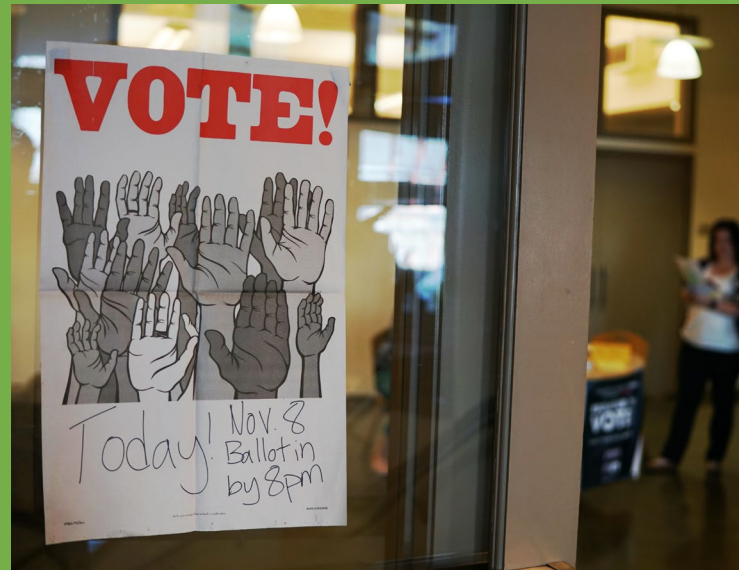




Sunnyvale



City Council Election System Changes: Legal Considerations Governing Districts

Council Study Session

June 25, 2019

Drawing the Lines

» Legal Considerations

- Population equality
- Federal Voting Rights Act (FVRA)
- No racial gerrymandering

» Other Permissible Criteria

- Communities of interest
- Geography/topography
- Territory cohesiveness, contiguity, integrity and compactness
- Other criteria approved by courts

