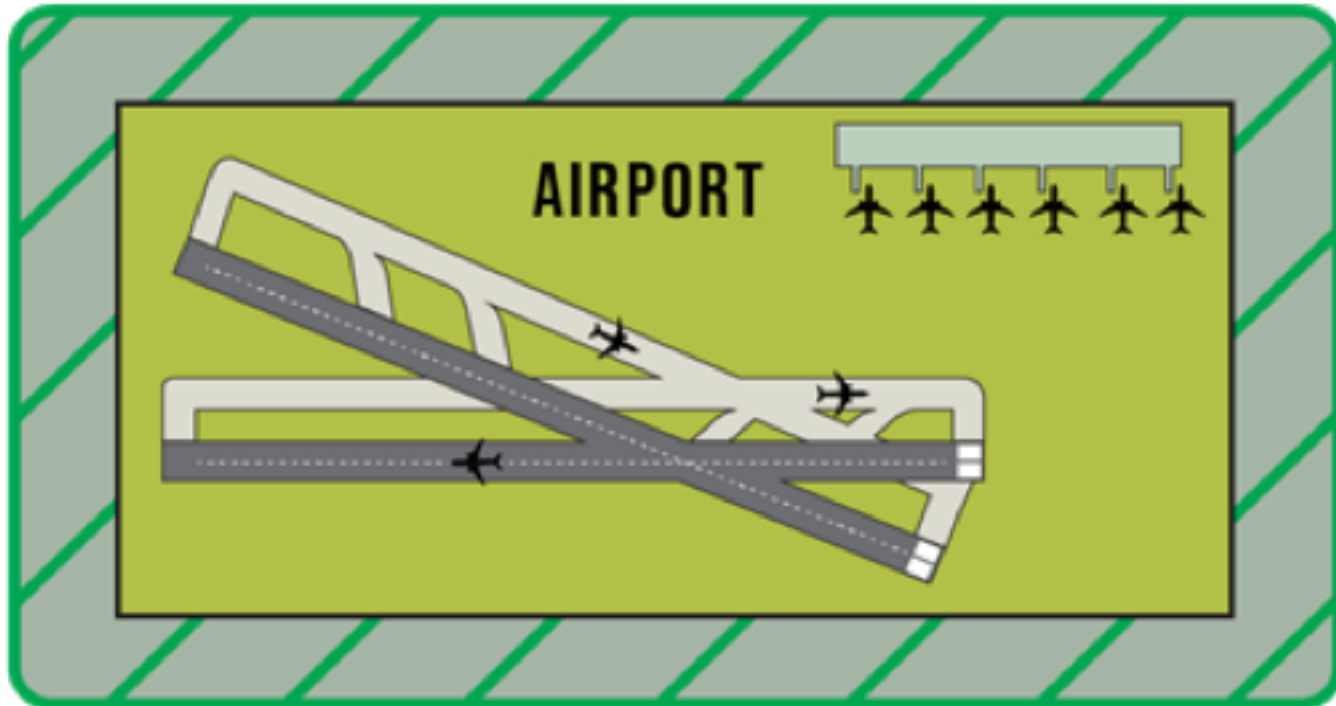
Arrival, departure noise



Airport-related noise (on the ground)



Land use around the airport?



