

CITY OF WILDOMAR CITY COUNCIL
AGENDA

6:30 P.M. – SPECIAL MEETING

JANUARY 27, 2016
Council Chambers
23873 Clinton Keith Road



Bridgette Moore, Mayor
Timothy Walker, Mayor Pro Tem
Ben Benoit, Council Member
Bob Cashman, Council Member
Marsha Swanson, Council Member

Gary Nordquist
City Manager

Thomas D. Jex
City Attorney

**PLEASE TURN ALL DEVICES TO VIBRATE/MUTE/OFF
FOR THE DURATION OF THE MEETING.**

CALL TO ORDER – SPECIAL SESSION - 6:30 P.M.

ROLL CALL

FLAG SALUTE

PUBLIC COMMENTS

1.0 SPECIAL ORDER OF BUSINESS

1.1 Plan for Establishment of Electoral Districts

RECOMMENDATION: Staff recommends that the City Council:

1. Adopt a Resolution entitled:

RESOLUTION NO. 2016 - _____
A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF WILDOMAR, CALIFORNIA, INITIATING
PROCEDURES FOR ESTABLISHING AND
IMPLEMENTING BY-DISTRICT ELECTIONS FOR
THE CITY OF WILDOMAR CITY COUNCIL
MEMBERS

2. Adopt a Resolution entitled:

RESOLUTION NO. 2016 - _____
A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF WILDOMAR, CALIFORNIA, SPECIFYING
THE CRITERIA TO GUIDE THE ESTABLISHMENT
OF ELECTORAL DISTRICTS

ADJOURNMENT

If requested, the agenda and backup materials will be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans With Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

Any person that requires a disability-related modification or accommodation, including auxiliary aids or services, in order to participate in the public meeting, may request such modification, accommodation, aid or service by contacting the City Clerk either in person or by phone at 951/677-7751, no later than 10:00 a.m. on the day preceding the scheduled meeting.

I, Debbie A. Lee, Wildomar City Clerk, do certify that on January 27, 2016, by 5:00 p.m., a true and correct copy of this agenda was posted at the three designated posting locations:

Wildomar City Hall, 23873 Clinton Keith Road,
U.S. Post Office, 21392 Palomar Street,
Library, 34303 Mission Trail Blvd.



Debbie A. Lee, CMC, City Clerk

CITY OF WILDOMAR – CITY COUNCIL
Agenda Item #1.1
GENERAL BUSINESS
Meeting Date: January 27, 2016

TO: Mayor and City Council Members
FROM: Gary Nordquist, City Manager
SUBJECT: Plan for Establishment of Electoral Districts

STAFF REPORT

RECOMMENDATION:

Staff recommends that the City Council:

1. Adopt a Resolution entitled:

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PROCEDURES FOR ESTABLISHING AND
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CITY OF WILDOMAR, CALIFORNIA, SPECIFYING
THE CRITERIA TO GUIDE THE ESTABLISHMENT
OF ELECTORAL DISTRICTS

BACKGROUND/DISCUSSION:

At the January 13, 2016 City Council meeting City Attorney Thomas Jex reported the City Council's direction from a closed session to immediately take all steps necessary to commence the process for establishing five single-member districts for City Council elections. The Council took this action after receipt of a letter on December 21, 2015 containing unsubstantiated allegations the City's current at-large election system violates the California Voting Rights Act (CVRA). The City Council issued this direction to commence the process to move to district elections to avoid spending tax dollars in the defense of the meritless but potentially extremely expensive law suit, even if the City

is victorious. The plan is to implement the new districts in time to be used for the City Council elections in November 2016.

The City currently uses an at-large method of election in which all voters vote for all candidates for City Council. In the single-member district system, a “by-district system” under California law, a candidate must live in the district he or she wishes to represent and is elected only by the voters in that district. The council will take advantage of a new law, California Government Code section 34886, enacted by the California Legislature last year that permits city councils of small cities to change to district elections by ordinance. The City’s five electoral districts will be formulated in accordance with federal and state law requirements. State law also requires an open and public process, including a minimum of three public hearings.

Responding to Council direction, the City Manager and City Attorney have retained Ms. Marguerite Leoni from Nielsen, Merksamer, Parrinello, Gross and Leoni LLP to guide the City through the electoral district establishment process. This process is also supported by Mr. Douglas Johnson of National Demographics Corporation. Mr. Johnson is a demographer who will assist in developing the schedule for hearings, council actions and other necessary steps for the Council to consider in the preparation of an ordinance pursuant to Government Code 34886(a) requiring members of the City Council be elected “by-district”.

FISCAL IMPACT:

Due to the urgency of this process, the City has entered into separate contracts of less than \$50,000 with Nielsen, Merksamer, Parrinello, Gross and Leoni LLF and with National Demographics Corporation for Electoral District Establishment services.

Submitted & Approved By:
Gary Nordquist
City Manager

Attachments:

1. Establishment of Electoral Districts Presentation
2. NDC – Introduction to 2016 Districting Presentation

RESOLUTION NO. 2016 - _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, INITIATING PROCEDURES FOR ESTABLISHING AND IMPLEMENTING BY-DISTRICT ELECTIONS FOR THE CITY OF WILDOMAR CITY COUNCIL MEMBERS

WHEREAS, members of the City Council of the City of Wildomar (“City”) are currently elected in “at-large” elections, in which each City Council member is elected by the registered voters of the entire city; and

WHEREAS, the City, which was recently incorporated in 2008, used the at-large electoral system for the election of its City Council members in 2008, 2012, and 2014; and

WHEREAS, California Government Code section 34886, effective January 1, 2016, permits the City Council of a city with a population of fewer than 100,000 people, to change the city’s method of election by ordinance, with certain formalities, to a “by-district” system in which each City Council member is elected only by the voters in the district in which the candidate resides; and

WHEREAS, on or about December 21, 2015, the City received a letter asserting the its at-large electoral system violates the California Voting Rights Act, and threatening litigation if the City declined to adopt by-district elections; and

WHEREAS, though the letter was not accompanied by any evidence to support the claim of a violation, and in fact contained demonstrably incorrect statements about the City’s electoral system, on January 13, 2016, the City Council, after meeting in closed session with its attorneys concluded that the public interest would be better served by avoiding the tremendous expense of litigation; and

WHEREAS, the City Council unanimously issued direction to commence the process to establish by-district elections to avoid spending tax dollars in the defense of a meritless but potentially extremely expensive suit, even if the City is victorious; and

WHEREAS, the City has retained an experienced demographer and special legal counsel to assist the City in establishing a by-district electoral system;

NOW, THEREFORE, BE IT RESOLVED as follows:

A. The above recitals are true and correct.

B. The City Council hereby resolves to adopt a by-district election system as authorized by Government Code section 34886 for use in the City’s General Municipal Election for City Council Members in November 2016.

C. The City Council hereby approves the tentative timeline contained in Exhibit A hereto, and incorporated herein by this reference, for conducting a public process to solicit public input and testimony on proposed by-district electoral plans before adopting any such plan.

D. This timeline contained in Exhibit A shall be subject to adjustment by the City Council as it deems necessary, provided that such adjustments shall not prevent the City from meeting its goal of finalizing the change to by-district elections in time for the November 2016 elections.

E. The City Manager shall consult with legal counsel to resolve all legal issues necessary to give effect to this Resolution.

PASSED, APPROVED AND ADOPTED this 27th day of January, 2016.