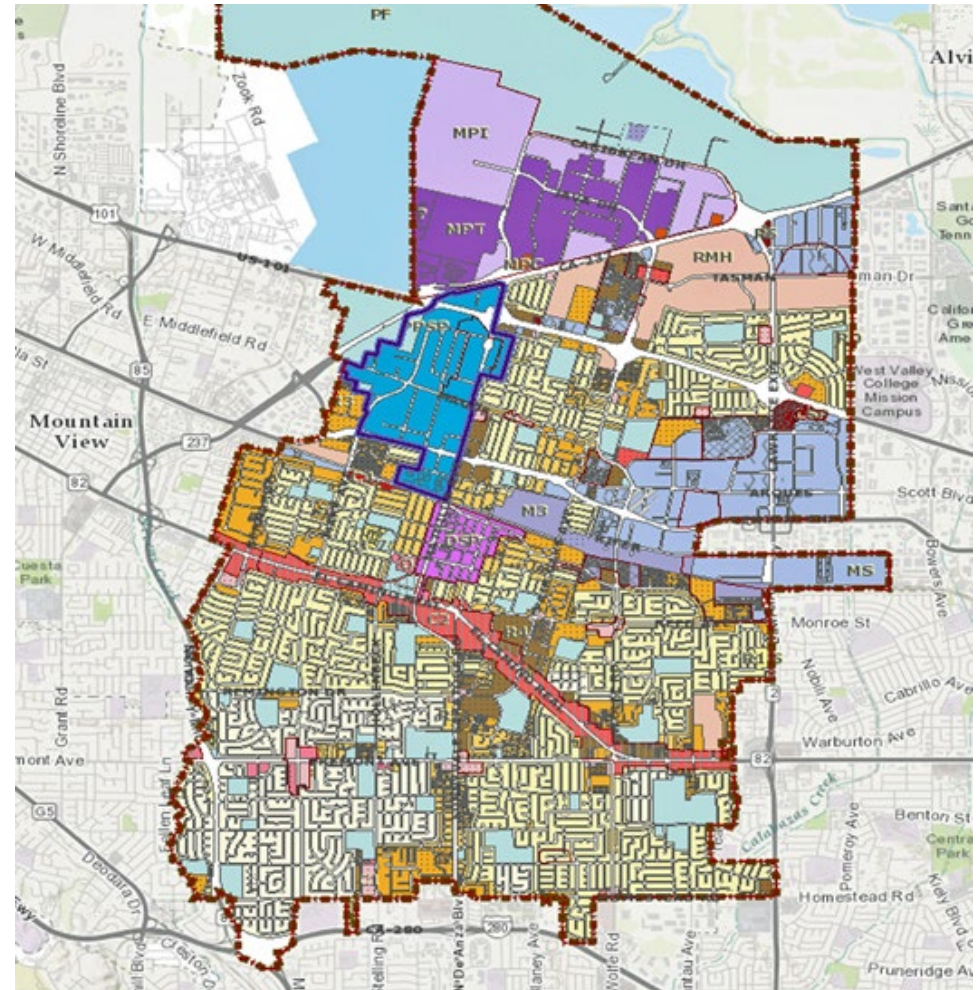


Population Equality

- » Total population equality (2010 Census) overriding criterion when drawing districts, not citizens or eligible voters
- » Some deviation is acceptable to serve governmental interests in local electoral districts
 - Must be applied even-handedly
- » Total deviation less than 10% presumptively constitutional
 - Caution! The presumption can be challenged

Population Equality

- » Total Sunnyvale Population (2010 Census): **140,081**
- » Ideal Population Six Council Districts: **23,347**



Population Equality

- » Deviation is calculated by summing the amount by which the largest district exceeds the ideal population for a district and the amount by which the smallest district falls short of the ideal population.

- Example:

Largest District - Ideal Population = A

Ideal Population - Smallest District = B

Total Deviation = A + B

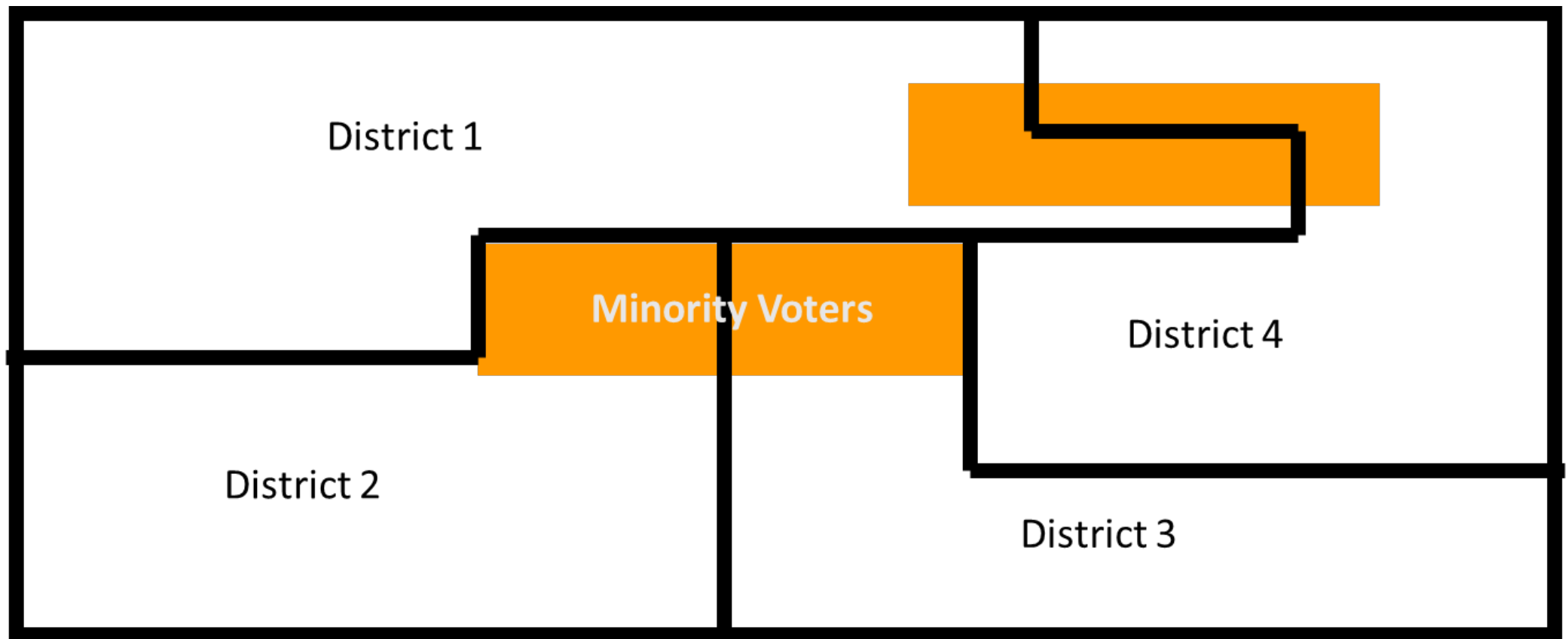
Total Deviation % = (A+B)/Ideal Population