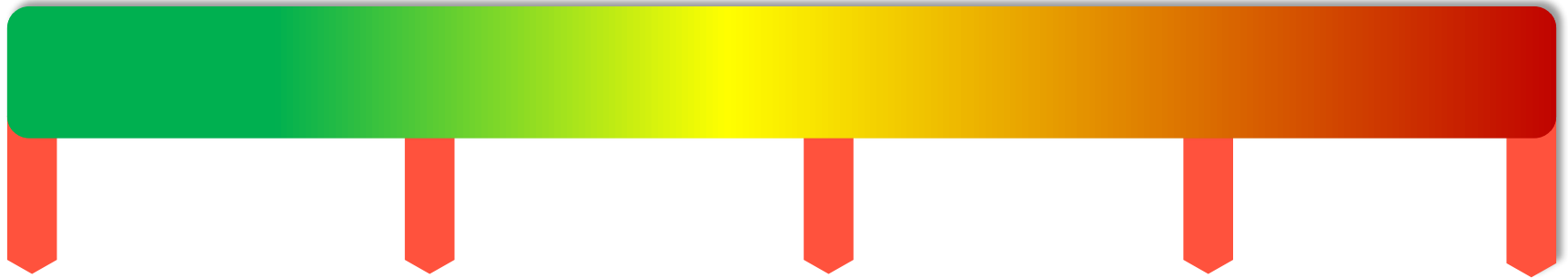
Off-airport land uses



III. Challenges and opportunities – options to consider

- Airport operations
- Flight tracks and procedures
- Off airport measures
- Non-regulatory measures

How aggressive does City want to be?



Aggressiveness



Submit
comments on
EIR

Seek to close
the Airport



Experience elsewhere (helpful examples)



Experience elsewhere (unhelpful examples)



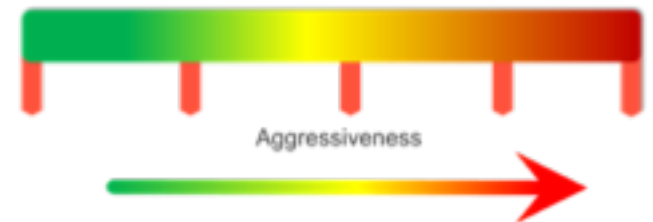
Options – regulating airport operations

1. Seek to have San Diego County –
 - A. Prepare land use compatibility program
 - B. Pursue a restriction on aircraft operations under Part 161
 - C. Insulate affected homes and schools
2. Seek to have SD County and FAA restrict certain operations
 1. Some jets?
 2. Noisiest aircraft?
 3. Nighttime?



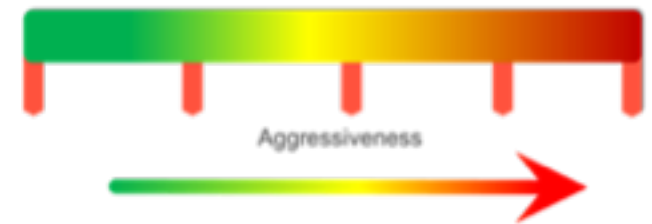
Options – flight tracks and procedures

1. Seek to have SD County and FAA cooperation in establishing noise abatement flight tracks
2. Explore whether changes in flight tracks could reduce impacts
3. Explore whether arrival and departure procedures could reduce impacts



Options – off airport measures

1. Ensure that land use in vicinity is compatible with airport
2. Plan for traffic needs of airport



Options - non-regulatory measures

1. Creation of formal 'roundtable' or other communication tool
2. Explore joint governance options (Joint Powers Agreement, MOU, etc.)