Bridgette Moore
Mayor

APPROVED AS TO FORM:

ATTEST:

Thomas D. Jex
City Attorney

Debbie A. Lee, CMC
City Clerk

EXHIBIT A
TENTATIVE TIMELINE: ADOPTION OF “BY-DISTRICT” ELECTION METHOD

DATE	ACTION
January 13, 2016 City Council Meeting	City Council determines to begin process of adopting a “by-district” method of election; approves the retention of a qualified demographic consultant.
January 27, 2016 Special City Council Meeting	Presentations by special redistricting counsel regarding legal considerations and appropriate policy criteria governing districting, and by demographic consultant regarding City demographics. Council solicits public input regarding appropriate criteria, and adopts same to guide districting process.
January 29, 2016	Council notices three public hearings regarding draft plans. (Elec. Code § 10010.)
February 3, 2016	Initial draft of district plans to be made publicly available (<i>e.g.</i> , posted on City’s website for public consideration and/or hard copies made available at appropriate public location such as City Hall).
February 10, 2016 City Council Meeting/Study Session	Demographic consultant to present initial draft of district plans at study session to permit Council to investigate details of each draft with assistance of consultant; Council holds <u>first</u> public hearing on draft plans; Council may request modifications to any of the plans.
March 9, 2016 City Council Meeting	Council holds <u>second</u> public hearing on district plans; Council may request modifications to any of the plans.
April 13, 2016 City Council Meeting	Council holds <u>third</u> public hearing on district plans; if Council requests modifications to any of the plans, another public hearing will be required. City Council introduces ordinance establishing a “by-district” method of elections and setting election schedule in districts. (Gov. Code §§ 34886(a) & 34878.)
May 11, 2016 City Council Meeting	City Council adopts ordinance establishing a “by-district” method of elections. (Gov. Code § 34886(a).)
~June 10, 2016	End of Referendum Period after adoption of ordinance establishing a “by-district” method of election.
July 18–Aug. 12, 2016	Nomination filing period for City Council candidates
November 8, 2016	First election using new by-district election system.

RESOLUTION NO. 2016 - _____

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF WILDOMAR, CALIFORNIA, SPECIFYING
THE CRITERIA TO GUIDE THE ESTABLISHMENT
OF ELECTORAL DISTRICTS**

WHEREAS, on or about December 21, 2015, the City received a letter asserting the its at-large electoral system violates the California Voting Rights Act, and threatening litigation if the City declined to adopt by-district elections; and

WHEREAS, though the letter was not accompanied by any evidence to support the claim of a violation, and in fact contained demonstrably incorrect statements about the City's electoral system, on January 13, 2016, the City Council, after meeting in closed session with its attorneys concluded that the public interest would be better served by avoiding the tremendous expense of litigation; and

WHEREAS, the City Council unanimously issued direction to commence the process to establish by-district elections to avoid spending tax dollars in the defense of a meritless but potentially extremely expensive suit, even if the City is victorious; and

WHEREAS, the City has retained an experienced demographer and special legal counsel to assist the City in establishing a by-district electoral system; and

WHEREAS, at its January 27, 2016 meeting, the City Council adopted Resolution No. 2016-08, formally initiating the process of establishing by-district elections for City Council, beginning in November 2016, and approving a timeline for conducting a public process and adopting an appropriate ordinance pursuant to Government Code section 34886; and

WHEREAS, pursuant to that timeline, on January 27, 2016, the City Council and the public received presentation regarding the current demographics of the City under the 2010 census and American Community Survey, and the procedures and legal and policy criteria governing districting, and received public comment regarding appropriate criteria; and

WHEREAS, the City Council has fully considered the presentations of its consultants and all of the public comments received; and

WHEREAS, the City Council now wishes to adopt criteria to guide the establishment of electoral districts consistent with legal requirements, including reasonably equal population and Section 2 of the federal Voting Rights Act, and which address other concerns and considerations important to the City.

NOW, THEREFORE, BE IT RESOLVED as follows:

A. The above recitals are true and correct.

B. The City Council hereby adopts the criteria identified in Exhibit A to this Resolution as criteria to guide the establishment of electoral districts for the 2016 City Council elections.

C. The City's redistricting/demographic consulting firm, acting under the supervision of the City Manager, is hereby authorized and directed to formulate one or more electoral district plan scenarios based upon the criteria specified in Exhibit A for review by the public and by the City Council at three public hearings (or more if necessary), in accordance with the adopted timeline.

D. The City Manager shall consult with legal counsel to resolve all legal issues necessary to give effect to this Resolution.

PASSED, APPROVED AND ADOPTED this 27th day of January, 2016.

Bridgette Moore
Mayor

APPROVED AS TO FORM:

ATTEST:

Thomas D. Jex
City Attorney

Debbie A. Lee, CMC
City Clerk

EXHIBIT A

Specification of Criteria to Guide the Establishment of Electoral Districts

1. The boundaries of the electoral districts shall be established so that the electoral districts are equal in population as defined by law.
2. The boundaries of the electoral districts shall not be gerrymandered in violation of the principles established by the United States Supreme Court in *Shaw v. Reno*, 509 U.S. 630 (1993), and its progeny.
3. The boundaries of the electoral districts shall be established so that the electoral districts do not result in a denial or abridgement of the right of any citizen to vote on account of race or color as provided in Section 2 of the federal Voting Rights Act.
4. The boundaries of the electoral districts shall observe communities of interest as identified in public comment or identified by the city council, including, but not limited to rural or urban populations; social interests; agricultural, industrial or service industry interests; residential and commercial areas, the location of city facilities and historical sites, and the like, insofar as practicable.
5. The boundaries of the electoral districts shall be compact, insofar as practicable.
6. The boundaries of the electoral districts shall be created to contain cohesive, contiguous territory, insofar as practicable.
7. The boundaries of the electoral districts may observe topography and geography, such as the existence of mountains, flat land, forest lands, man-made geographical features such as highways, major roadways and canals, etc., as natural divisions between districts, insofar as practicable.
8. Unless otherwise required by law, the electoral districts shall be created using whole census blocks, insofar as practicable.
9. The boundaries of the electoral districts may avoid the “pairing” of incumbents in the same electoral district, insofar as this does not conflict with the constitution and laws of the State of California and the United States.
10. The boundaries of the electoral districts shall comply with such other factors which become known during the districting process and are formally adopted by the City Council.

Legal & Policy Criteria Governing Establishment of Electoral Districts

City of Wildomar

January 27, 2016

Process: Basic Overview

With Goal of Nov. 2016 Elections

Activity	Timing
Formally Resolve to Adopt Electoral Districts; Adopt Criteria and Tentative Calendar; Related Steps	January 27, 2016
Initial Draft Plans Made Public	February 3, 2016
At Least Three Public Hearings (Elec. Code § 10010)	February – May 2016 (dates to be determined)
First Reading of Ordinance Adopting Electoral Districts	Late April or early May 2016 (dates to be determined)
Second Reading of Ordinance Adopting Electoral Districts	Late April or early May 2016
Effective Date of Ordinance Adopting Electoral Districts	30 days after final passage
Opening of Candidate Filing Period for City Council	July 18, 2016
Implement Adopted Electoral Districts	November 2016

Process: Effect of Districting on Incumbents

- No council member's term must be cut short (*see* Gov. Code § 34878 ; Elec. Code § 21606(a)), but
- When his or her term ends, an incumbent can only run from the new district in which he or she resides.