Federal Voting Rights Act (FVRA)

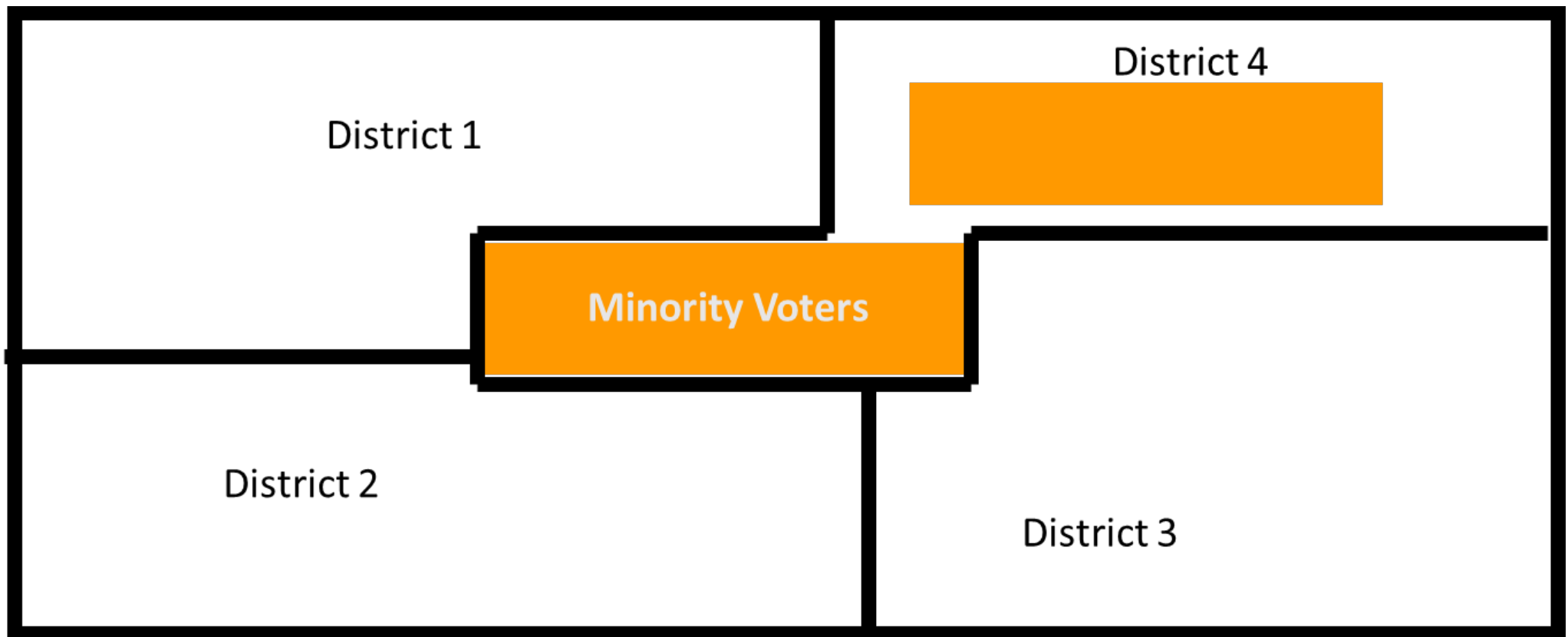
- » Prohibits electoral practices, which deny to racial and language minority voting rights an equal opportunity to nominate and elect candidates of their choice.
- » “Language minorities” are specifically defined to mean persons of American Indian, Asian American, Alaskan Natives or Spanish heritage.
 - CVRA expressly adopts the definition of “language minority.”
- » Absent discriminatory intent, creation of minority districts required only if minority group can form a majority of eligible voters (ACS data).



