# Special Master's Recommended Plan for the North Carolina Senate and House of Representatives



Case 1:15-cv-00399-TDS-JEP Document 239 Filed 01/05/18 Page 1 of 49

# The Court's November 1st Order and the Role of the Special Master

Directed to solve two legal problems:

1. 14th Amendment (*Shaw v. Reno)* violation in 2017 Senate Districts 21 and 28 and 2017 House Districts 21 and 57.

2. State constitutional violation in Mecklenburg and Wake Counties related to redistricting more than once a decade.

# Identified Legal Violations in Court Order

**"Among other concerns, some or all of the proposed remedial districts preserve the core shape of the unconstitutional version of the district, divide counties and municipalities along racial lines, and are less compact than their benchmark version. In some cases, the General Assembly's use of incumbency and political data in drawing its proposed remedial districts embedded, incorporated, and perpetuated the impermissible use of race that rendered unconstitutional the 2011 districts."**

* * *

"The Court further has serious concerns that the 2017 redrawing of 2011 Enacted House Districts 36, 37, 40, and 41 in Wake County and House District 105 in Mecklenburg County exceeded the authorization to redistrict provided in the Court's previous orders."

November 1 Order at 2.

# Principles Guiding the Plan

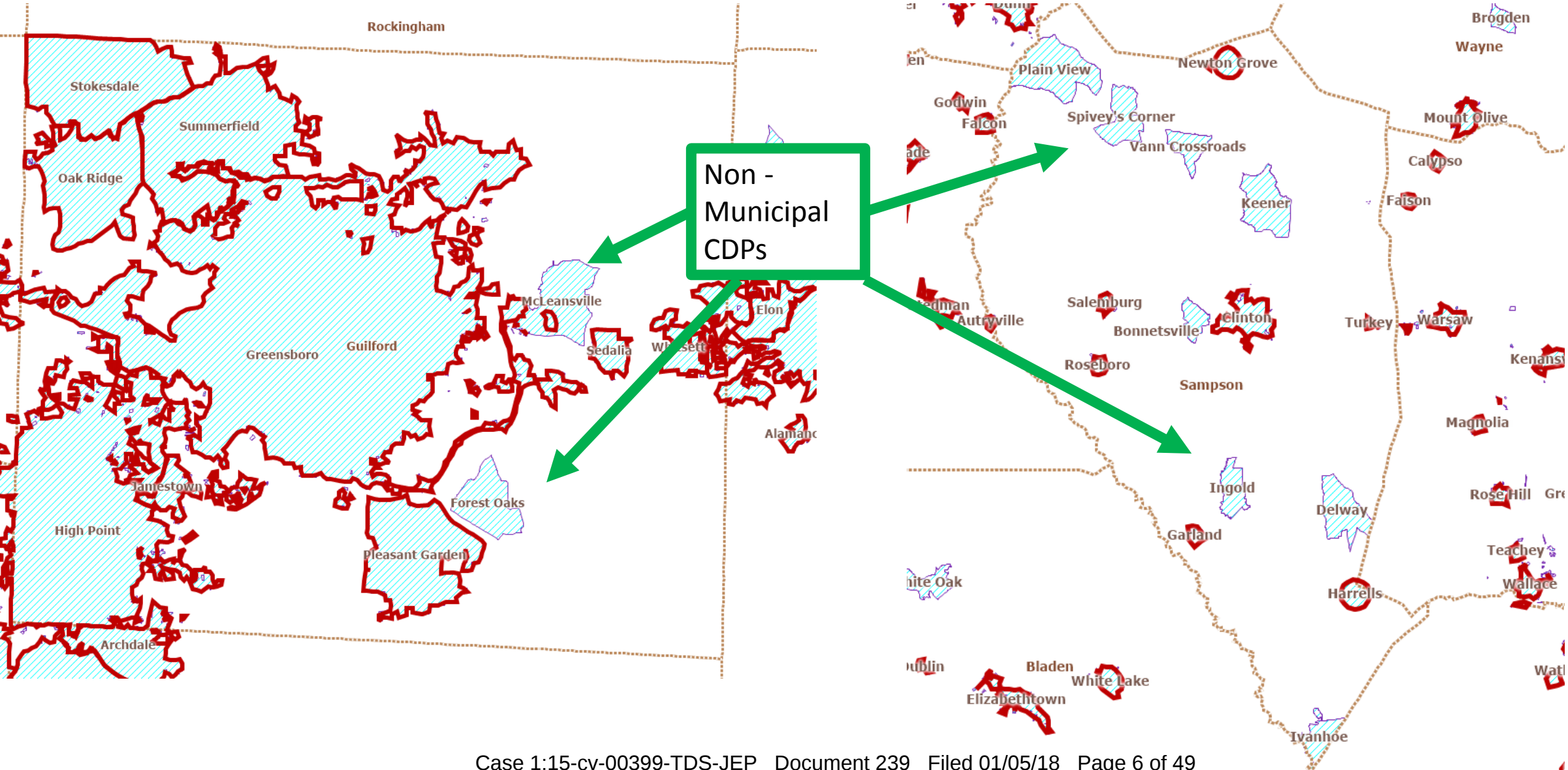
- **Constitutional**
    - One person, one vote.
    - *Shaw v. Reno* and its progeny.
    - North Carolina Constitution's Whole County provision.
- **Court-Ordered**:
    - Only redraw districts adjoining "Subject" districts.
    - Adhere to the county groupings of the 2017 plan.
    - "Make reasonable efforts to follow state policy objectives":
        - **Keep precincts whole** -- Split fewer precincts than the 2011 Enacted Districts.
        - **Compactness –** Draw districts that are more compact than the 2011 Enacted Districts, using as a guide the minimum *Reock* ("dispersion") and *Polsby-Popper* ("perimeter") scores.
        - Consider **municipal boundaries** and **precinct lines**.
    - **Prohibited**
        - Consideration of election results.
        - Incumbency beyond unpairing after the fact.

# Respecting Municipal Boundaries

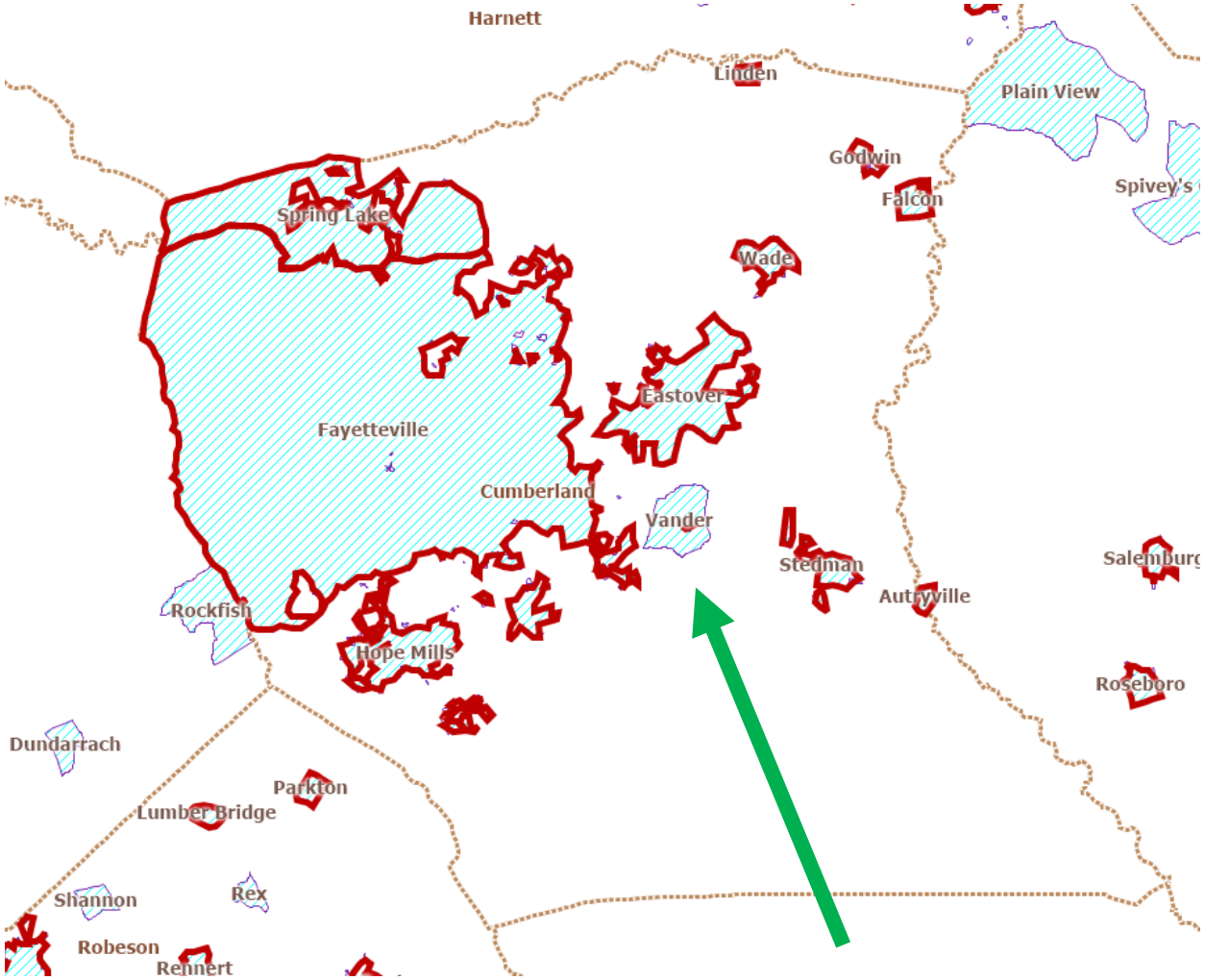
- Court Order recommends that Special Master's Plan "consider municipal boundaries and precinct lines."
- CDPs v. Municipalities
  - The Census Designated Place file include cities, towns, villages, as well as other census designated areas.
  - Recommended Plan reported  all splits; splits solely of municipalities reveal the same patterns.
  - The only Municipalities/CDPs of consequence for the Recommended Plan are also municipalities – no district boundaries were drawn to respect non-municipal CDPs.
  - Report notes impact of municipal boundaries on Recommended House and Senate plan for Greensboro districts and Recommended House District 22 (respecting boundaries of Clinton).

