



CITY OF EASTVALE

CITY COUNCIL STAFF REPORT

ITEM 8.5

DATE: APRIL 27, 2016

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: JOHN CAVANAUGH, CITY ATTORNEY

SUBJECT: BY-DISTRICT ELECTIONS FOR CITY COUNCILMEMBERS

RECOMMENDATIONS:

- 1. REVIEW THE STAFF REPORT AND PRESENTATION BY NATIONAL DEMOGRAPHICS CORPORATION;**
- 2. ADOPT A RESOLUTION WITH ATTACHED SCHEDULE SET OUT FOR MOVING TO BY-DISTRICT VOTING IN TIME FOR THE NOVEMBER, 2016 ELECTION, ENTITLED:**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EASTVALE, CALIFORNIA, INITIATING PROCEDURES FOR ESTABLISHING AND IMPLEMENTING BY-DISTRICT ELECTIONS FOR CITY COUNCIL MEMBERS, INCLUDING SPECIFYING CRITERIA FOR ESTABLISHMENT OF THOSE VOTING DISTRICTS

- 3. SET THE FIRST PUBLIC HEARING IN THE PROCESS FOR WEDNESDAY, MAY 11, 2016 AND;**
 - 4. REQUEST THAT STAFF NOTICE SUCH PUBLIC HEARING AND POST RELATED DOCUMENTS ON THE CITY WEBSITE.**
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BACKGROUND AND DISCUSSION

On April 4, 2016, the City received a letter similar to that received by a number of other Inland Empire cities; the letter threatens litigation (in this case by the Mexican American Legal Defense and Educational Fund (“MALDEF”) if the City did not move to by-district voting for the November, 2016, general. That letter alleges that the City’s present at-large voting system (specifically adopted upon incorporation) violates the California Voting Rights Act (“CVRA”).

Based upon the CVRA, the City Council has instructed staff to move forward immediately with the process of dividing the City into five single-member districts for City Council elections. The other possible alternative is four districts with a Mayor elected at-large for a two or four year term. The City Council has determined to commence the process to move to district elections to avoid spending tax dollars in the defense of a potentially extremely expensive lawsuit and to confirm compliance with the CVRA. Although the schedule is aggressive, staff and the Council believe that the change can be implemented in a timely manner, as set out in the schedule attached to the Resolution.



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The City currently uses an at-large method of election in which all voters vote for all City Council candidates. In the “by-district system” 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 use a new law, effective January 1, 2016, that permits city councils of cities with a population of fewer than 100,000 people to change from at-large voting to by-districts (or by-districts with a Mayor at large) through adoption of a city ordinance. (See Govt. Code Section 34886). The City’s electoral districts still must be created in accordance with federal and state requirements; those requirements include three noticed public hearings.

Presently, there have been a number of similar legal threats and reactions in the Inland Empire; i.e. some smaller cities are in the process of changing (Chino, Hemet, Wildomar); some are putting it on this November’s ballot because of size or charter city status (Corona, Upland and Rancho Cucamonga), or some have received threats but not yet decided what they will do (Banning, Victorville, Apple Valley, Hesperia). For example, after receiving a similar letter (different law firm) in January, 2016, on March 9, 2016, Wildomar held the first reading of an ordinance in time to establish five voting districts for the November, 2016 election.

California Voting Rights Act:

The most recent Federal decennial census is used to determine population under the CVRA (Elections Code Section 14025 et seq). National Demographics Corporation, (“NDC”) will make a presentation of Eastvale’s demographics. It is not clear that there is evidence of “racially polarized voting” as defined under Elections Code Section 14026(d). It appears, although unconfirmed, that an unsuccessful Latino candidate has made that assertion. (See Elections Code Section 14028(b)).

If the court finds against a city in a challenge to the city’s at-large voting system, the city must pay the plaintiff’s attorneys, experts, and other expenses. Since 2002, at least 195 cities in California have changed from at-large to by district voting because of the CVRA. To date, no city has challenged the CVRA successfully.

Process for Determining Districts:

Govt. Code Sections 34870 and following set out the process for a City with at-large voting to change to a “by-district” election system. As noted, Eastvale may do so by ordinance adopted by the City Council, although the ordinance is subject to referendum. The process involves the use of state and federal election rules applied to demographic and related information to determine equal-sized voting districts.

a. Number of Districts: Five, seven or nine districts with the mayor elected by the council members or four, six or eight districts with the mayor elected at-large (Govt. Code Section 34871). The number of districts is determined by the size of the city; the population in each district generally must be equal.

b. Permissible Criteria to Establish Voting District Boundaries:



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1. Each district generally must be equal in population with no more than a 10% deviation in population between districts. (Elections Code Section 21601).
2. Race may be considered in setting district boundaries but cannot be the main criterion and there can be no gerrymandering.
3. The Council also may consider topography, geography, cohesiveness, contiguity, integrity and compactness as well a community of interest. (Elections Code Section 21601)
4. Practically, other appropriate criteria include where current council members live, following political boundaries, use of census blocks, and location of streets and other facilities.

c. Public Input and Hearing Process: Most cities changing to by-district voting include public input in the process. Unfortunately, the consultant has advised staff that there is not time to put in place an interactive website to allow the public to draw districts on line. However, that does not mean there will not be public input, which is proposed to consist of the following, at a minimum. Interested community groups in the community may provide additional methods of public input.

1. Posting information on the website regarding the districting process, including downloadable and printable maps which may be scanned, mailed or otherwise returned to the City or consultant, along with demographic information and other districting criteria, agendas, and proposed maps.
2. Translation of materials, notices and agendas into Spanish as is done with agenda materials. The consultant provides such translation.
3. Notice of each hearing will be given by posting on the website at least 10 days in advance of each hearing (and probably by posting all hearing at one time) and by publication in an adjudicated newspaper for the City at least 10 days before each hearing.
4. Issuance of a press release that may lead to an article in the local paper that will include information and a map or maps.

At the first public hearing on May 11 as well as the second on May 25, the public will have an opportunity to provide input and comments from the public on the NDC draft maps and on any draft maps the public has submitted. At the third public hearing, proposed for June 8, the Council will determine/confirm and vote on an urgency ordinance setting the voting districts. A proposed schedule is attached to the Resolution.

d. Election of Council Members: A change to by-district voting does not cut short current council terms; terms remain four years. (Govt. 21601). (The exception here would be a Mayor elected at-large for a two year term). The districting ordinance applies prospectively: when a council seat is up for re-election, the ordinance will apply, i.e. the Council member must be a registered voter in the district that he/she will represent. (See Elections Code Section 21602).