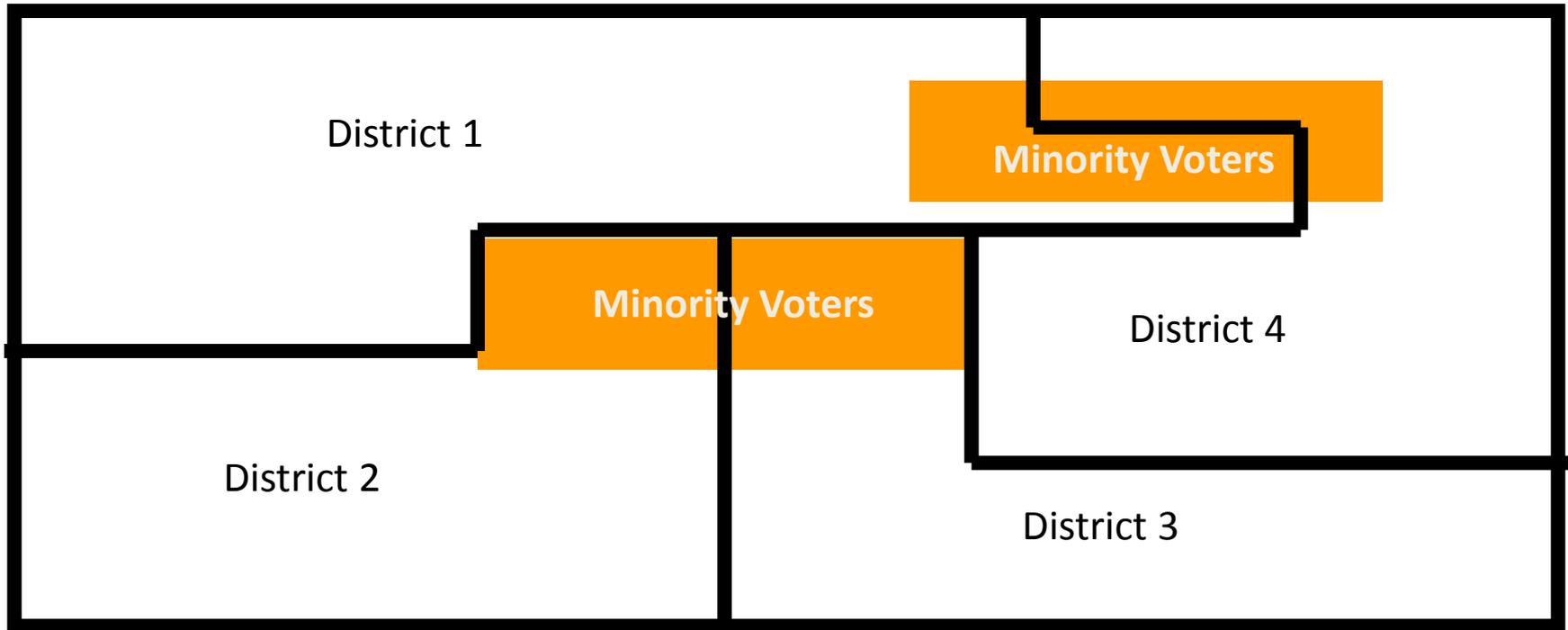
Drawing the Lines: Legal Considerations

- Overriding criterion is population equality (*see* Gov. Code § 21601; *Reynolds v. Sims*, 377 U.S. 533 (1964)).
- Unlike congressional districts, local electoral districts do not require perfect equality—some deviation acceptable to serve valid governmental interests.
- Total deviation less than 10% presumptively constitutional. (Caution: the presumption *can* be overcome!)
- **Total City Population (2010 Census): 32,176 persons**
- **Ideal Trustee Area: 6,533 persons**

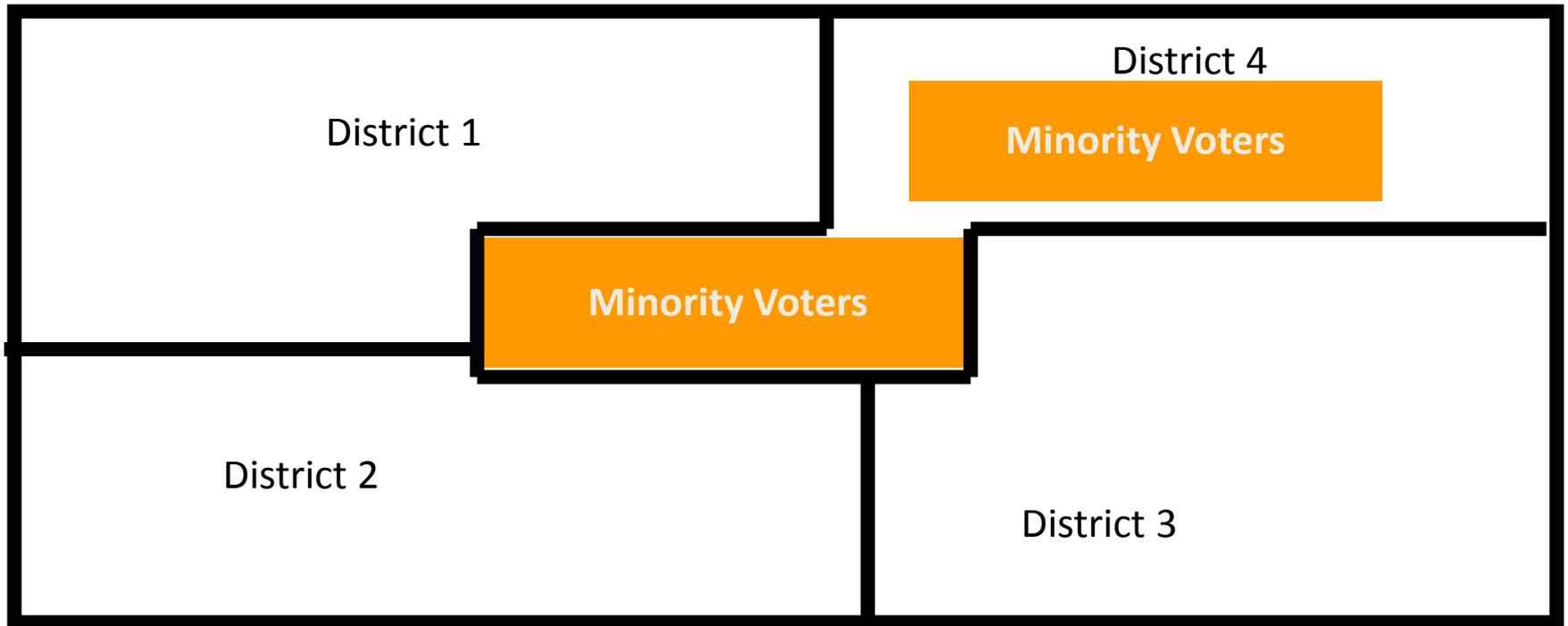
Legal Considerations: Voting Rights Act

- Section 2 of the federal Voting Rights Act prohibits electoral systems (including district plans), which dilute minority voting rights by denying minorities an equal opportunity to nominate and elect candidates of their choice.
- In the districting context, only *requires* creation of majority-minority districts. *Bartlett v. Strickland*, 559 U.S. 1 (2009).
- California Voting Rights Act is silent with respect to the *shape* of electoral zones, so long as they are used.

Voting Rights Act: Cracking



Voting Rights Act: Packing



Legal Considerations: No Racial Gerrymandering

- The Fourteenth Amendment prohibits using race as the “predominant” criterion in drawing districts and the subordination of other considerations. *Shaw v. Reno*, 509 U.S. 630 (1993); *Miller v. Johnson*, 515 U.S. 900 (1995).
- It does not, however, prohibit all consideration of race in redistricting. *Easley v. Cromartie*, 532 U.S. 234 (2001).
- Looks matter! Bizarrely shaped Electoral Districts can be evidence that racial considerations predominate.
- Focus on communities of interest.

Legal Considerations: Other Permissible Criteria

- Topography.
- Geography.
- Cohesiveness, contiguity, compactness and integrity of territory.
- Communities of interest.