Federal Voting Rights Act (FVRA): Cracking

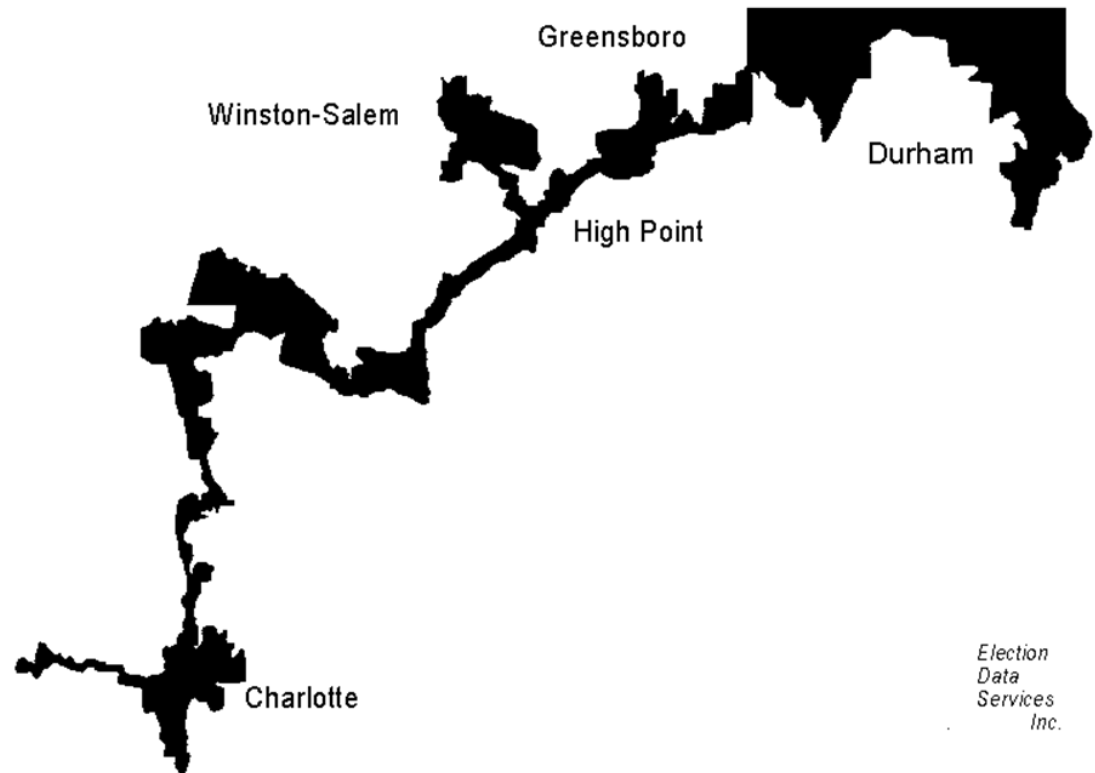


Federal Voting Rights Act (FVRA): Packing



No Racial Gerrymandering

- » Fourteenth Amendment restricts the use of race as the “predominant” criterion in drawing districts and the subordination of other considerations



- » Bizarrely shaped electoral districts can be evidence that racial considerations predominate.

Other Permissible Criteria

- » Elections Code § 21620 specifies discretionary criteria Council may consider:
 1. Communities of interest
 2. Topography
 3. Geography
 4. Cohesiveness, contiguity, integrity, and compactness of territory



California Voting Rights Act (CVRA)