For example, assuming that five districts were drawn in Eastvale, a number would be assigned to each district. Where a council member's term will expire at the first election after district voting



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is in place, that district will elect the next council member (incumbent or otherwise) from that district, rather than citywide. (See Govt. Code Section 34883; Elections Code Section 21606). Assuming Eastvale switches to District voting for November 2016, there will be three seats elected by-district. The remaining two districts would have elections in November 2018. Were the council to fill a vacancy in one of those two seats after the ordinance becomes effective, a person qualified within that district must fill it.

The candidate elected from a district must be a registered voter in the district at the time nomination papers are issued, i.e. no later July 18, 2016 for a November, 2016 election.

e. Adjustment of District Boundaries: Once established, district boundaries must be reviewed, at a minimum, every 10 years after the federal census, or when there is a changing the city's boundaries. (See Elections Code Sections 21603 and 21604).

The City Manager and City Attorney have retained National Demographics Corporation and Justin Levitt. Mr. Levitt assists Douglas Johnson, 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

City Staff and Consultant Time and Expenses.

STRATEGIC PLAN IMPACT – None

ATTACHMENTS

1. Resolution No.16-XX
2. NDC – Introduction to 2016 Districting Presentation

Prepared by: John Cavanaugh, City Attorney
Reviewed by: Michele Nissen, City Manager

RESOLUTION NO. 16-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EASTVALE, CALIFORNIA, INITIATING PROCEDURES FOR ESTABLISHING AND IMPLEMENTING BY-DISTRICT ELECTIONS FOR CITY COUNCIL MEMBERS, INCLUDING SPECIFYING CRITERIA FOR ESTABLISHMENT OF THOSE VOTING DISTRICTS

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

WHEREAS, the City was incorporated with a provision for such at-large elections and has used such a voting system in all past City Council elections; and

WHEREAS, California Government Code section 34886, effective January 1, 2016, Authorizes 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 that candidate resides or four candidates are elected from districts and the Mayor is elected at large for a two or four year term; and

WHEREAS, on or about April 4, 2016, the City received a letter asserting that it’s at-large electoral system violates the California Voting Rights Act (“CVRA”) and threatening litigation if the City declined to adopt by-district elections in time for the November 2016 general election; and

WHEREAS, the City Council issued direction based upon the CVRA to commence the process to establish by-district elections to avoid spending tax dollars in the defense of a potentially extremely expensive lawsuit; and

WHEREAS, the City will work with an experienced demographer to assist the City in establishing a by-district electoral system; and

WHEREAS, at its April 27, 2016 meeting, the City Council adopted Resolution No. 16-XX 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 April 27, 2016, at a noticed regular meeting, the City Council and the public received presentations regarding the current demographics of the City under the 2010 census as well as the legal and policy criteria and procedures governing conversion to by-district voting; and

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

WHEREAS, the City Council now also 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, as well as 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 resolves to adopt a by-district election system by ordinance 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 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. 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.

D. The City Council hereby adopts the criteria identified in Exhibit B, attached to this Resolution and incorporated by this reference, as criteria to guide the establishment of electoral districts for the 2016 City Council elections.

E. 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.

F. Working with the demographic consulting firm, staff is directed post relevant maps, information, notices, agendas and other materials regarding by-district elections and to establish means of communication to answer questions from the public; in addition, the consultant will provide a downloadable map of the city which may be used by the public to draw suggested District boundaries and then returned to the City or consultant. Such materials shall be in both Spanish and English.

G. All three public hearings to be held shall be noticed as follows: posting on the City website at least 10 calendar days in advance of the hearing and publication at least 10 days in advance of the hearing in the newspaper adjudicated to provide notice within the City.

H. The City Manager is authorized to take any and all other necessary action to give effect to this Resolution.

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

Ike Bootsma, Mayor

APPROVED AS TO FORM:

ATTEST:

John E. Cavanaugh, City Attorney

Marc Donohue, City Clerk

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) §
CITY OF EASTVALE)

I, Marc Donohue, City Clerk of the City Council of the City of Eastvale, California, do hereby certify that the foregoing City Council Resolution, No. 16-XX, was duly adopted by the City Council of the City of Eastvale, California, at a regular meeting thereof held on the 27th day of April, 2016, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marc Donohue, City Clerk

EXHIBIT A

TENTATIVE TIMELINE FOR ADOPTION OF “BY-DISTRICT” ELECTION METHOD

1. April 27, 2016 – Regular City Council Meeting

City Council receives presentations regarding legal considerations and appropriate policy criteria governing districting, and by demographic consultant regarding City demographics.

Council then initiates process of adopting a “by-district” method of election; approves the retention of a qualified demographic consultant and provides for districting criteria and public input; and requests that staff notice three public hearings for the dates set out below

2. By May 4 if not sooner - Initial draft of district plans to be made publicly available by posting on City’s website for public consideration and/or hard copies made available at appropriate public location such as City Hall), including translations

3. May 11, 2016 – First public hearing on re-districting at regular City Council meeting
Demographic consultant to present initial draft of district plans to Council and public

Council holds first public hearing on draft plans; Council may request modifications to any of the plans.

4. May 27, 2016 – Second public hearing on re-districting at regular City Council meeting
Consultant presents revised plans; Council holds second public hearing on district plans; Council may request modifications to any of the plans.

5. June 8, 2016 – Third public hearing at regular City Council meeting

Council holds third public hearing on district plans; City Council then adopts urgency ordinance establishing a “by-district” method of elections and setting election schedule in districts. (Gov. Code §§ 34886(a) and 34878.)