(See Elec. Code § 21601)

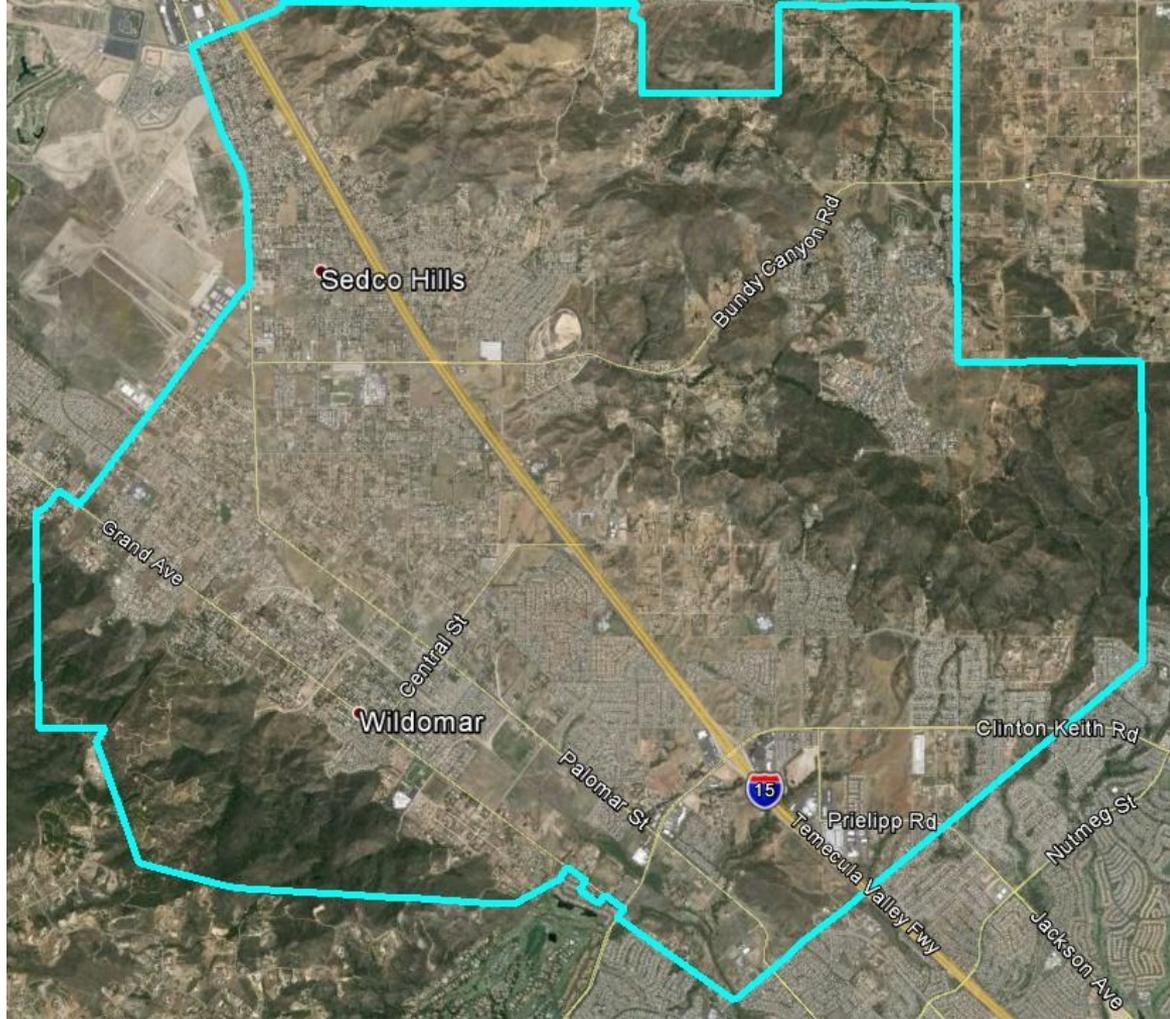
Legal Considerations: Other Criteria Approved by Courts

- Some other legitimate criteria include:
 - Preventing head-to-head contests between incumbents, to the extent reasonably possible.
 - Respecting the boundaries of political subdivisions (*e.g.*, school attendance areas, city boundaries, county boundaries, etc.).
 - Use of whole census geography (*e.g.*, census blocks).
 - Other non-discriminatory, evenly applied criteria (*e.g.* location of public facilities, planned development, allocation of commercial areas)

Legal & Policy Criteria Governing Establishment of Electoral Districts

City of Wildomar

January 27, 2016



City of Wildomar

Introduction to 2016 Districting

January 27, 2016

Douglas Johnson, President
Justin Levitt, Vice President

2

City Demographics

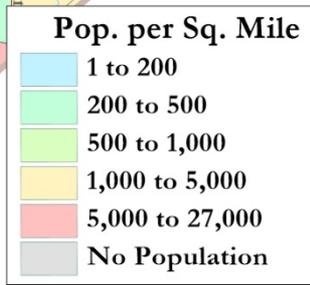
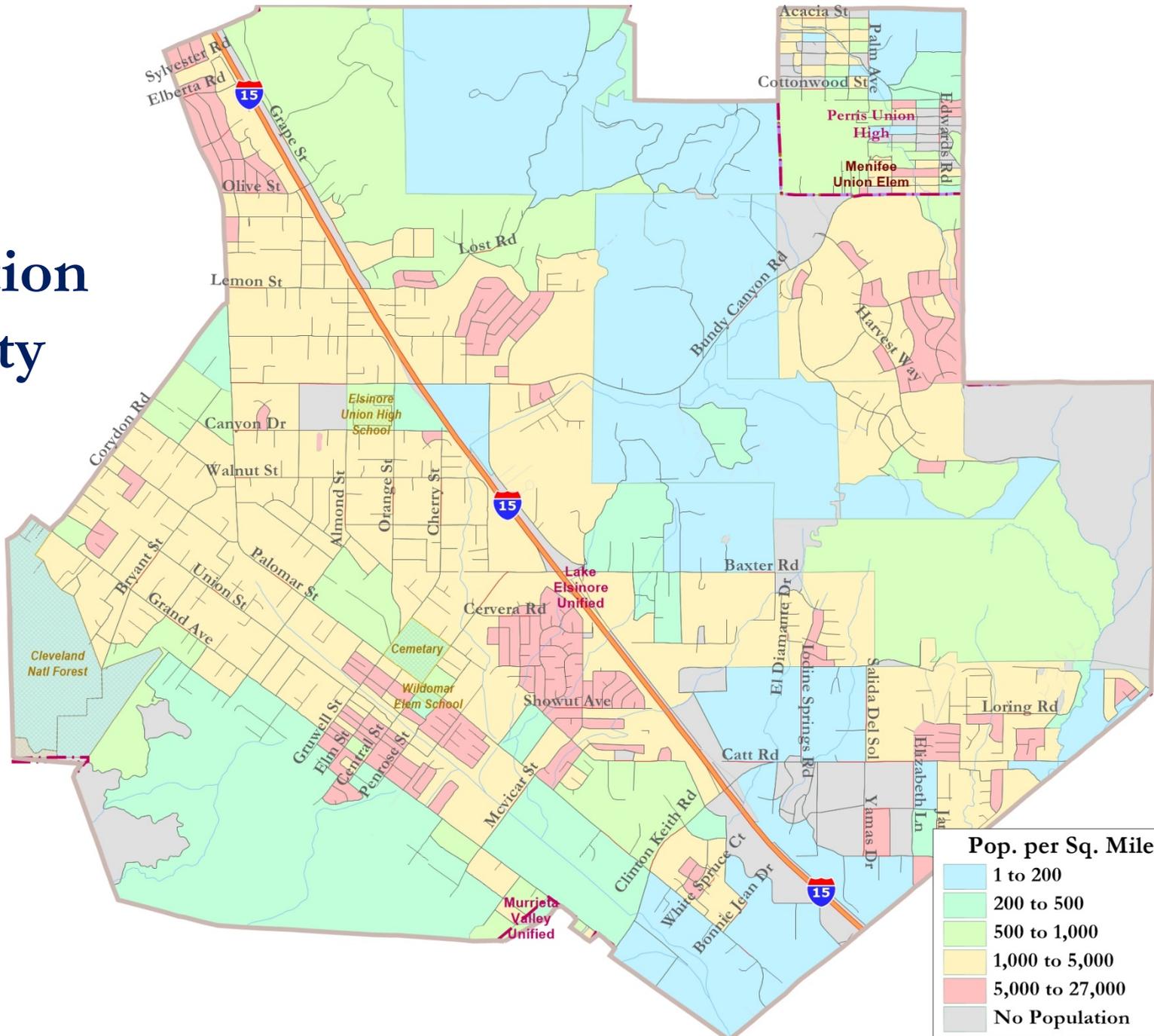
Race/Ethnic Profile	Count	Percent
Total Population	32,176	
Latino	11,363	35%
NH White	17,255	54%
NH Black/African-American	1,113	3%
NH Native American	388	1%
NH Asian-American	1,708	5%
NH Pacific Islander	89	0%
NH Other	88	0%
NH Multi-Race	172	1%
Voting Age Population total	23,210	
VAP Latino	7,162	31%
VAP NH White	13,513	58%
VAP NH Black/African-American	757	3%
VAP NH Native American	286	1%
VAP NH Asian-American	1,267	5%
VAP NH Pacific Islander	74	0%
VAP NH Other	56	0%
VAP NH Multi-Race	95	0%
Citizen VAP total	20,884	
CVAP Latino	5,756	28%
CVAP NH White	12,963	62%
CVAP NH African-American	1,058	5%
CVAP NH Asian-American	780	4%
CVAP Other (incl. Nat. Amer. & Pac. Isl.)	422	2%