## Guilford County
## CDPs and Municipalities

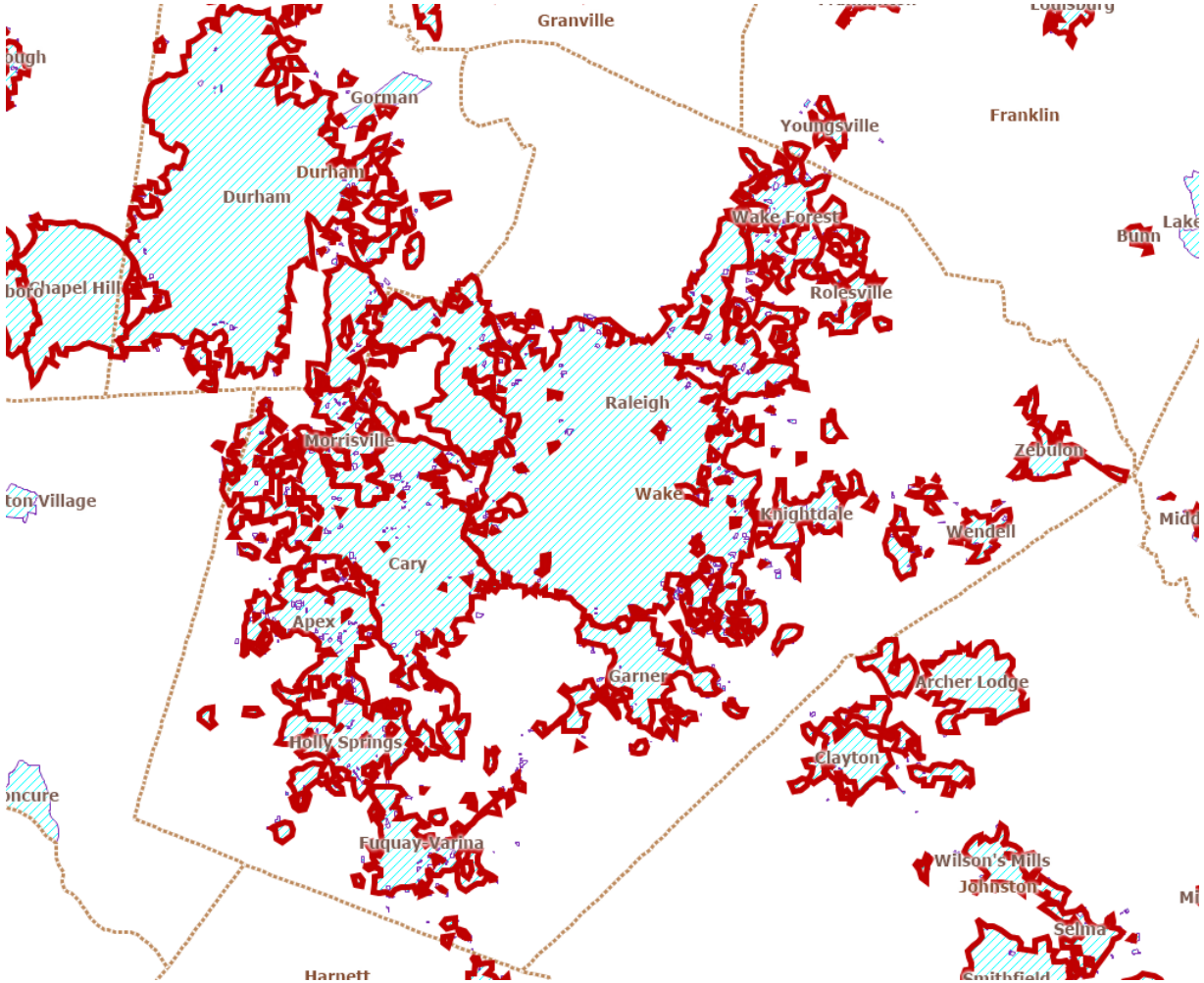
## Sampson County
## CDPs and Municipalities



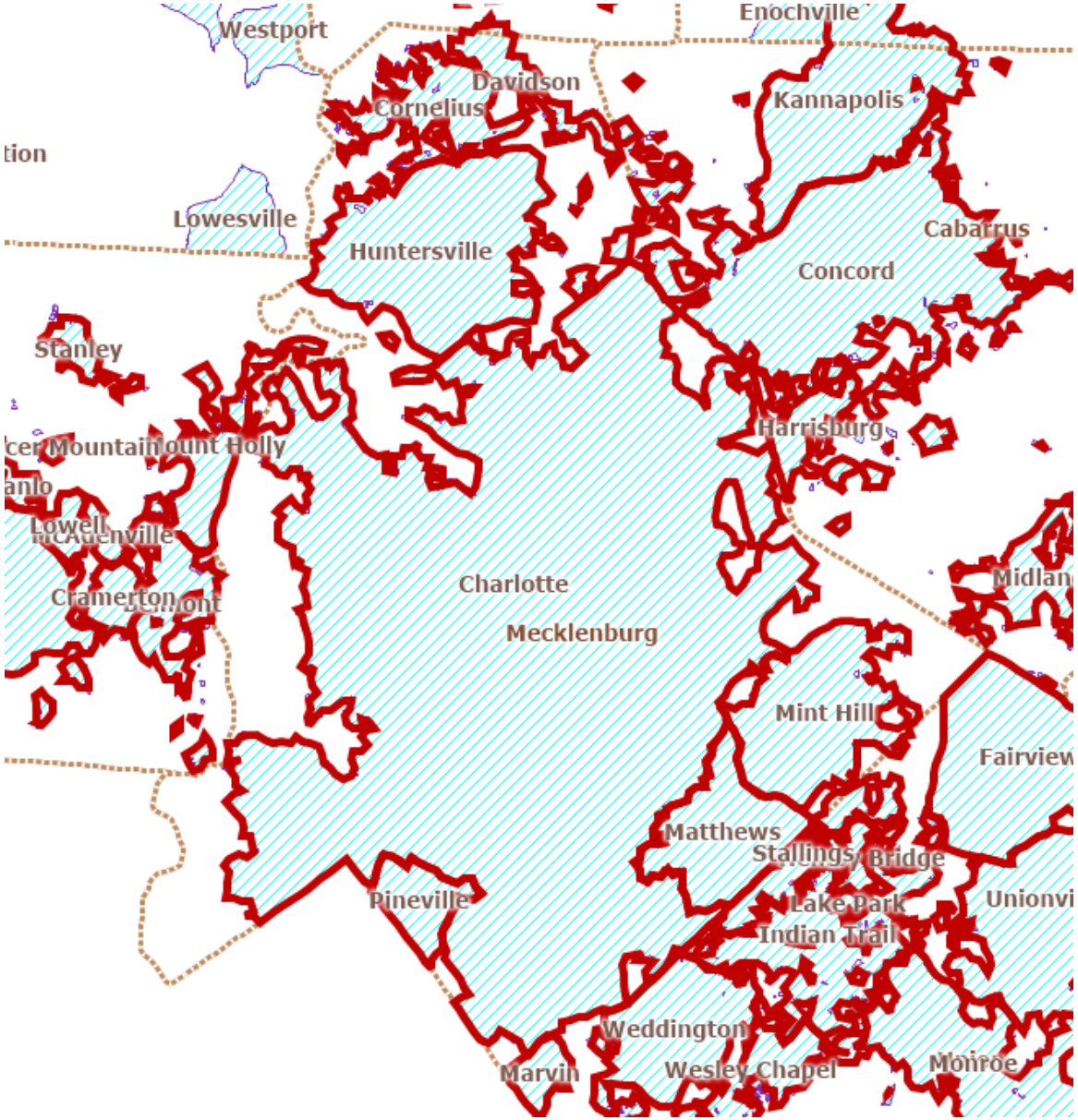
## Cumberland County
## CDPs and Municipalities




## Wake County
## CDPs and Municipalities



# Mecklenburg County
# CDPs and Municipalities



# Compactness

Court's November 1st Order at 7:

> "Draw districts that are more compact than the 2011 Enacted Districts, using as a guide the minimum Reock ("dispersion") and Polsby-Popper ("perimeter") scores identified by Richard Pildes & Richard Neimi, *Expressive Harms, "Bizarre Districts," and Voting Rights: Evaluating Election-District Appearances After Shaw v. Reno*, 92 Mich. L. Rev. 483 (1993)."