June 9, 2016 – Last date to submit materials to the Registrar of Voters

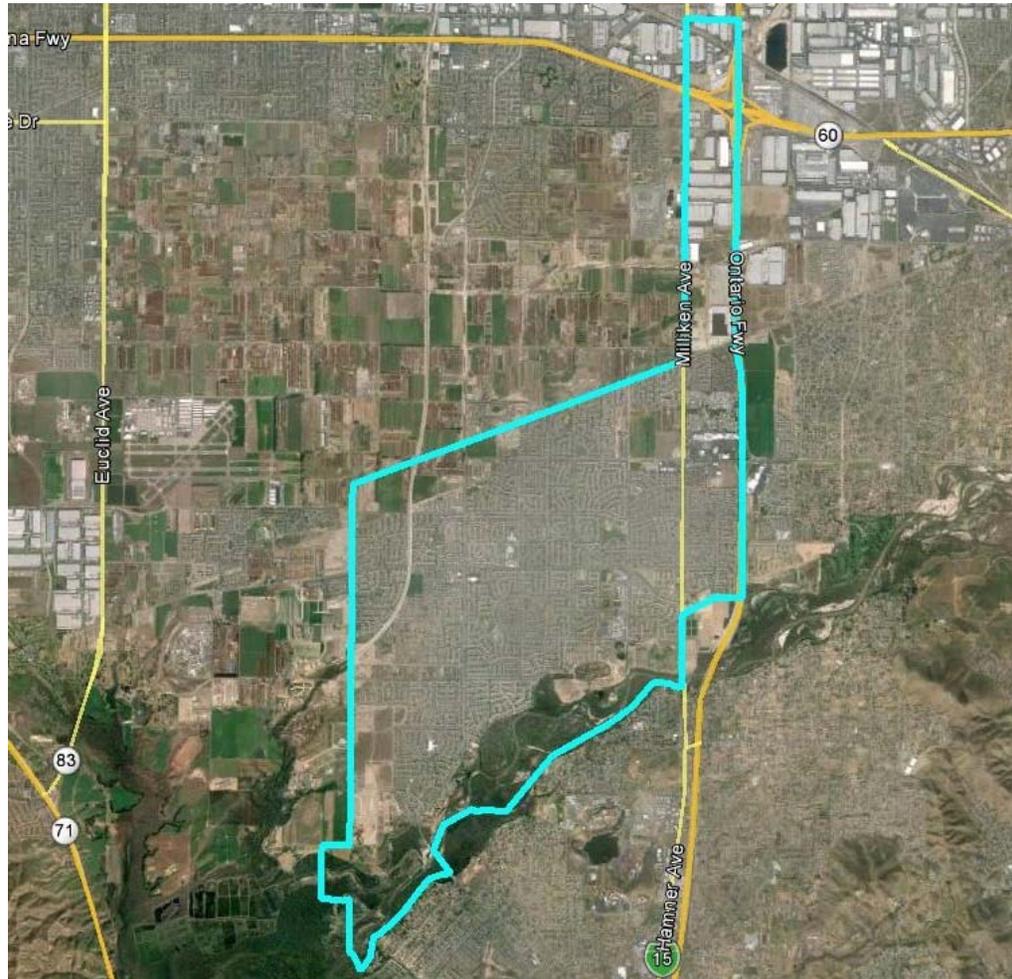
July 18–Aug. 12, 2016 Nomination filing period for City Council candidates

November 8, 2016 First election using new by-district election system.

EXHIBIT B
DISTRICTING CRITERA

The Council shall determine the number of districts and the issue of an elected Mayor at-large. Thereafter

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 social interests; agricultural, industrial or service industry interests; residential and commercial areas, location of city facilities and historical sites, and the like, insofar as practical.
5. The boundaries of the electoral districts shall be compact, insofar as practical.
6. The boundaries of the electoral districts shall be created to contain cohesive, contiguous territory, insofar as practical.
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 major roadways as natural divisions between districts, insofar as practical.
8. Unless otherwise required by law, the electoral districts shall be created using whole census blocks, insofar as practical.
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.

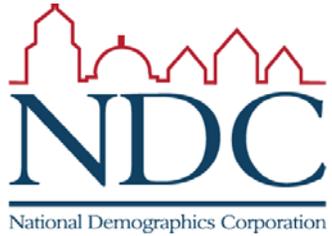


City of Eastvale

Introduction to 2016 Districting

April 27, 2016

Justin Levitt, Vice President
Douglas Johnson, President



Proposed Process

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Date	Action
April 27	Presentation on map-drawing criteria, process and demographics
May 5	Draft Plans posted to City website in PDF and Interactive formats
May 11	First Council Public Hearing on Draft maps with discussion of alternatives
May 25	Second Public Hearing on Draft maps; Council selection of preferred map
June 8	Third Public Hearing on Draft maps; Introduction and adoption of Emergency Ordinance
Nov. 2016	Two Districts hold first by-district elections and at-large Mayor elected
Nov. 2018	Remaining Two Districts hold by-district elections

Proposed Districting Criteria

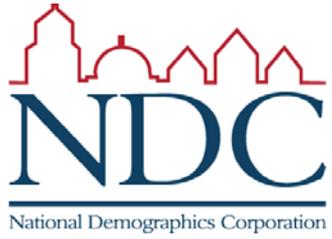
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Federal Laws

- ❑ Equal Population
- ❑ Federal Voting Rights Act
- ❑ No Racial Gerrymandering

Traditional Redistricting Principles

- ❑ Communities of interest
- ❑ Compact
- ❑ Contiguous
- ❑ Visible (Natural & man-made) boundaries
- ❑ Respect voters' choices
- ❑ Planned future growth