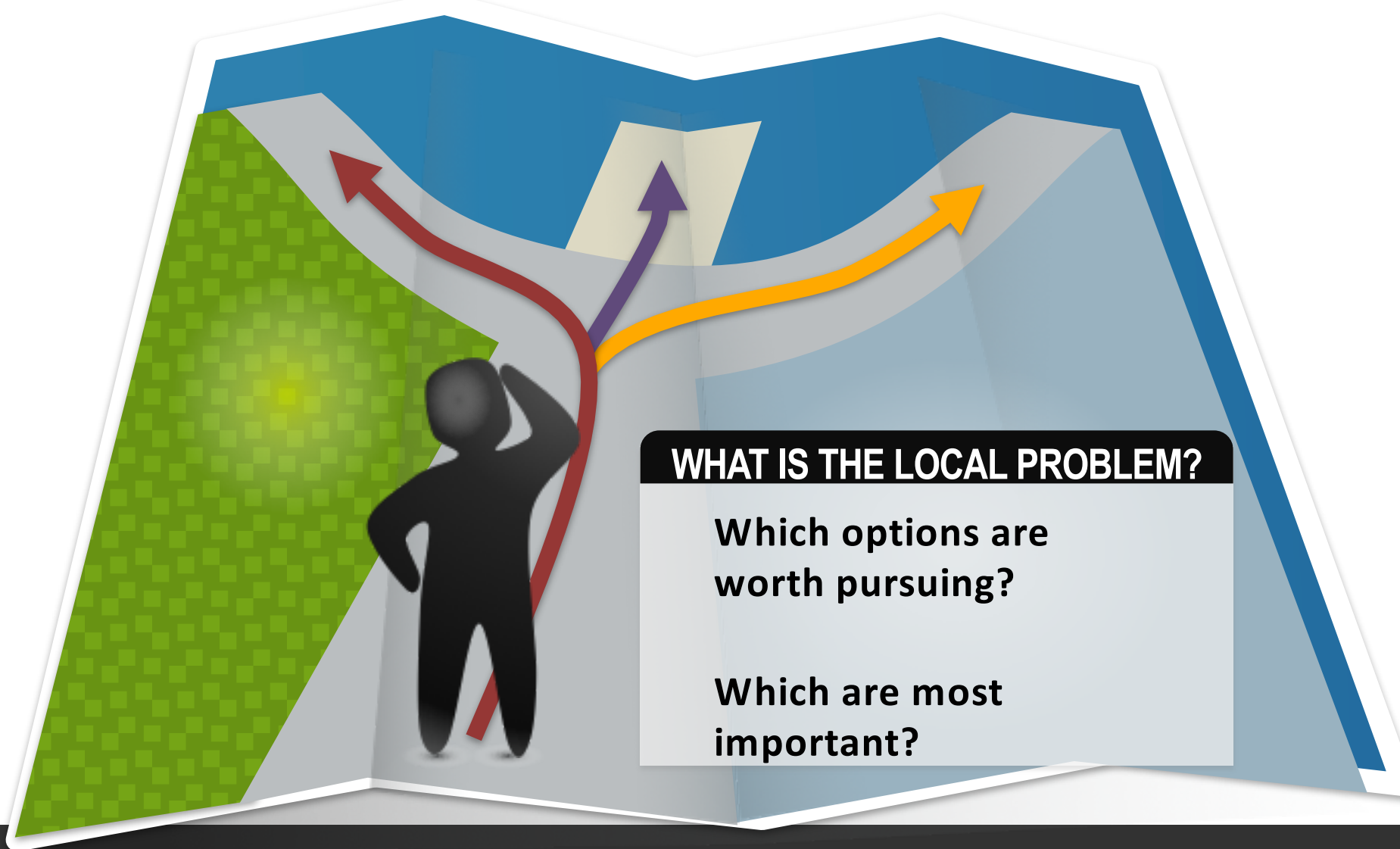


No perfect, universal strategy; need package of measures

- ✓ Land use measures
- ✓ Noise abatement
- ✓ Noise mitigation
- ✓ Fly quiet and similar programs
- ✓ Use restrictions
- ✓ Governance changes



Discussion: where from here?