# Where the Court's Compactness Measures Come From…

"Compactness: The Committees shall make reasonable efforts to draw legislative districts... that improve the compactness of the current districts. In doing so, the committees may use as a guide the minimum Reock ("dispersion") and Polsby-Popper ("perimeter") scores identified by Richard H. Pildes and Richard G. Neimi in *Expressive Harms, "Bizarre Districts," and Voting Rights: Evaluating Election-District Appearances After Shaw v Reno,* 92 Mich.L.Rev. 482 (1993)." The Joint Committee adopted this criterion . . .

When asked by members of the Democratic Party why these two methods, Representative Lewis pointed out that "these are the two best-known....best understood...two that the courts have referred to."

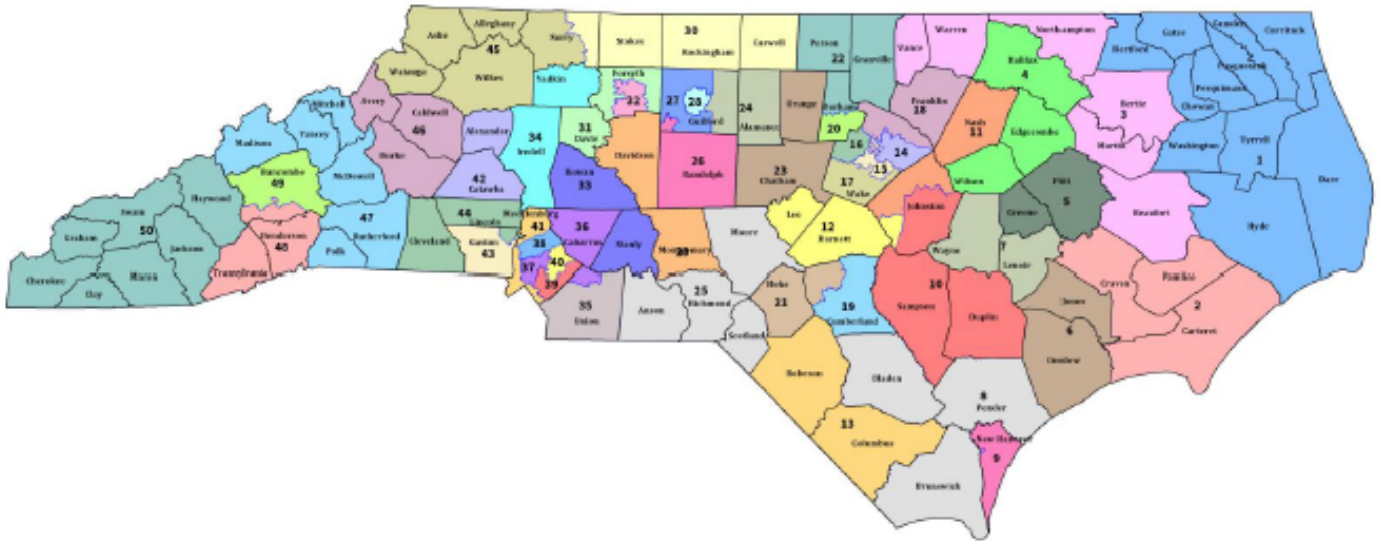
- ECF Doc 192 at page 8-9

# Overview of 2017 Enacted Districts and Plaintiffs' Proposed Plan

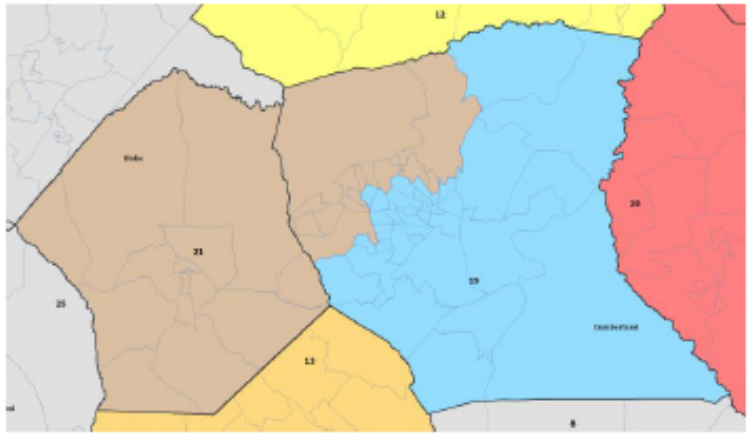
- **2017 Enacted Districts**
  - Court Order identified districts as racial gerrymanders.
  - "Subject Districts" did, in fact, closely track African American populations and exclude white populations in certain areas.
  - However, Special Master did not make independent legal findings related to the districts (apart from those contained in the Court order).

- **Plaintiffs Proposed Plan**
  - Court expressed concern that Plaintiffs' plan was tainted by political motivation.
  - Went beyond Court's requirement that only districts adjoining Subject Districts be redrawn.
  - A plan could be drawn with
    - More compact districts
    - Greater adherence to municipal lines

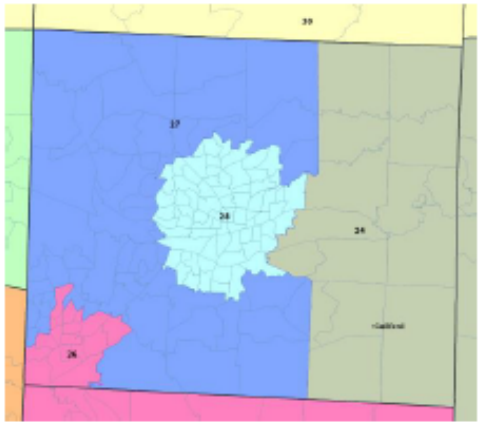
## North Carolina Senate Special Master's Recommended Plan