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City Demographics

April 27, 2016

City Demographics

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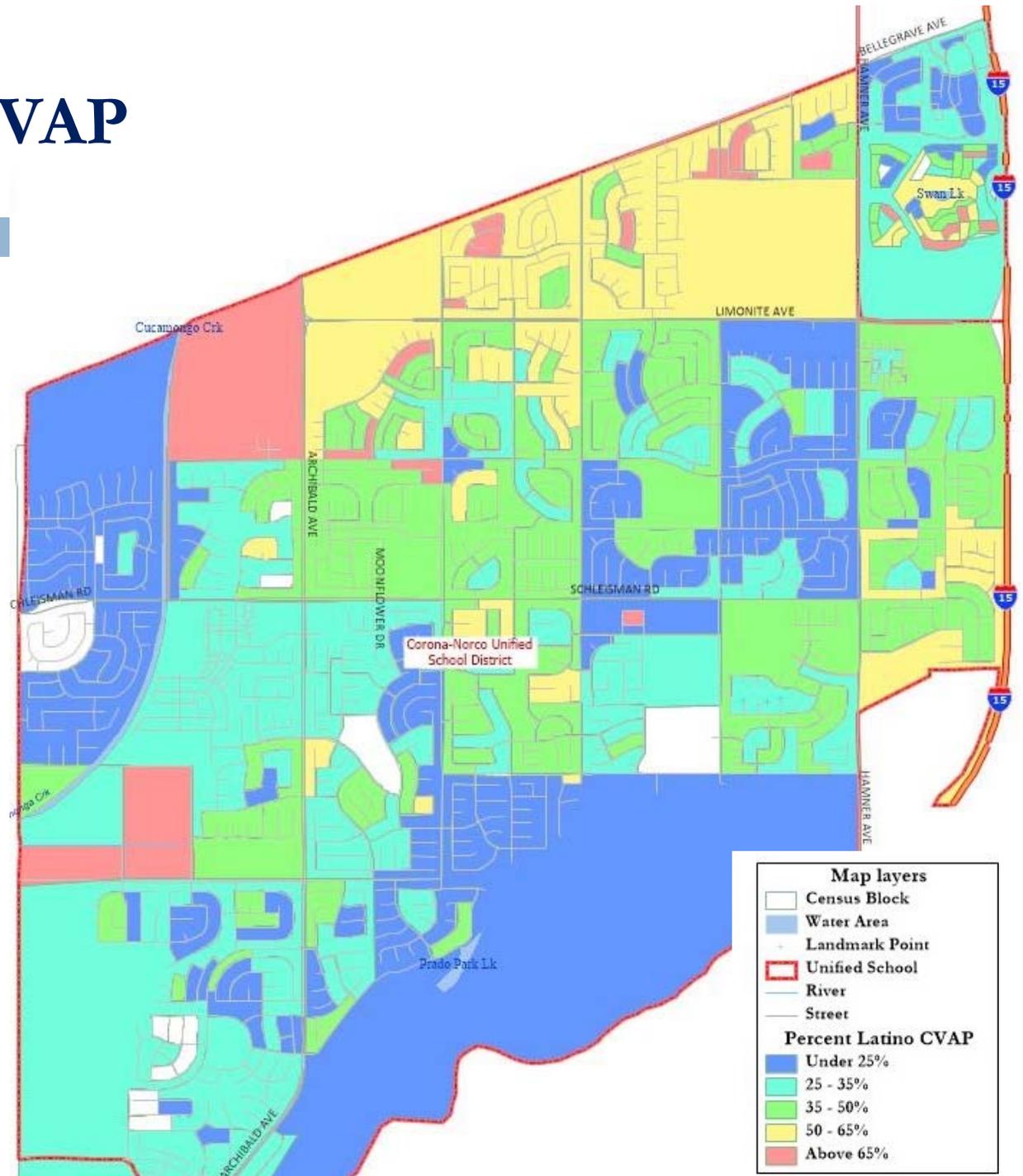
Race/Ethnic Profile	Count	Percent
Total Population	53,683	
Latino	21,450	40%
NH White	12,721	24%
NH Black/ African-American	5,158	10%
NH Native American	186	0%
NH Asian-American	13,322	25%
NH Pacific Islander	187	0%
NH Other	154	0%
NH Multi-Race	505	1%
Voting Age Population total	35,890	
VAP Latino	13,127	37%
VAP NH White	9,106	25%
VAP NH Black/ African-American	3,427	10%
VAP NH Native American	140	0%
VAP NH Asian-American	9,620	27%
VAP NH Pacific Islander	129	0%
VAP NH Other	83	0%
VAP NH Multi-Race	258	1%
Citizen VAP total	31,348	
CVAP Latino	11,156	36%
CVAP NH White	8,343	27%
CVAP NH African-American	3,217	10%
CVAP NH Asian-American	8,085	26%
CVAP Other (incl. Nat. Amer. & Pac. Isl.)	547	2%

Voter Registration (Nov. 2014)	21,042	
Latino Reg	7,296	35%
Asian-Surnamed Reg.	2,195	10%
Filipino-Surnamed Reg.	637	3%
Voters Casting Ballots (Nov. 2014)	6,501	31%
Latino voters	1,857	29%
Asian-Surnamed voters	564	9%
Filipino-Surnamed voters	151	2%
Voters Casting Ballots (Nov. 2012)	13,740	65%
Latino voters	4,530	35%
Asian-Surnamed voters	1,098	17%
Filipino-Surnamed voters	353	5%

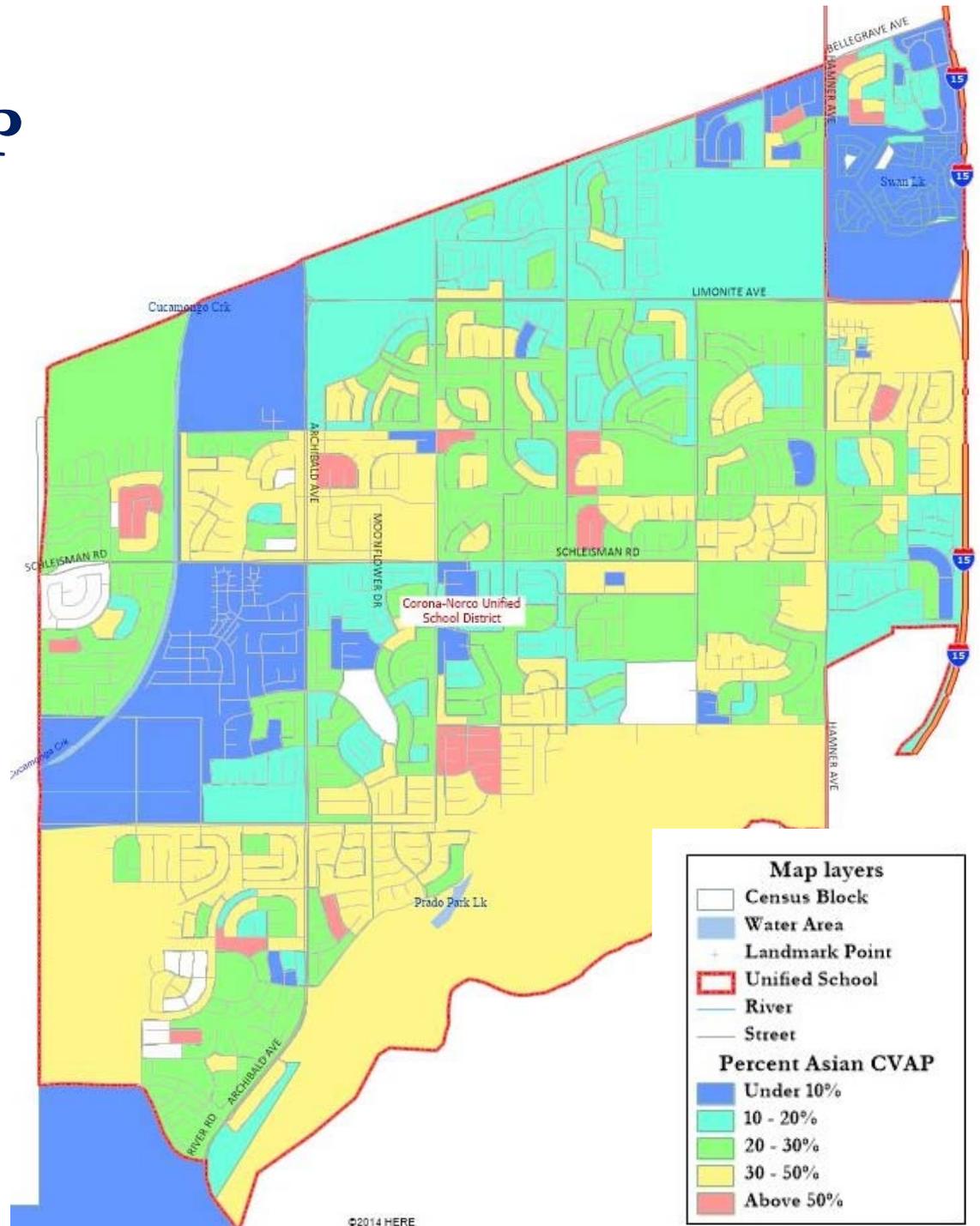
ACS Profile	Count	Percent
ACS Total Population	55,307	3%
Age 0 - 19	19,513	35%
Age 20 - 60	30,044	54%
Age 60+	5,750	10%
Age 65+	3,827	7%
Immigrant	17,055	31%
Age 5+	50,448	
Speaks English at home	25,057	50%
Speaks Spanish at home	13,015	26%
Speaks an Asian language at home	9,002	18%
Speaks other language at home	3,374	7%
Speaks English only "well" or less	9,631	19%
Age 25+	32,646	
Age 25+, no HS degree	4,414	14%
Age 25+, HS degree (only)	16,957	52%
Age 25+, bachelor degree (only)	7,446	23%
Age 25+, graduate degree (only)	3,829	12%
Households	13,027	
Income \$0-25k	874	7%
Income \$25-50k	1,371	11%
Income \$50-75k	1,798	14%
Income \$75-200k	7,809	60%
Income \$200k+	1,176	9%
Housing units	13,603	
Vacant	12,866	95%
Occupied	737	5%
Rented	576	4%
Owned	13,027	96%
Single-Family	2,806	22%
Multi-Family	10,221	78%