Voter Registration (Nov. 2014)			14,435		
Latino Reg	3,580	25%			
Asian-Surnamed Reg.	189	1%			
Filipino-Surnamed Reg.	154	1%			
Voters Casting Ballots (Nov. 2014)			5,531		
Latino voters	945	17%			
Asian-Surnamed voters	63	1%			
Filipino-Surnamed voters	53	1%			
Voters Casting Ballots (Nov. 2012)			10,119		
Latino voters	2,130	39%			
Asian-Surnamed voters	103	2%			
Filipino-Surnamed voters	109	2%			

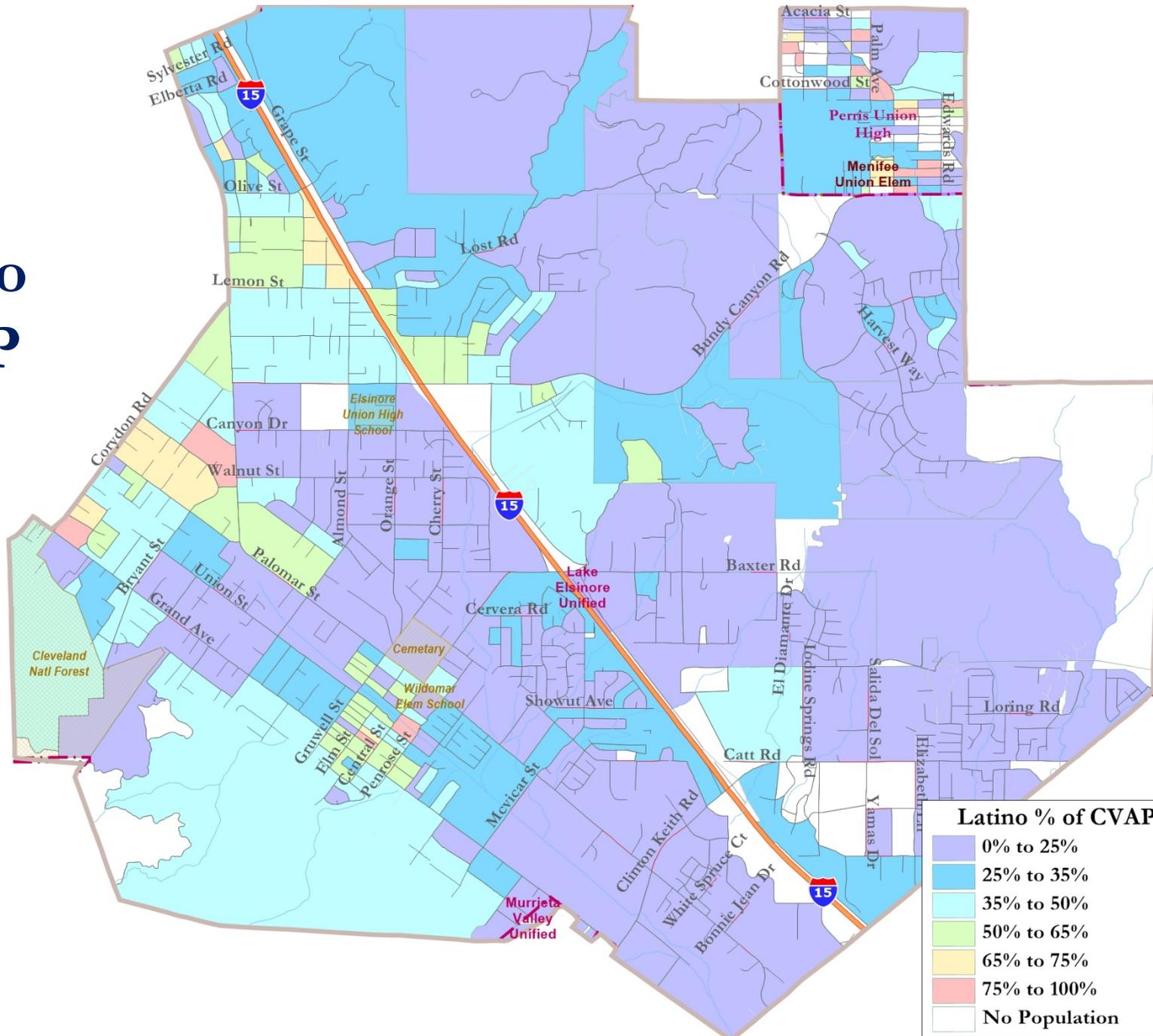
ACS Profile			Count		Percent	
ACS Total Population	32,319					
Age 0 - 19	9,898	31%				
Age 20 - 60	17,298	54%				
Age 60+	5,123	16%				
Age 65+	3,295	10%				
Immigrant	5,153	16%				
Age 5+	30,496					
Speaks English at home	22,761	75%				
Speaks Spanish at home	6,151	20%				
Speaks an Asian language at home	806	3%				
Speaks other language at home	778	3%				
Speaks English only "well" or less	2,685	9%				
Age 25+	20,495					
Age 25+, no HS degree	2,920	14%				
Age 25+, HS degree (only)	13,808	67%				
Age 25+, bachelor degree (only)	2,688	13%				
Age 25+, graduate degree (only)	1,079	5%				
Households	9,619					
Income \$0-25k	1,476	15%				
Income \$25-50k	1,923	20%				
Income \$50-75k	2,106	22%				
Income \$75-200k	3,848	40%				
Income \$200k+	265	3%				
Housing units	10,437					
Vacant	818	8%				
Occupied	9,619	92%				
Rented	2,438	25%				
Owned	7,181	75%				
Single-Family	9,901	95%				
Multi-Family	536	5%				

Sources: 2010 Census, California Statewide Database (2012 and 2014 November elections), 2009-2013 American Community Survey Special Tabulation of Citizen Voting Age data, and 2010-2014 American Community Survey data.