Cumberland and Hoke Counties

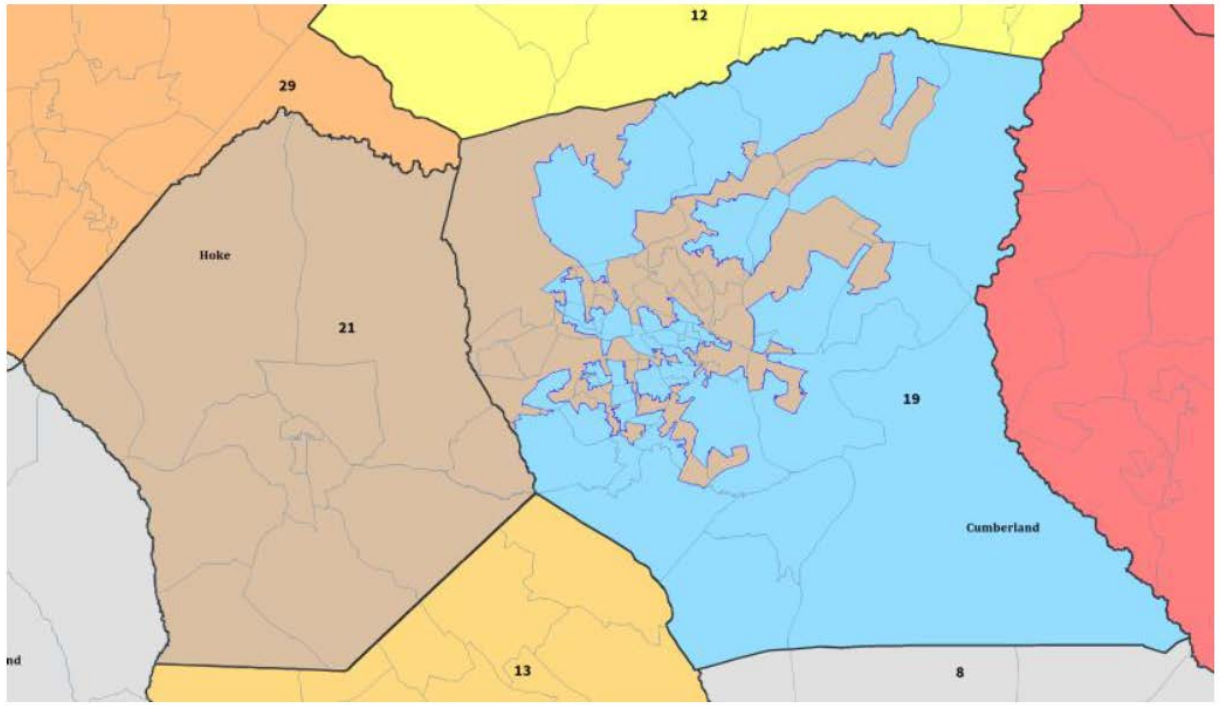


Guilford County

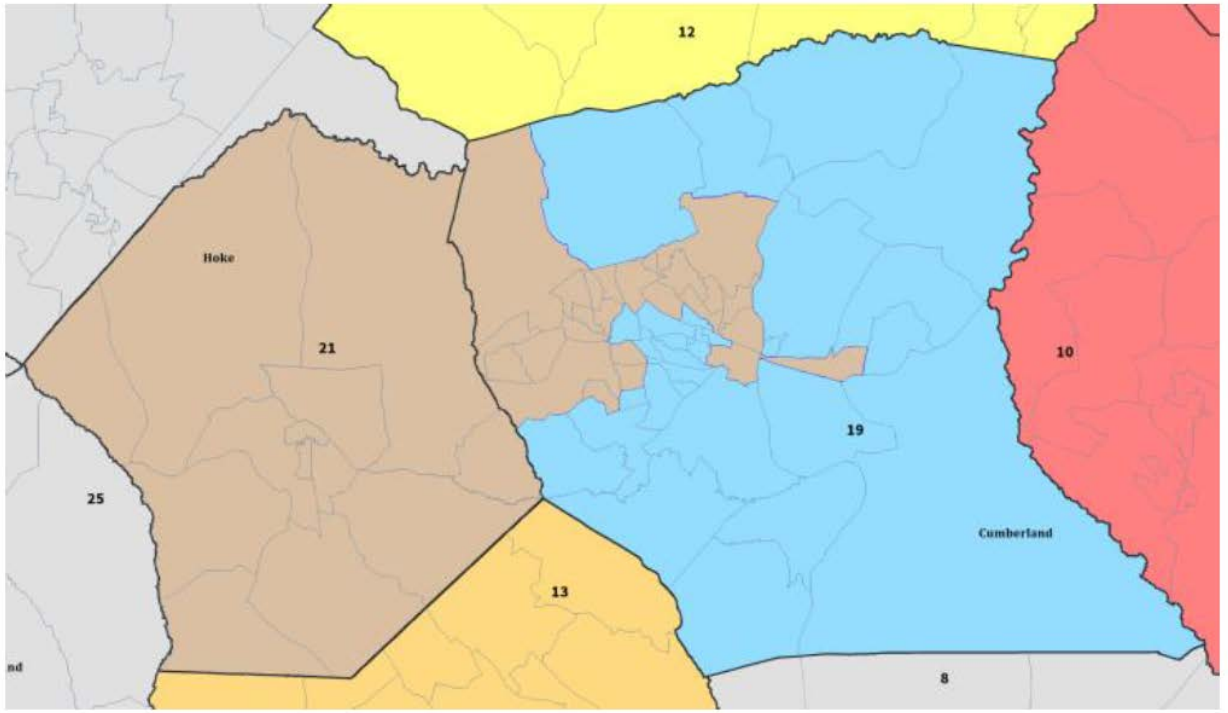


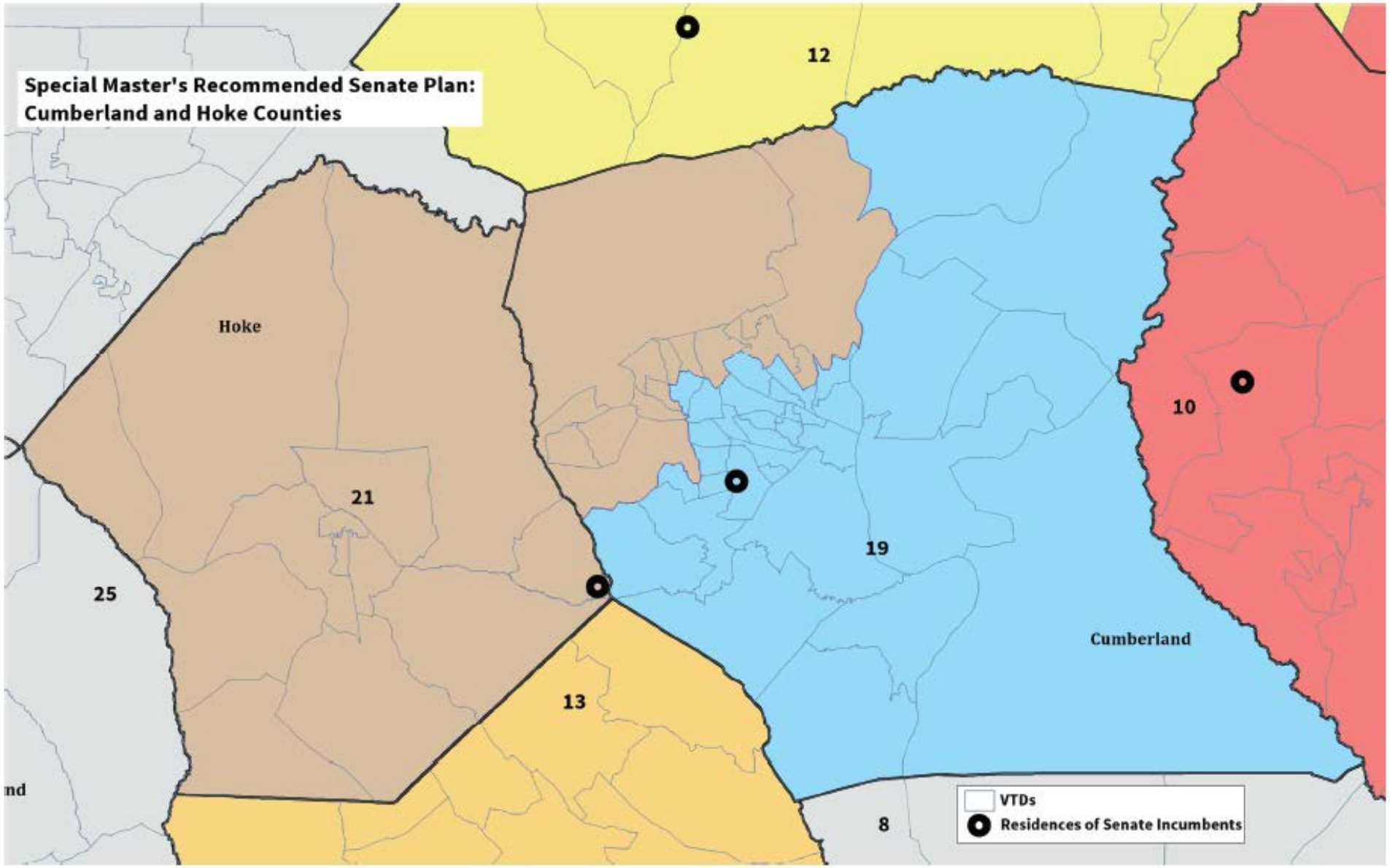
# Senate Districts 19 and 21

2011 Plan




2017 Plan




Special Master's Recommended Senate Plan:
Cumberland and Hoke Counties
12
Hoke
21
25
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19
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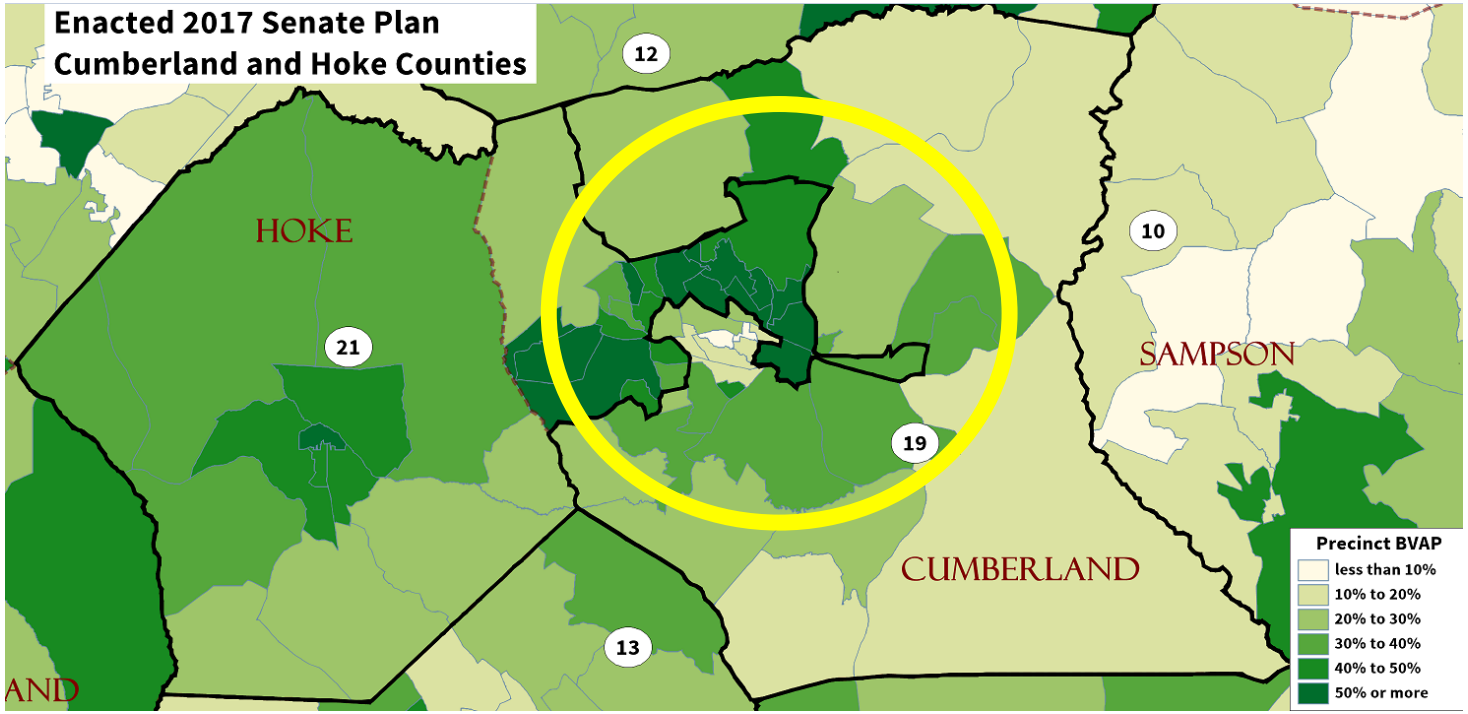
Cumberland
8
VTDs
Residences of Senate Incumbents