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.

Percentage of the Citizen Voting Age Population (CVAP) who are Latino.



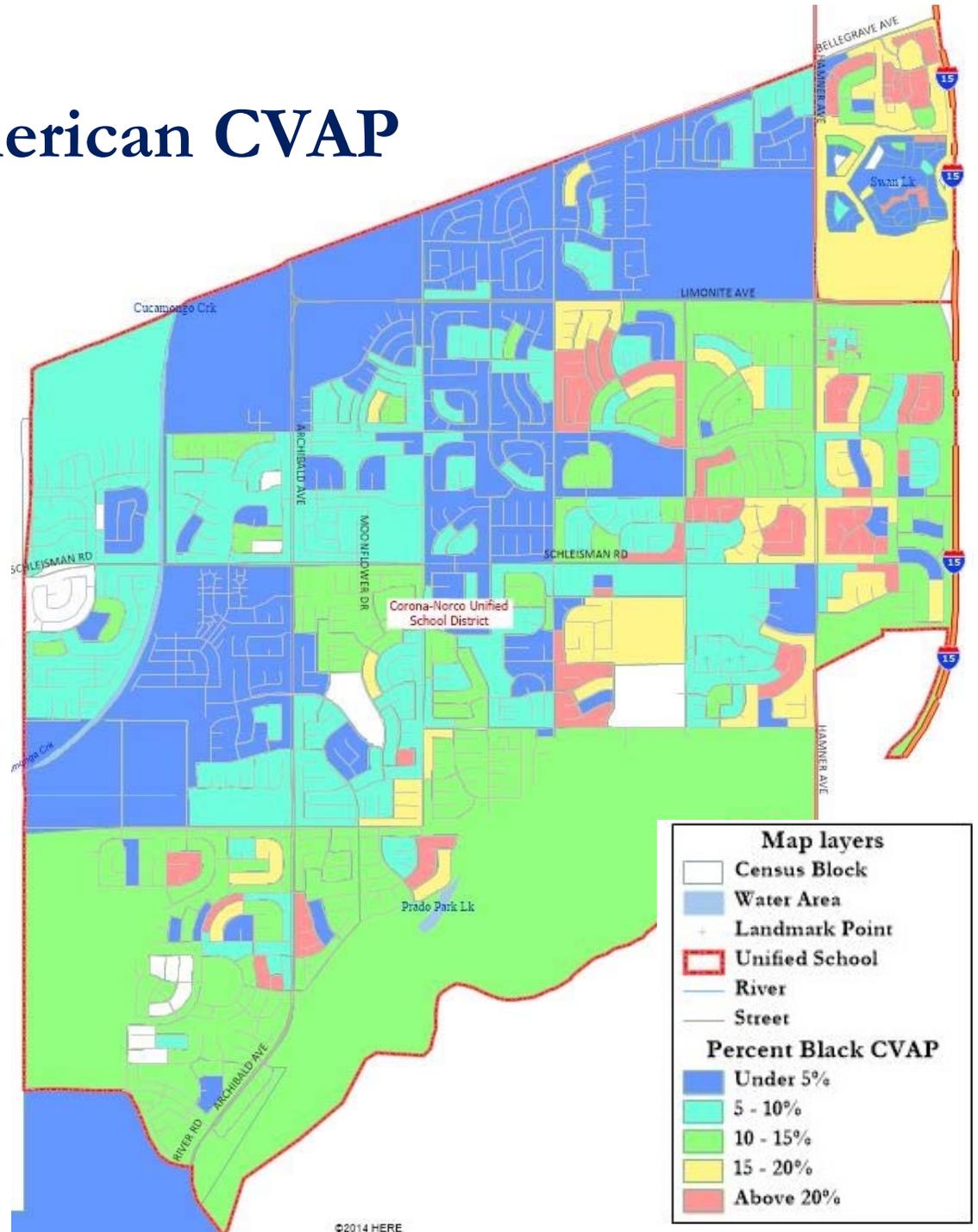
Percentage of the Citizen Voting Age Population (CVAP) who are Asian-American.