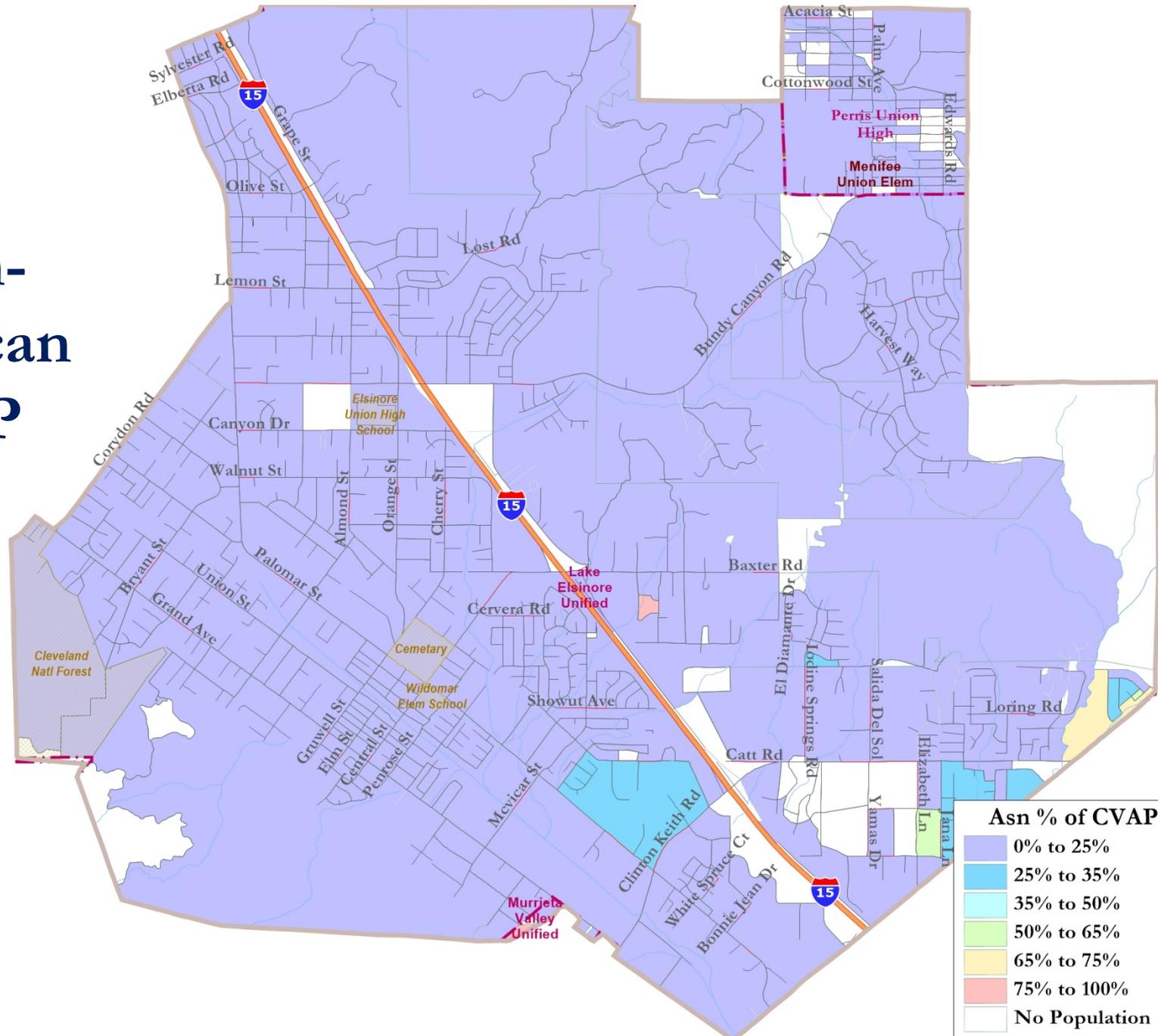
Population Density



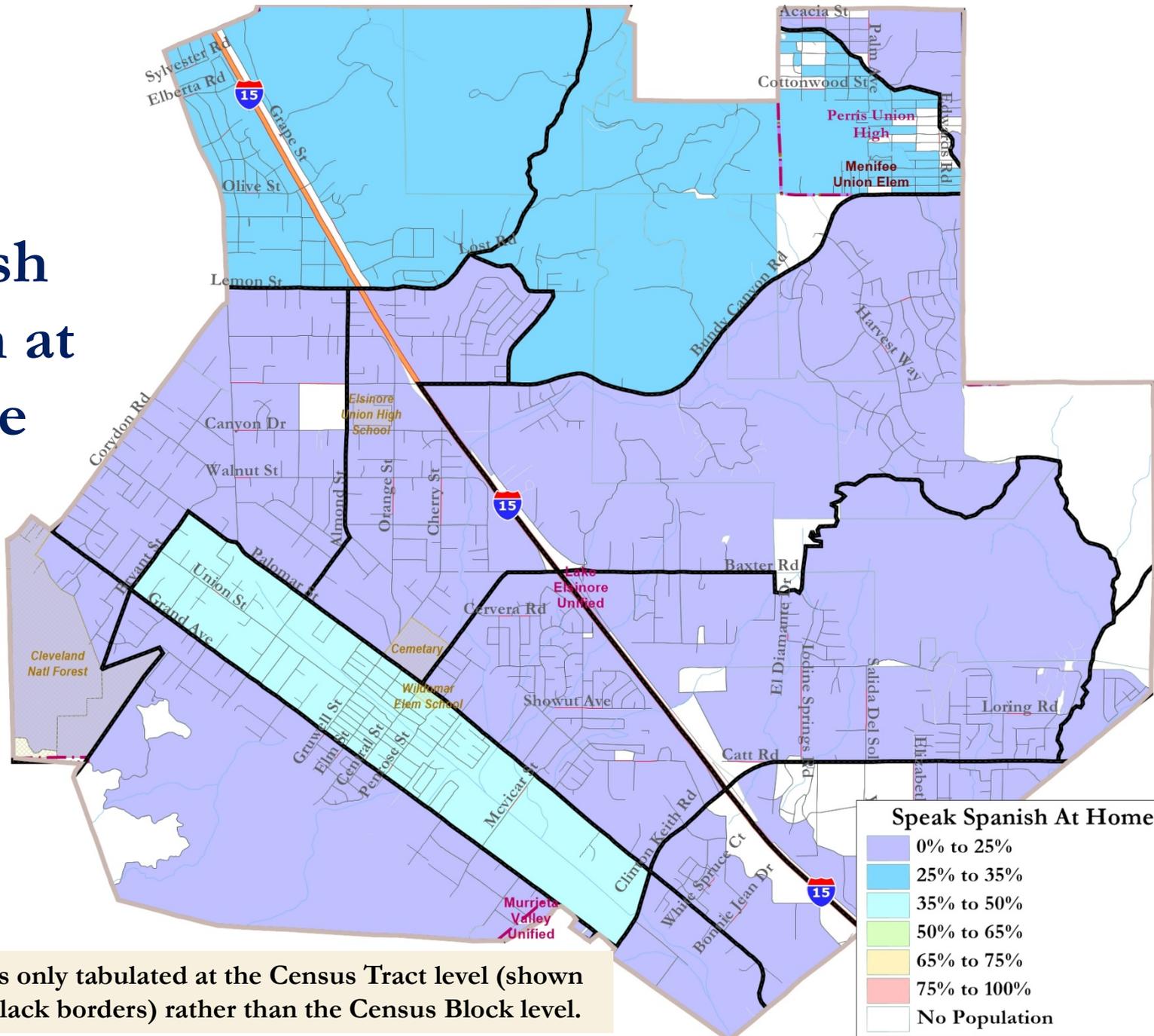
Latino CVAP



Asian-American CVAP

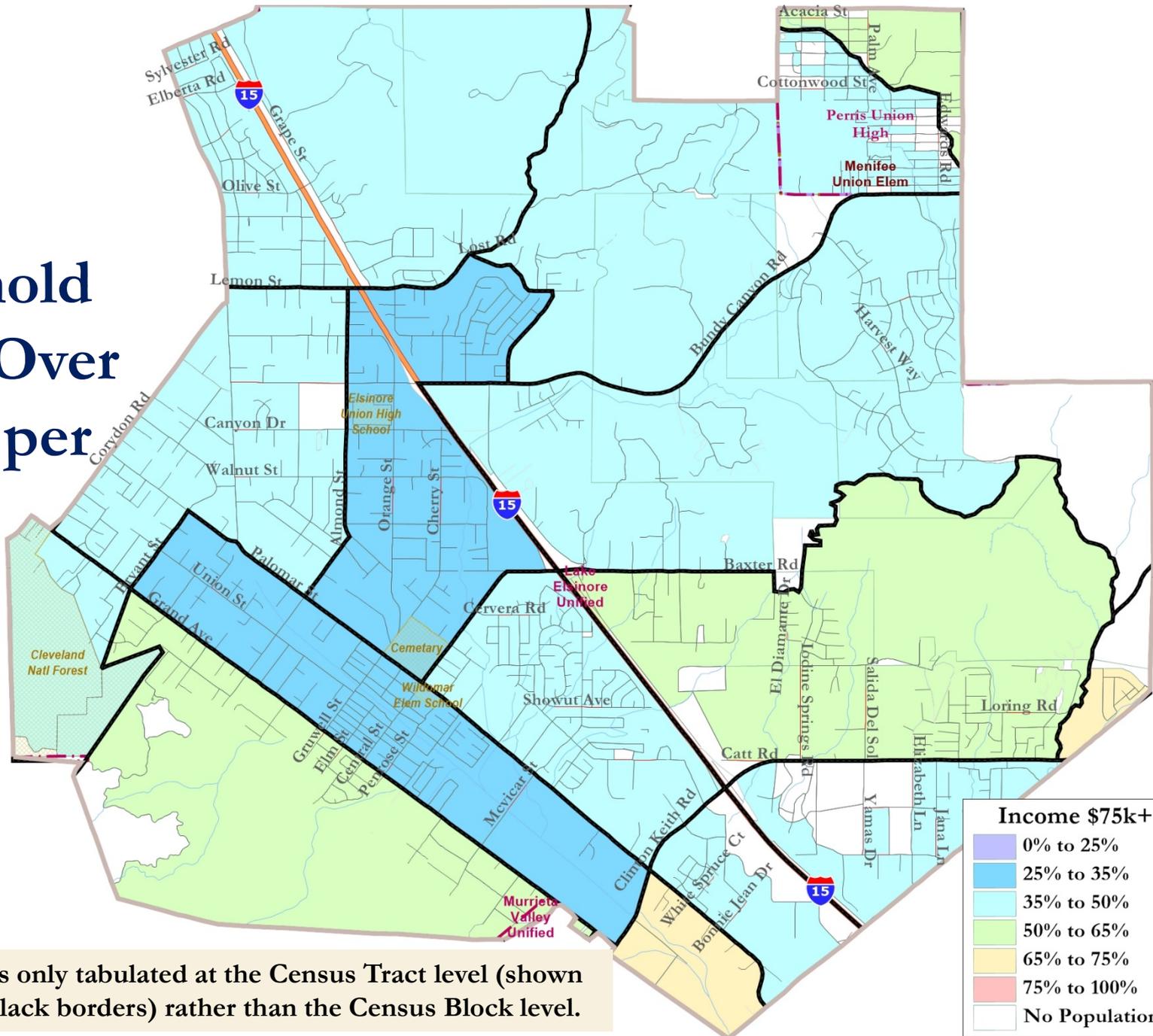


Spanish Spoken at Home