Enacted 2017 Senate Plan
Cumberland and Hoke Counties
12
HOKE
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SAMPSON
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CUMBERLAND
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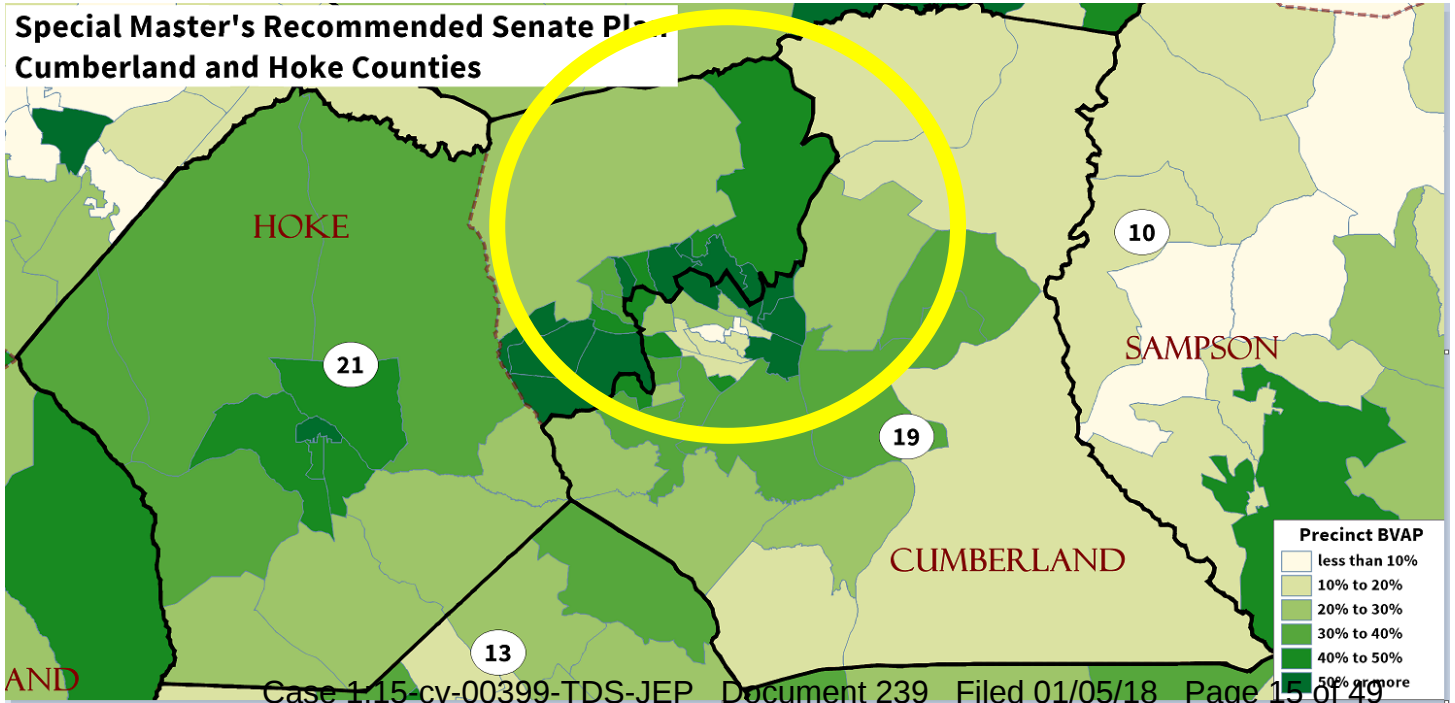
AND
Precinct BVAP
less than 10%
10% to 20%
20% to 30%
30% to 40%
40% to 50%
50% or more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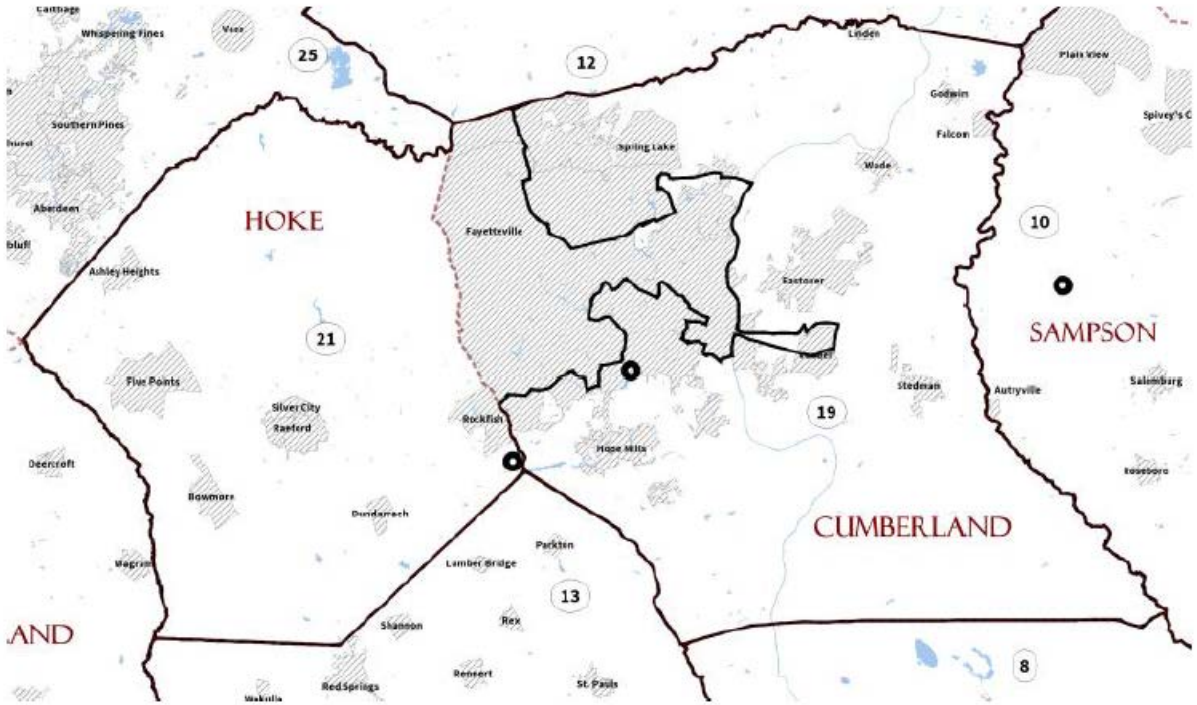
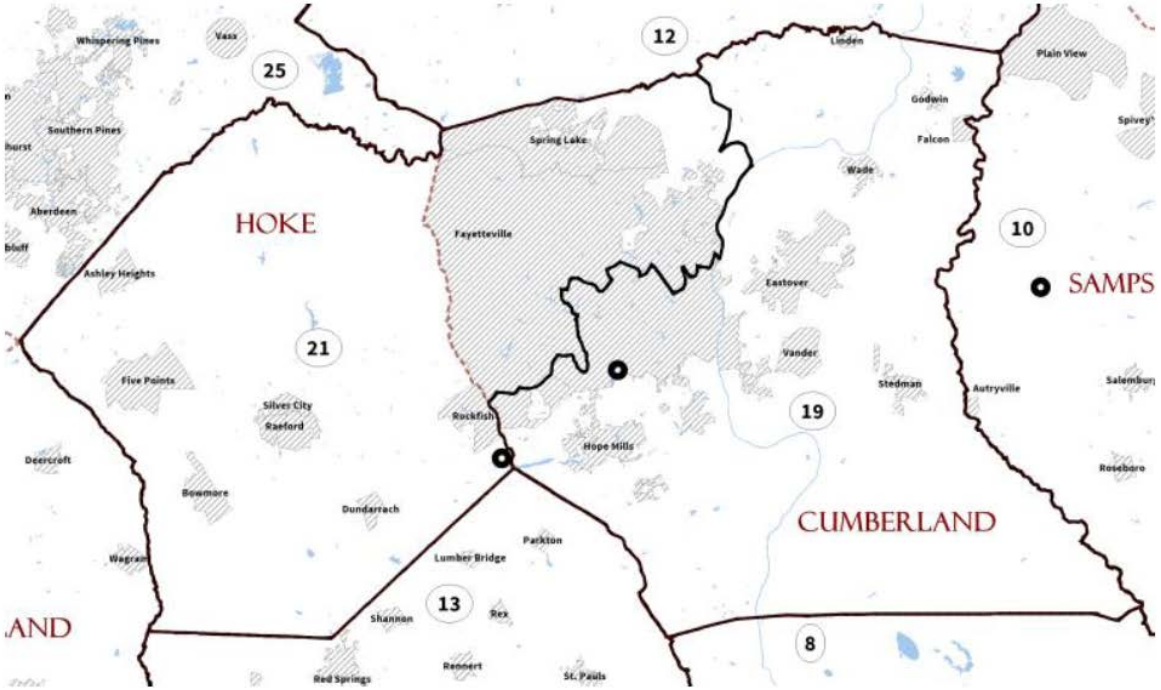
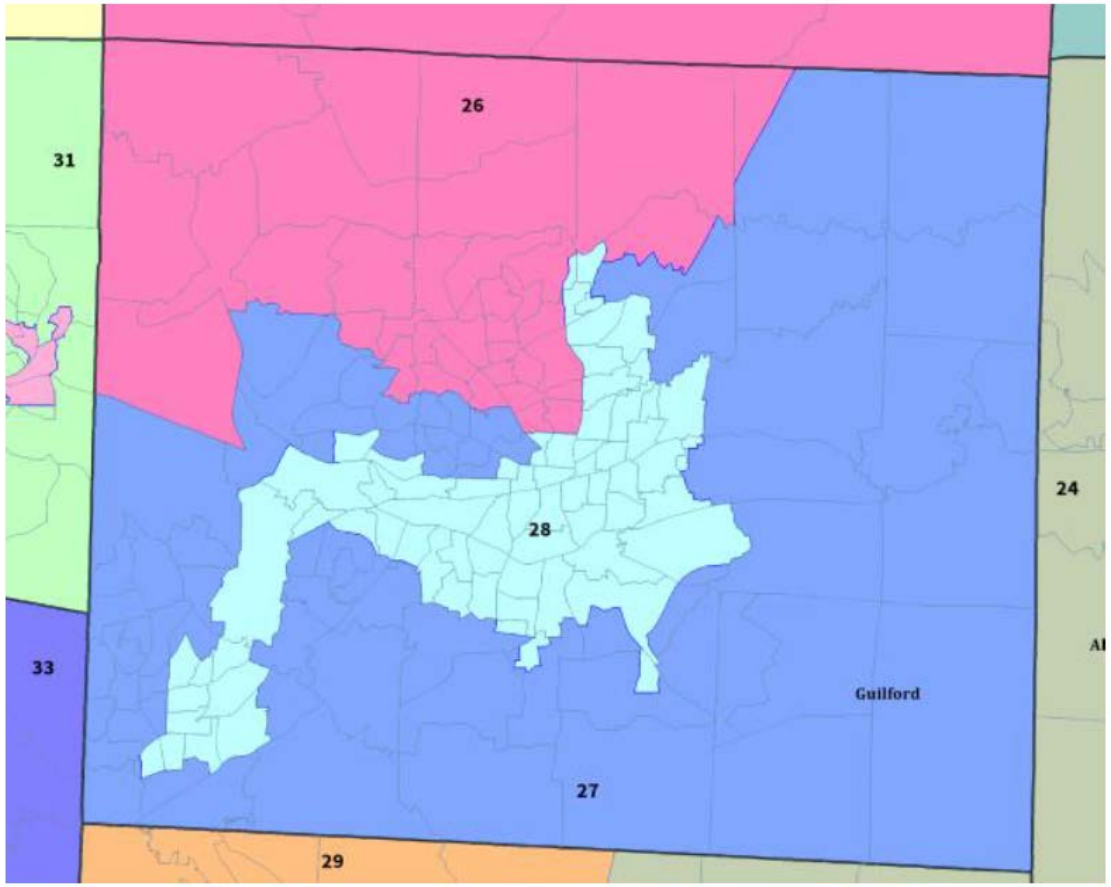
## 2017 Plan