African-American CVAP

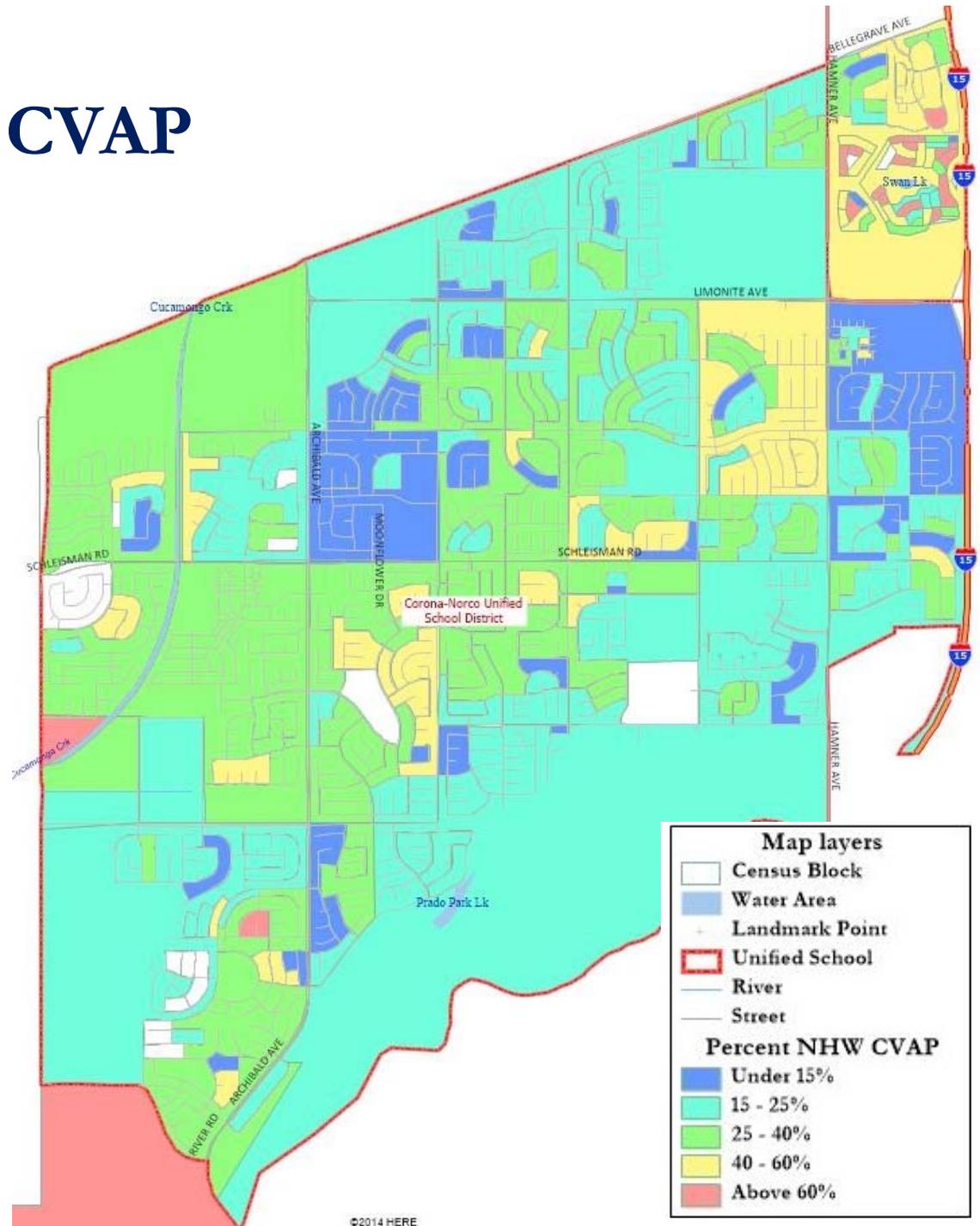
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Percentage of the Citizen Voting Age Population (CVAP) who are African-American.



Percentage of the Citizen Voting Age Population (CVAP) who are Non-Hispanic White.

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

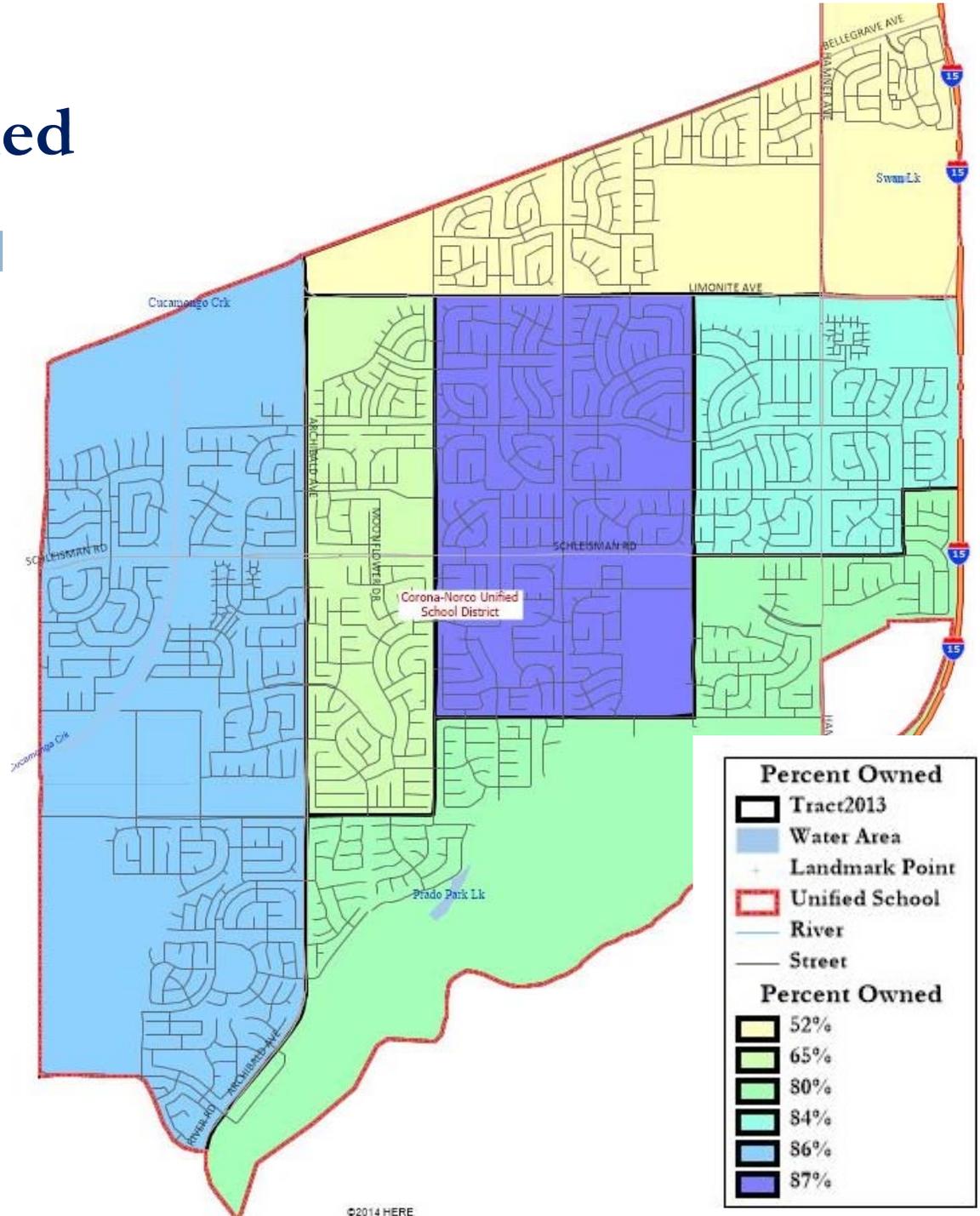


Units Owned

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Percentage of Households occupied by the owner (not rented).