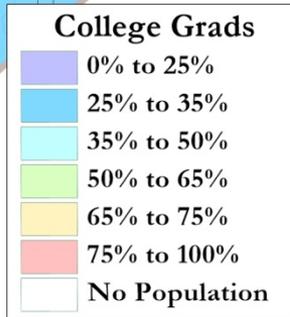
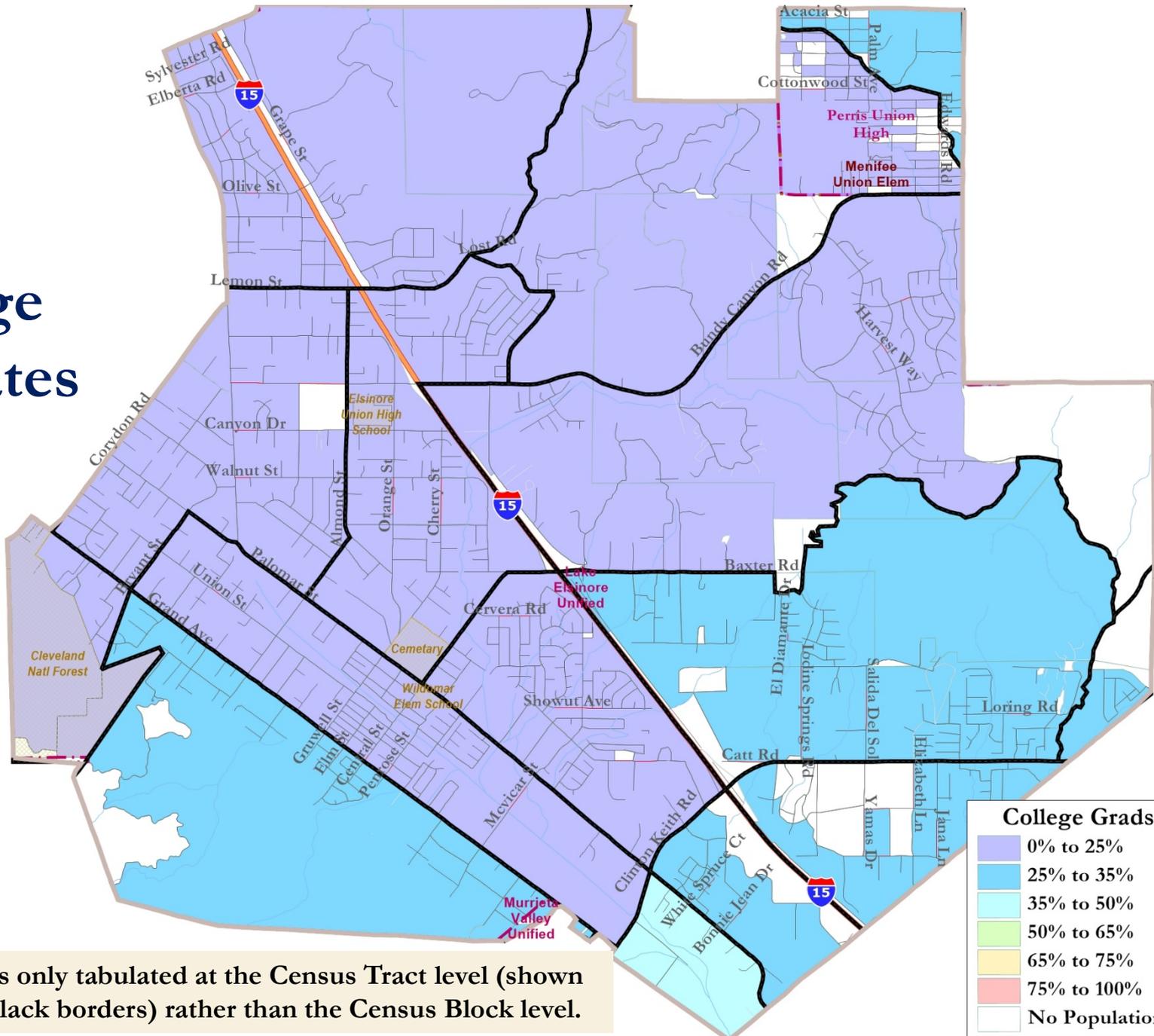
Data is only tabulated at the Census Tract level (shown with black borders) rather than the Census Block level.