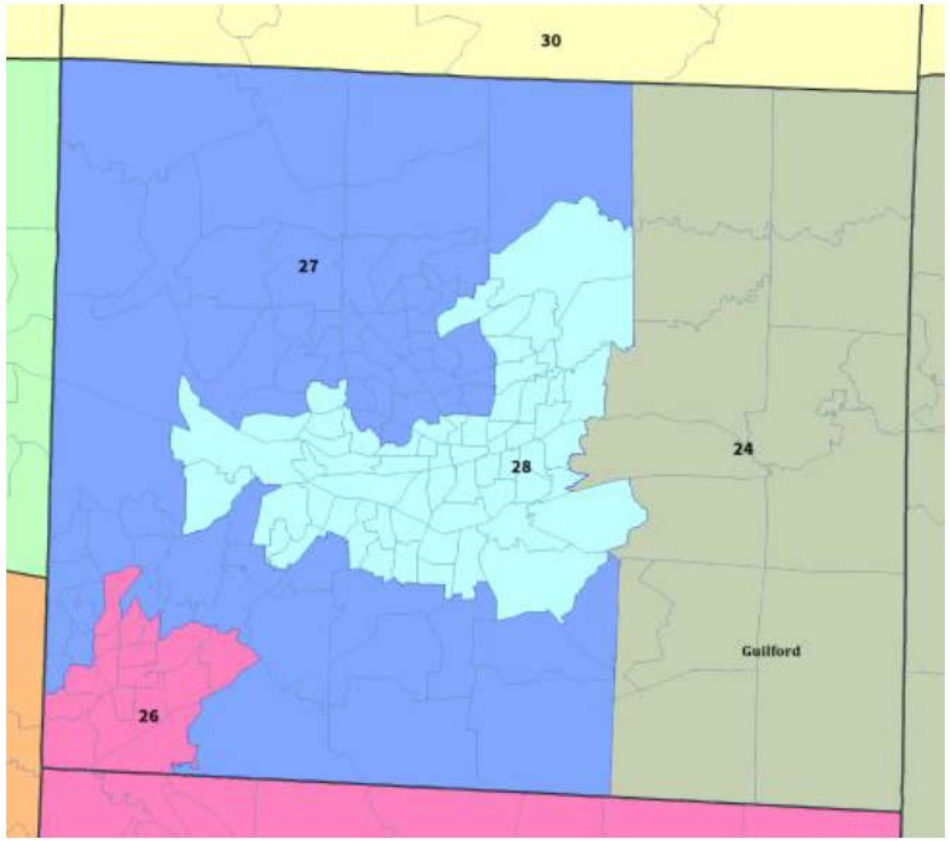


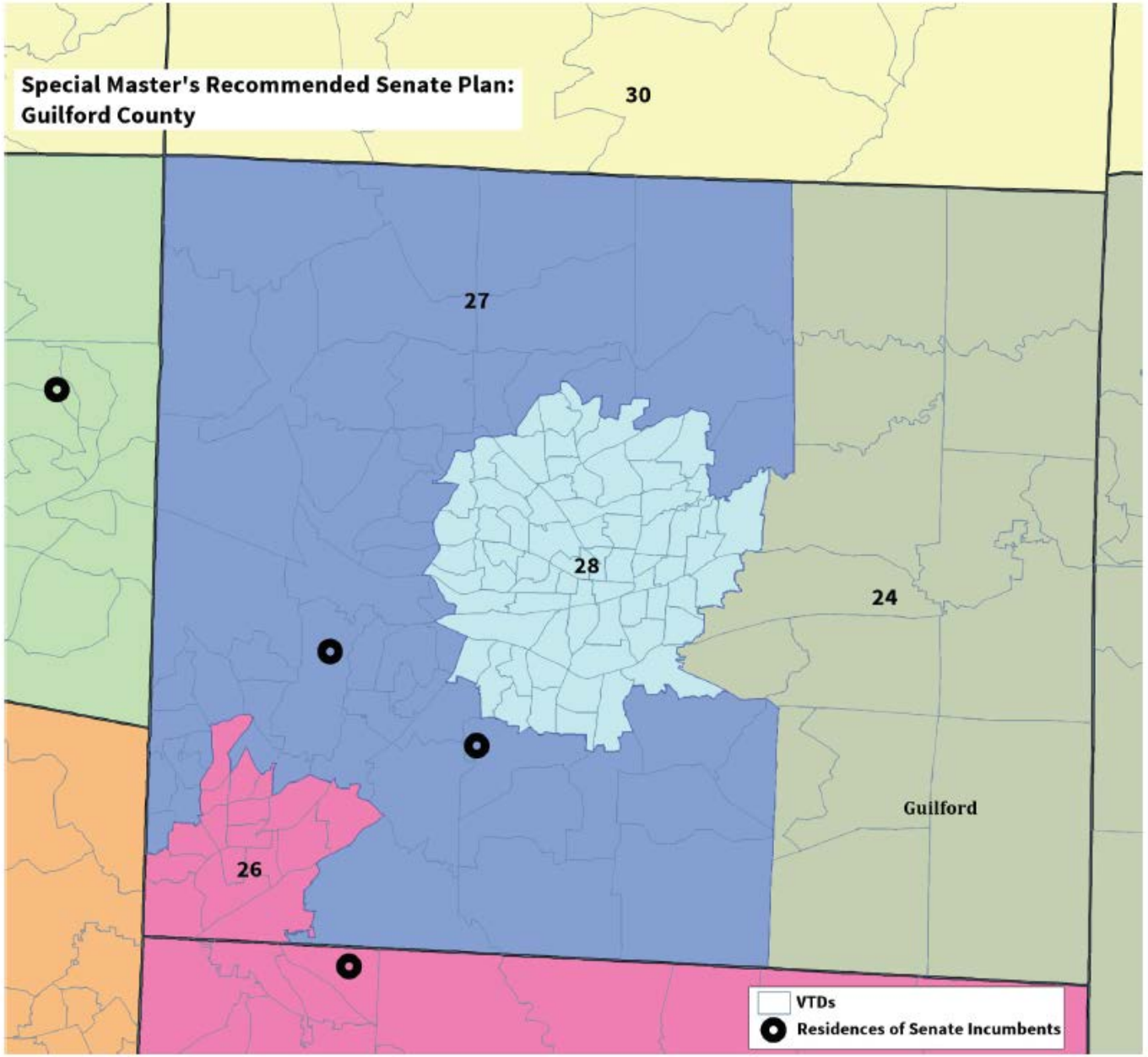

## Special Master's Recommended Plan



# Guilford County Senate Districts Enacted 2011 and 2017

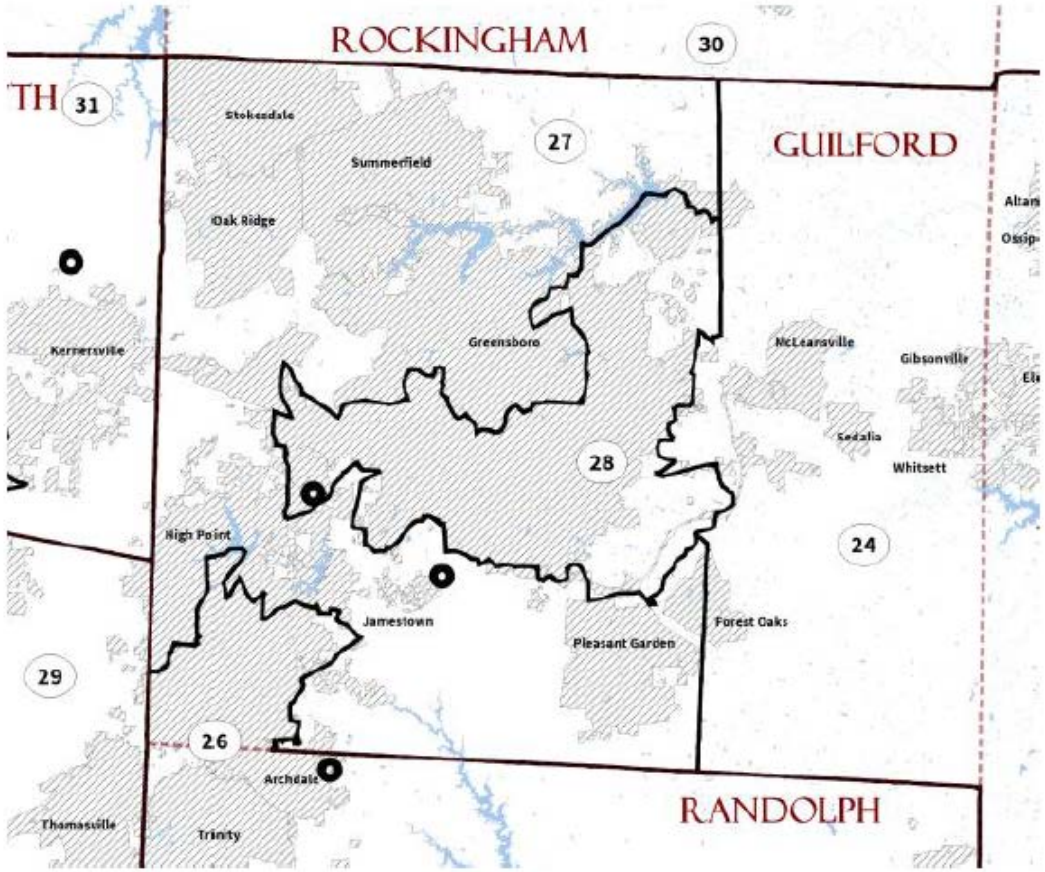


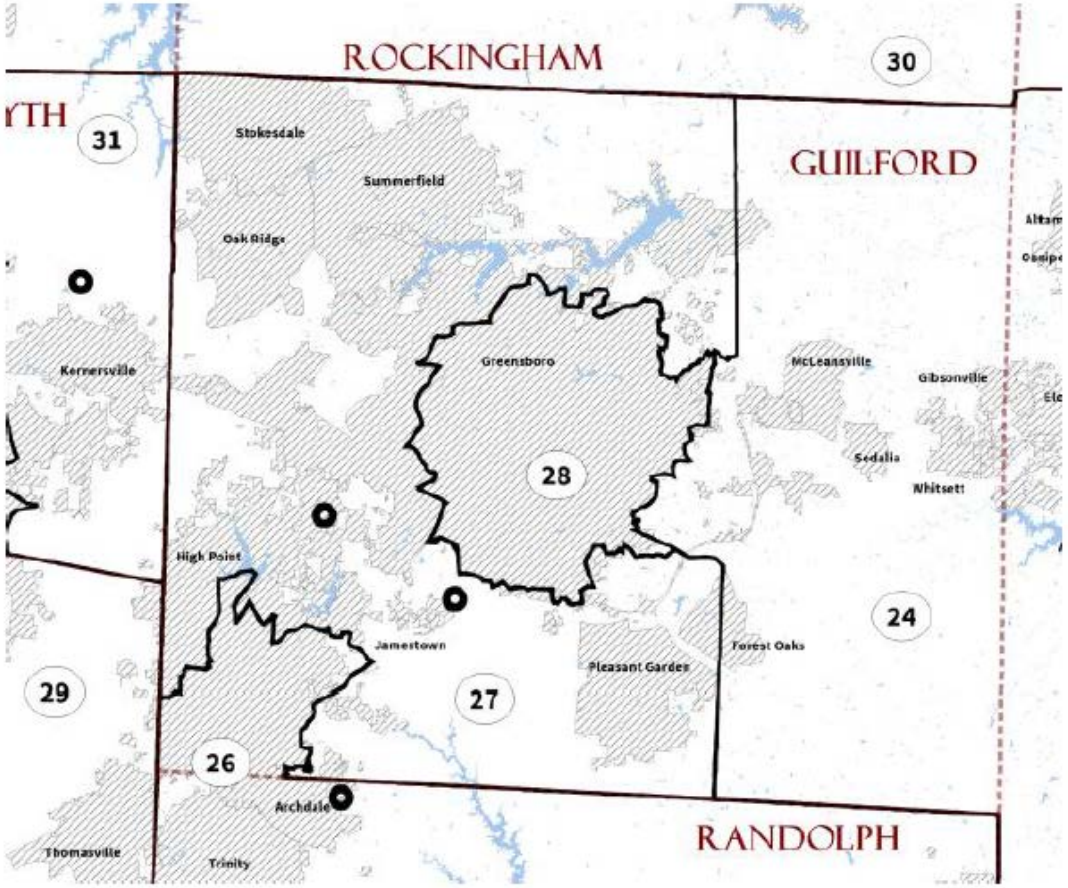

Special Master's Recommended Senate Plan:
Guilford County
30
27
28
24
Guilford
26
VTDs
Residences of Senate Incumbents