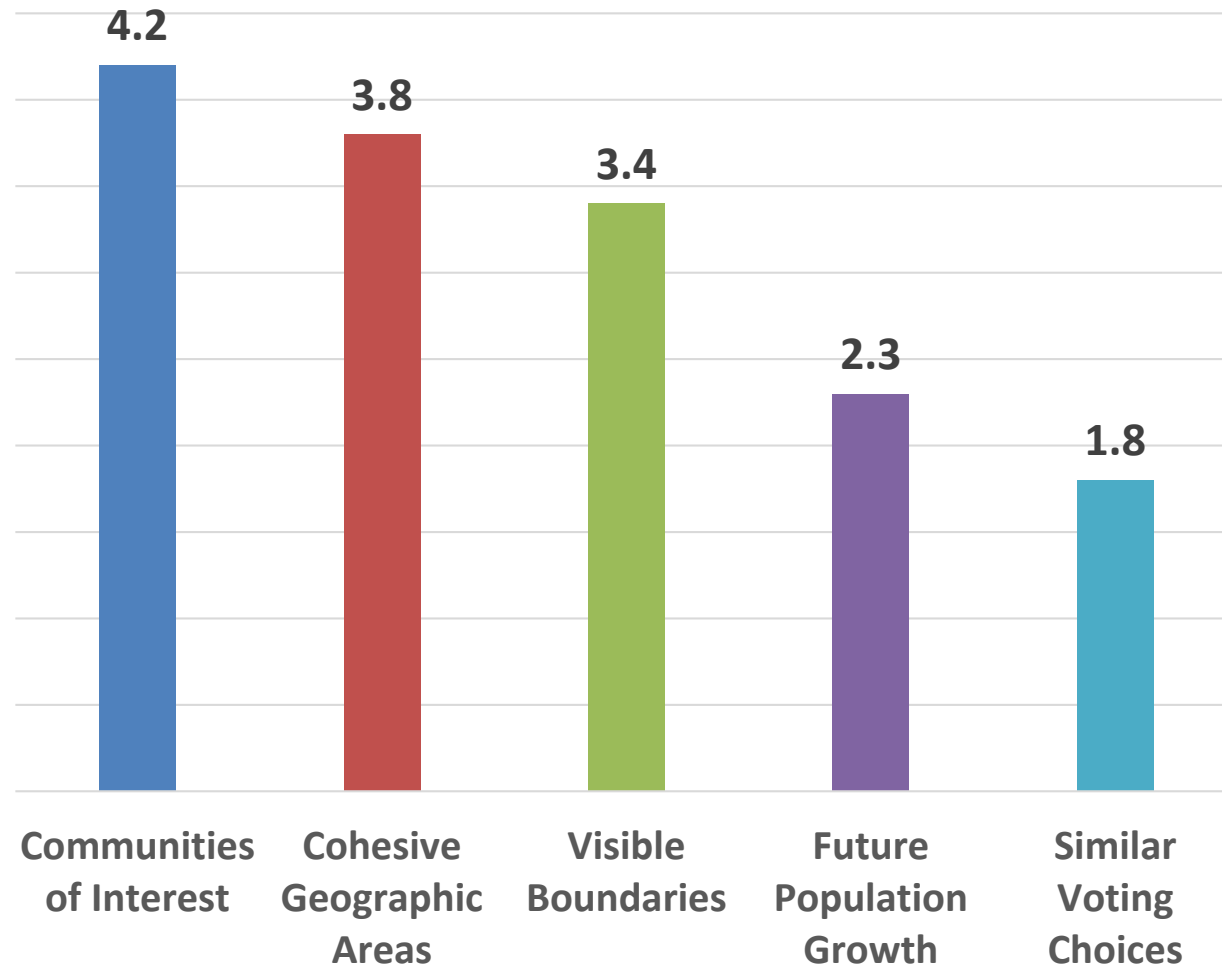
- » CVRA does not contain any districting criteria
- » Appears to protect minority voting influence
- » No case law defines "influence"
- » CVRA does not prohibit creation of "influence districts" if consistent with other principles (i.e. communities of interest, compactness, etc.)

Other Criteria Approved by Courts

- » Preventing head-to-head contests between incumbents, to the extent reasonably possible.
- » Respecting the boundaries of other political subdivisions (e.g., school attendance areas, etc.).
- » Use of whole census geography (e.g., census blocks).
- » Other non discriminatory considerations unique to the jurisdiction.