Discussion

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Peter J. Kirsch




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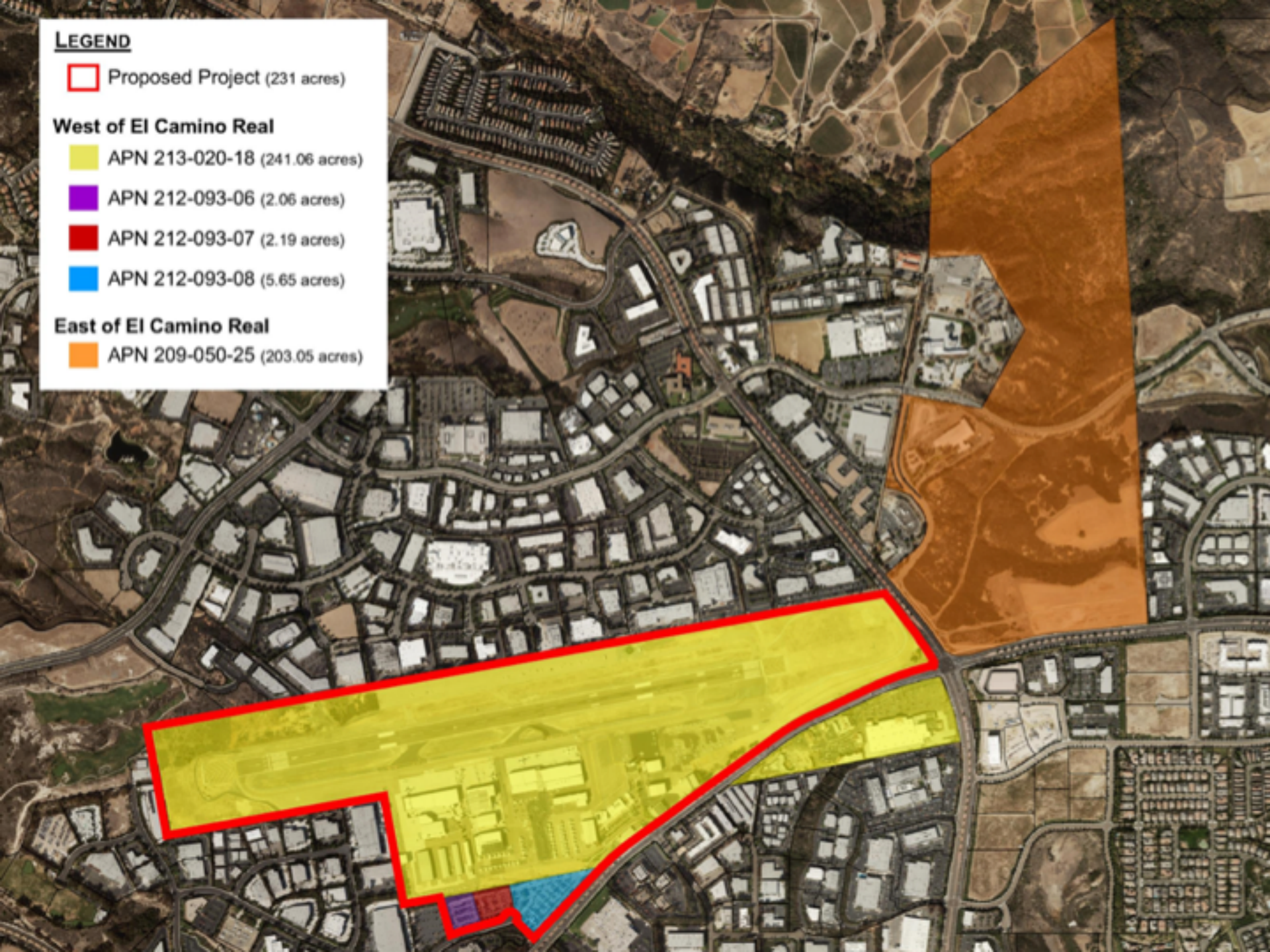
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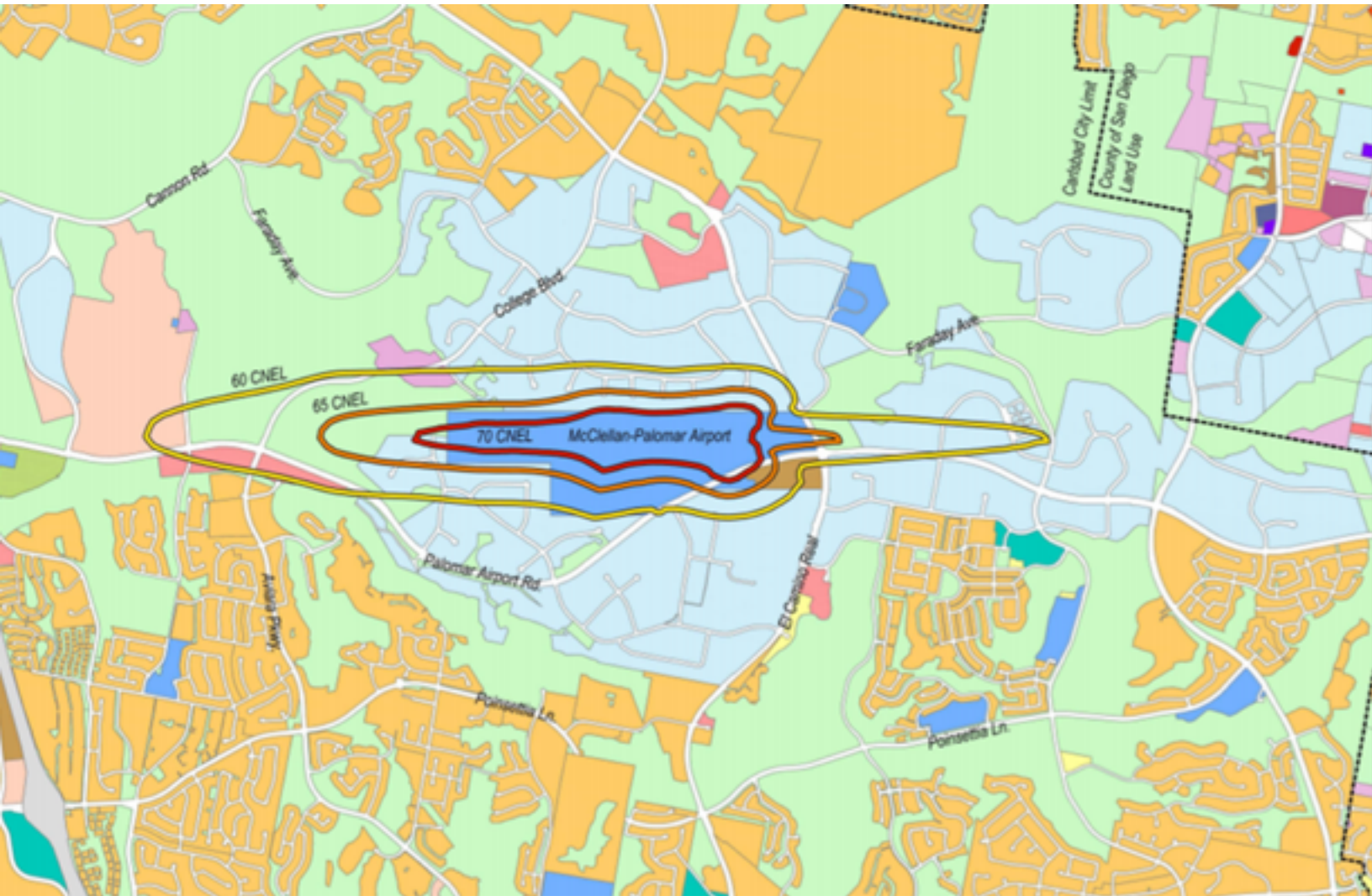
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McClellan Palomar Airport



- City of Carlsbad Land Use**
- Community Facilities
 - General Commercial
 - Local Shopping Center
 - Office
 - Open Space
 - Planned Industrial
 - Planned Industrial/Office
 - Public
 - Regional Commercial
 - Transportation Corridor
 - Village
 - Visitor Commercial
 - Residential
- Existing Noise Contours**
- 60 CNEL Contour
 - 65 CNEL Contour
 - 70 CNEL Contour



Existing Noise Contours (2016)