Household Income Over \$75,000 per year



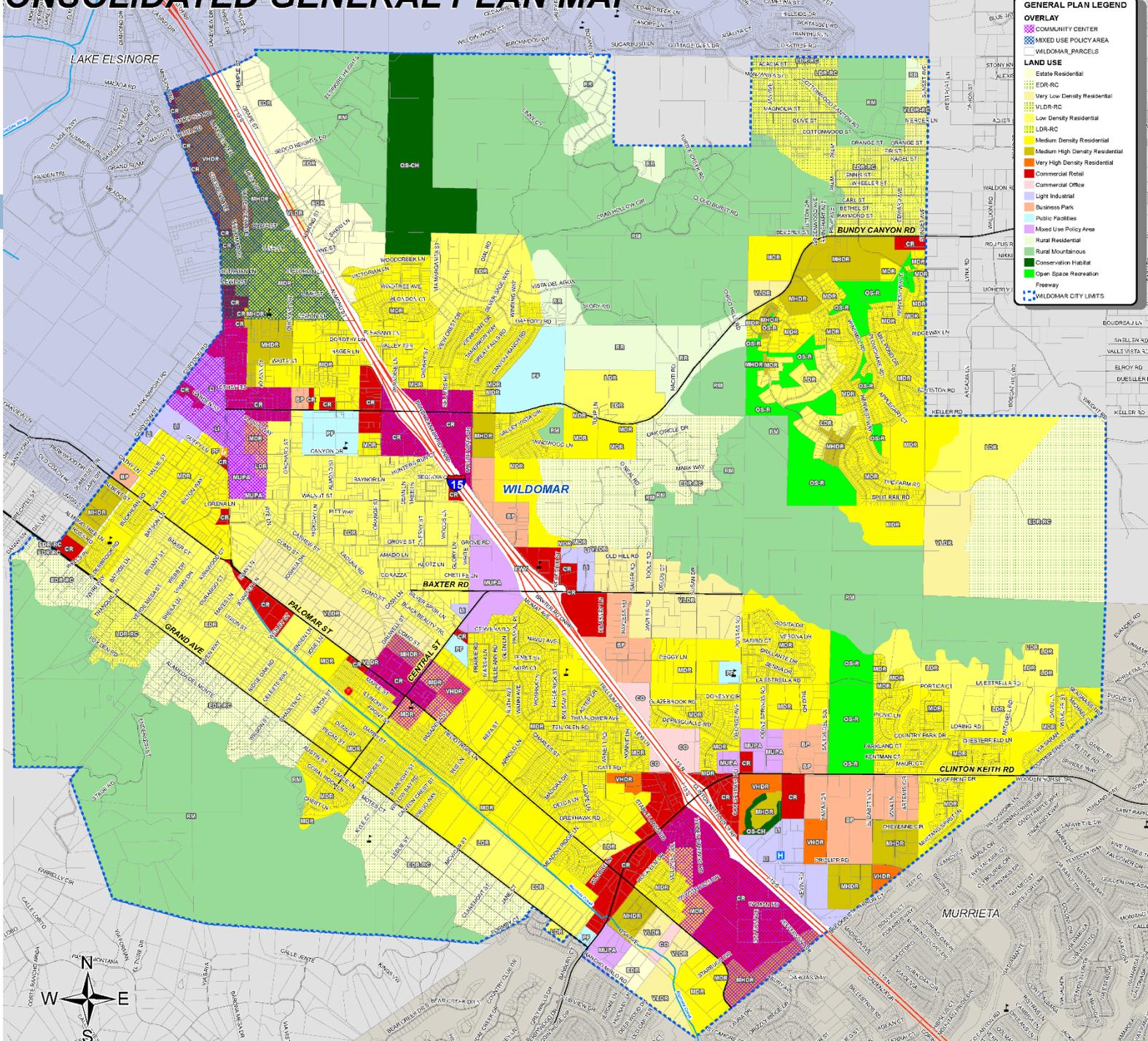
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College Graduates

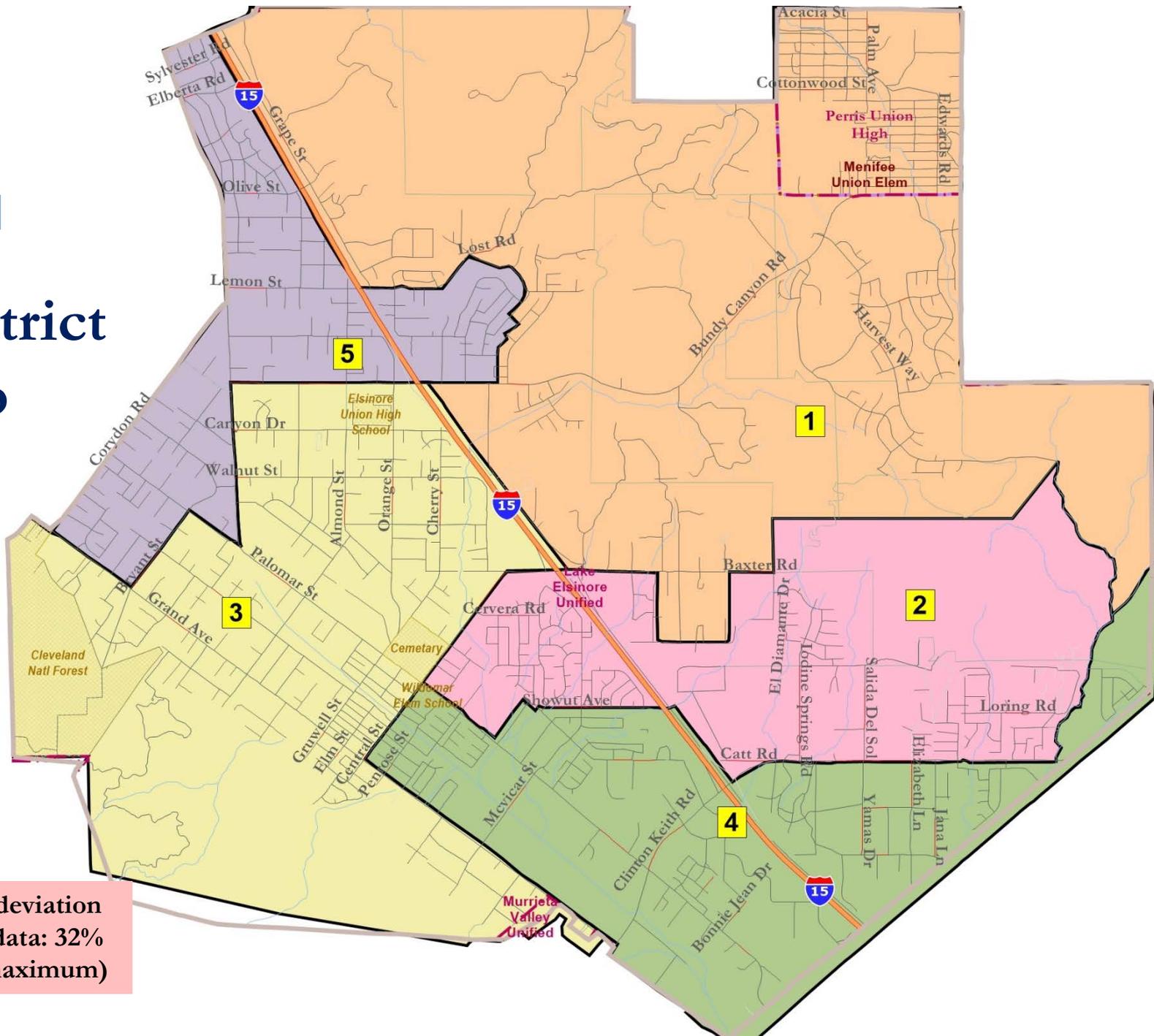


Data is only tabulated at the Census Tract level (shown with black borders) rather than the Census Block level.

Land Use



Old District Map



Overall population deviation using 2010 Census data: 32% (well beyond 10% maximum)

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Community Engagement

January 27, 2016

Community Engagement “3 E’s”

14

1. **Engage** the public
 2. **Educate** the public
 3. **Empower** the public
-
- Public comment hopefully will include:
 - Definitions of neighborhoods and “communities of interest”
 - Suggesting individual districts or entire plans
 - Sharing opinions on plans

- There are many ways to define communities
- Best way to define a neighborhood remains to hear from the people who live there
- Some examples of communities of interest could include:
 - ▣ School attendance areas; housing developments; neighborhoods around parks; horse-friendly neighborhoods
- Some communities want to be unified to maximize their voice in single election. Others (often school attendance areas and senior living communities) want to be divided so they have multiple representatives on the Council.