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

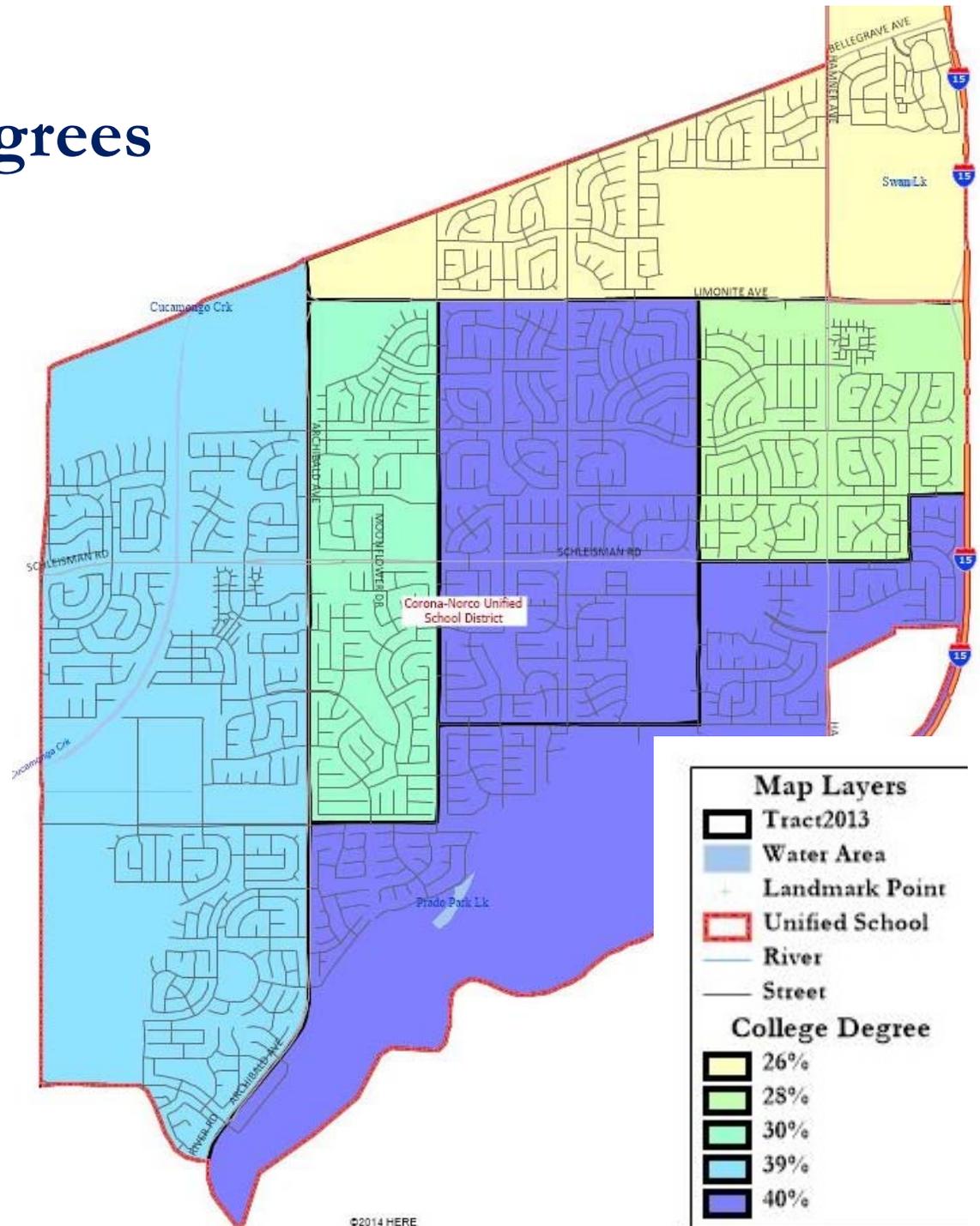


College Degrees

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Percentage of residents age 25 and over who have college degrees.