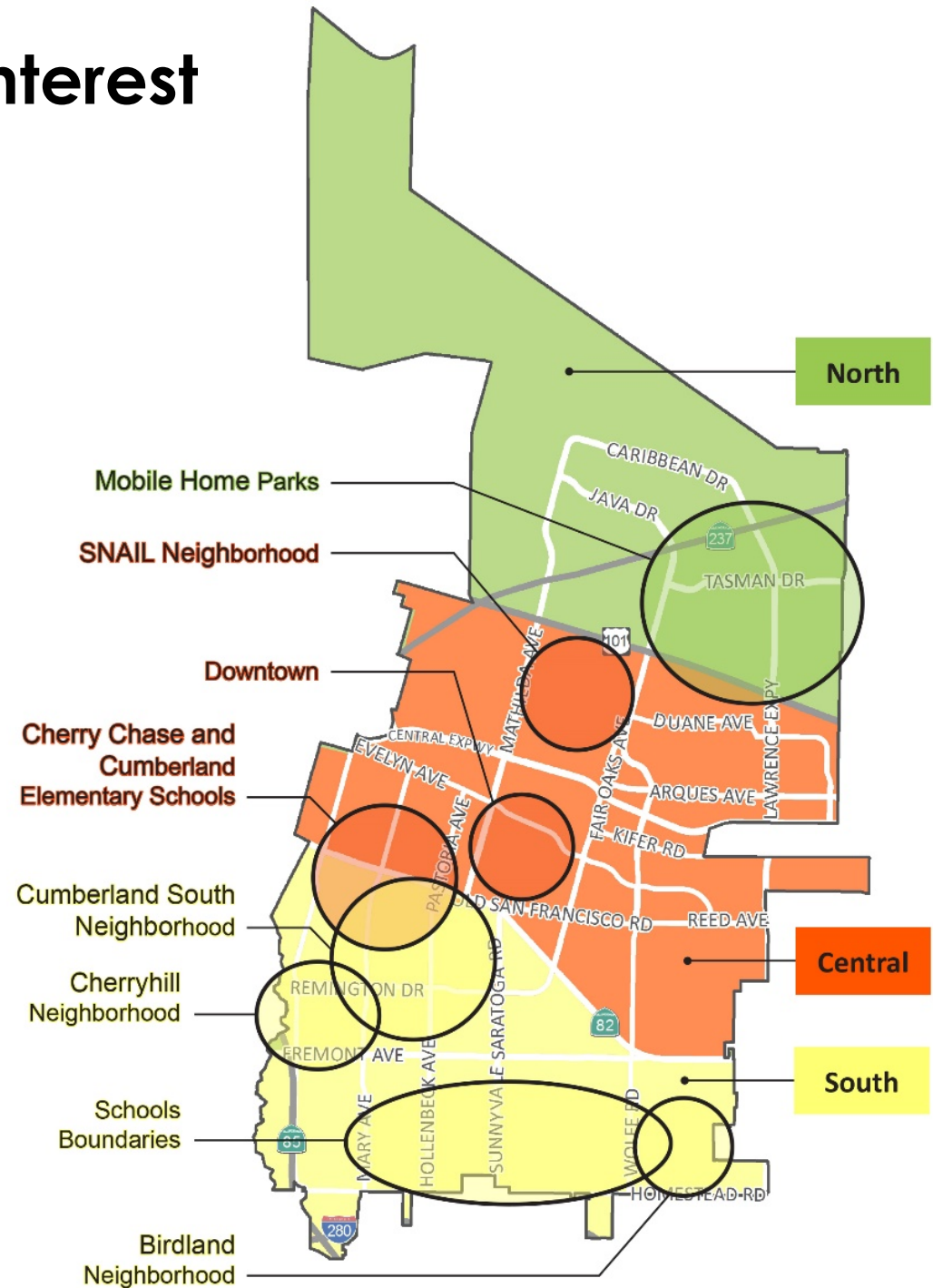
Public Input on District Boundary Criteria

- » Largest average ranking represents the most preferred choice
- » Most people prioritized:
 - Communities of Interest
 - Cohesive geographic areas
 - Visible boundaries
- » Limited interest in:
 - Future population growth
 - Similar voting choices



Sunnyvale's Communities of Interest

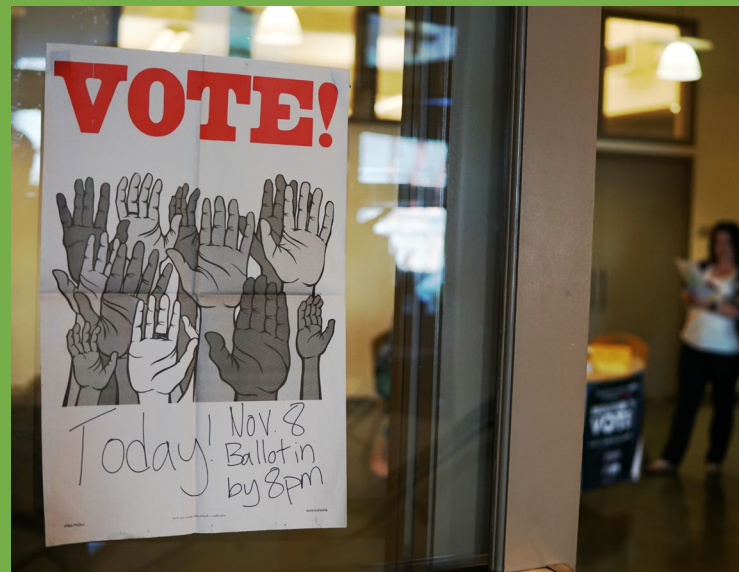
- Homeowners Associations (HOAs)
- Mobile Home Parks
- Residential Neighborhoods
- Physical boundaries
 - Across Highway 101
 - Fremont Avenue
 - Fair Oaks Avenue
- School Boundaries



Drawing the Lines: Draft Plans

- » An exercise in balancing criteria
- » More than one draft map is common – there is no one perfect map!
- » Draft maps are intended to be modified at the discretion of the City Council considering public comment and the Council's own knowledge of the City.





City Council Election System Changes Project

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