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

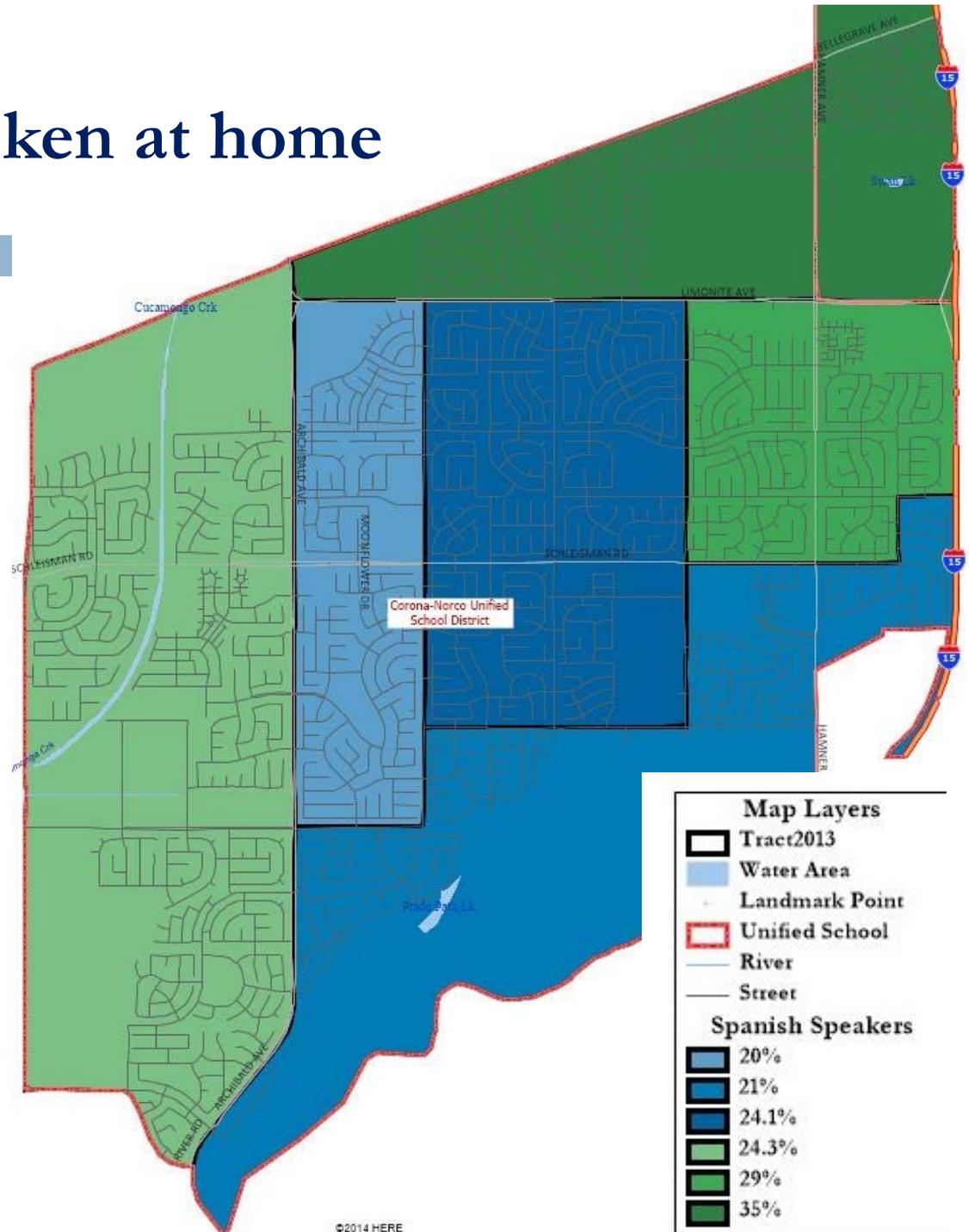


Spanish spoken at home

12

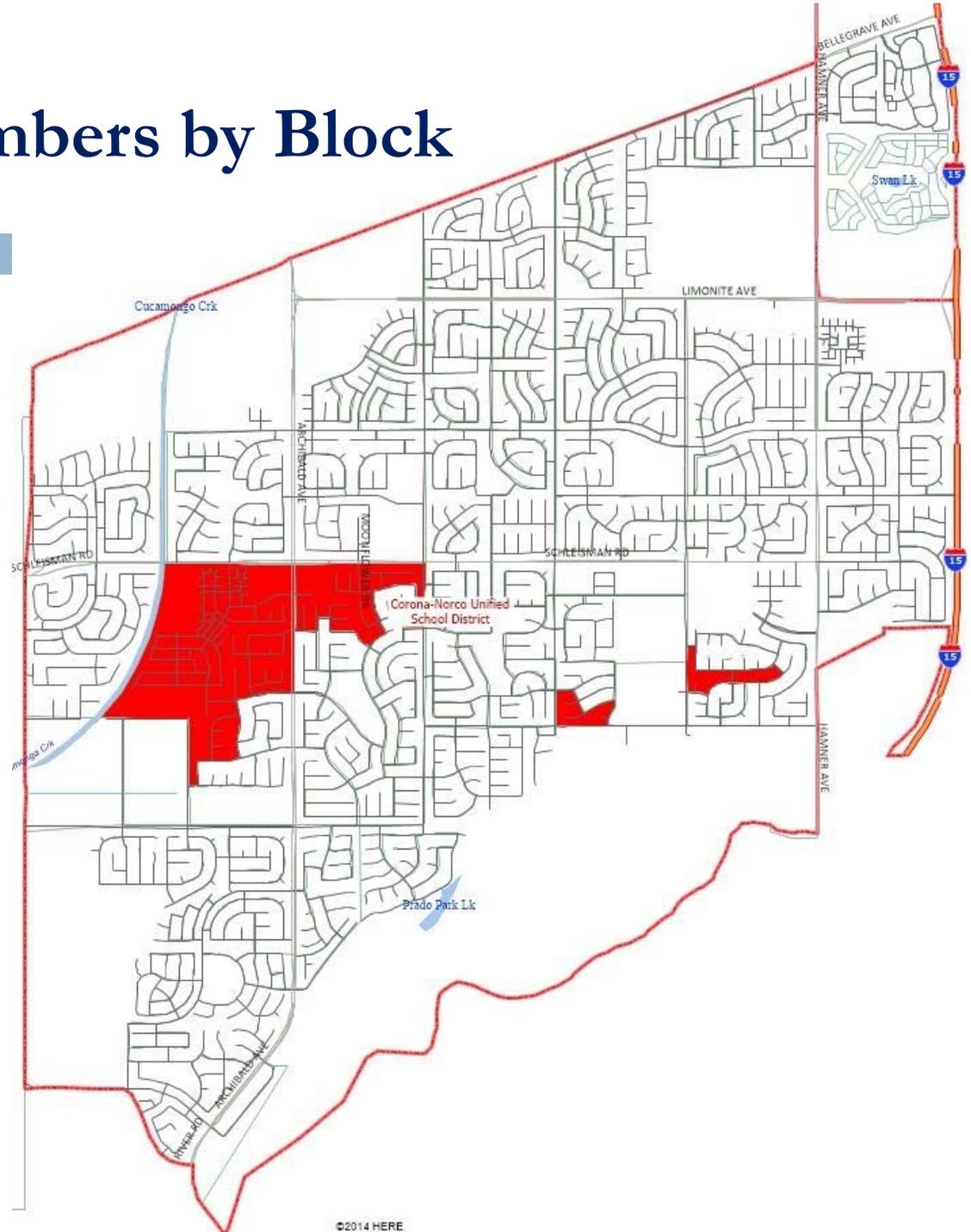
Percentage of Households where Spanish is spoken in the home.

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



Councilmembers by Block

13



Shading shows Census Block where each Councilmember resides (not the precise house).



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Community Engagement

April 27, 2016

Community Engagement “3 E’s”

15

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

Defining Communities

16

- ❑ 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.



- Consideration of proposed map-drawing criteria

- Consideration of proposed schedule

- Discussion of communities and neighborhoods in Eastvale
 - ▣ What areas should be the “building blocks” of the Council districts?