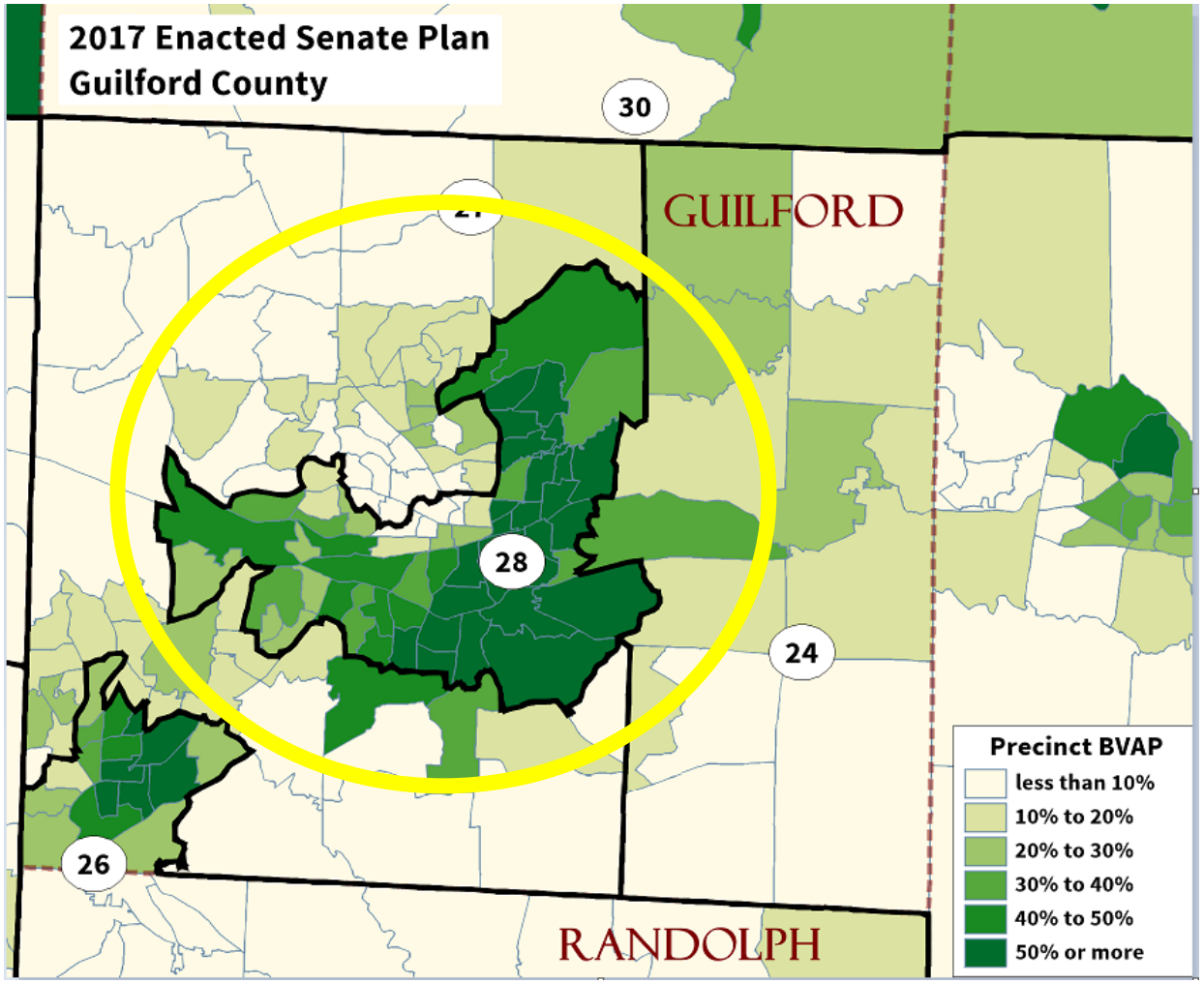
# Consideration of Municipal Boundaries

## 2017 Plan




## Special Master's Recommended Plan

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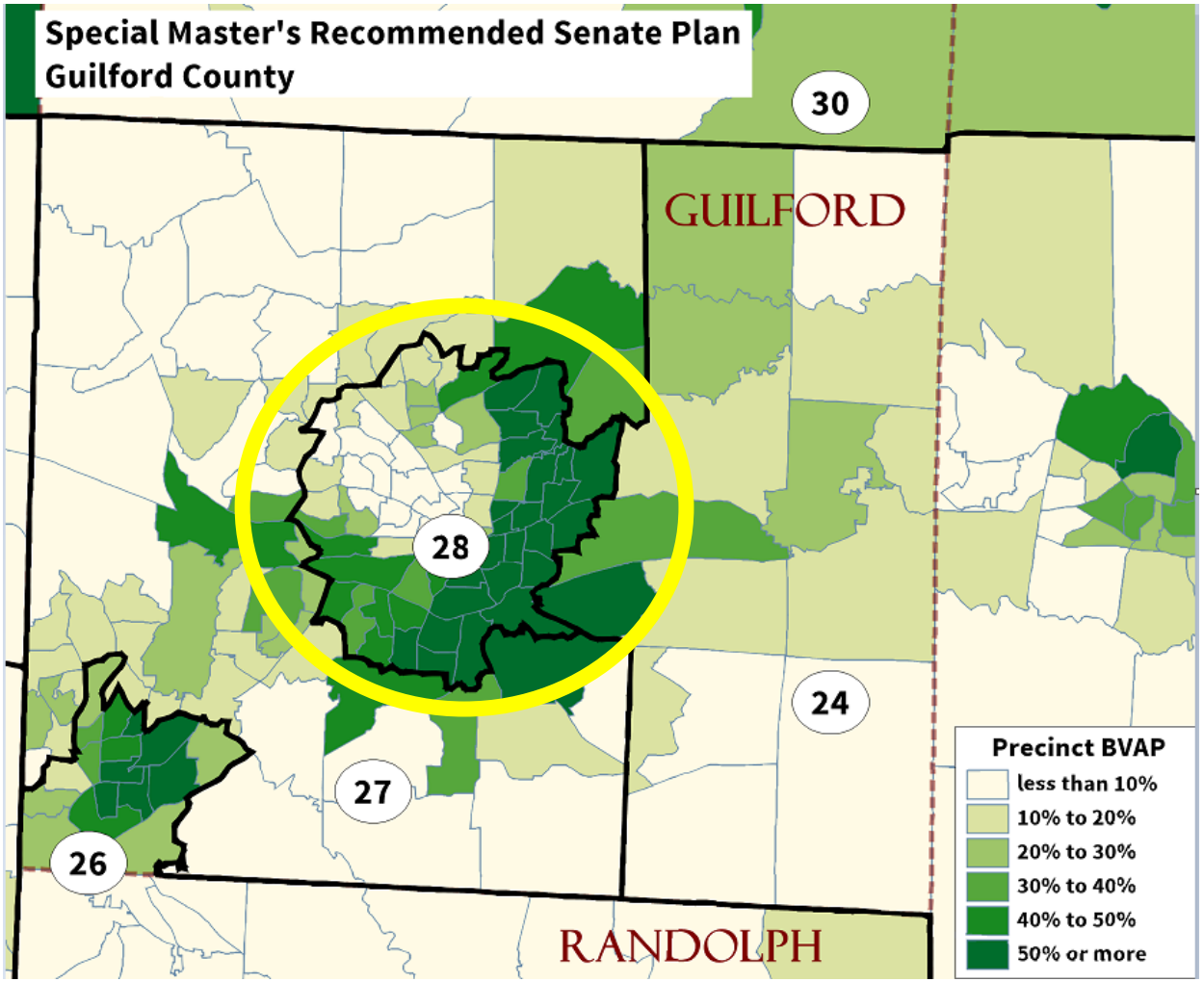
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28
24
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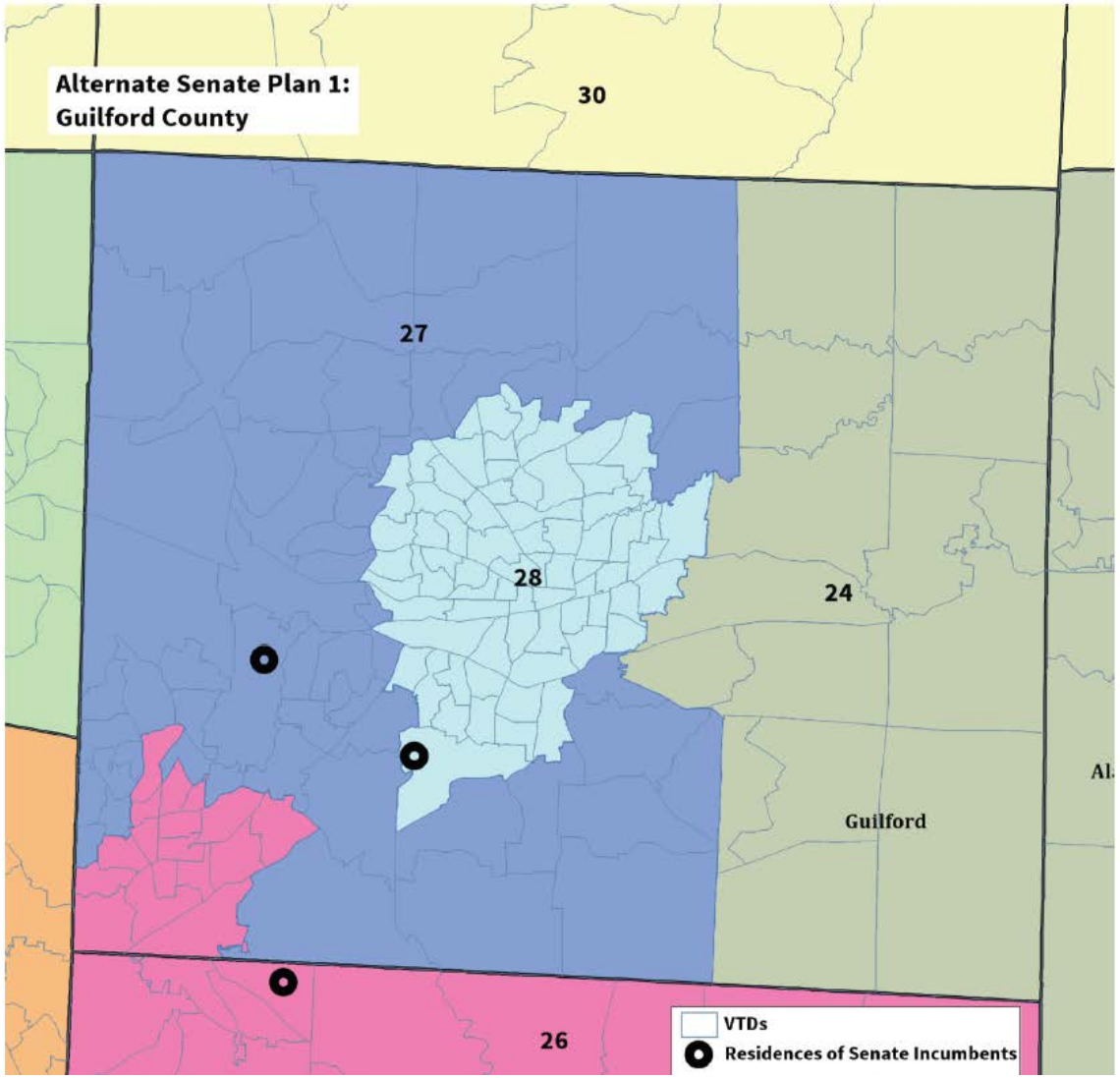
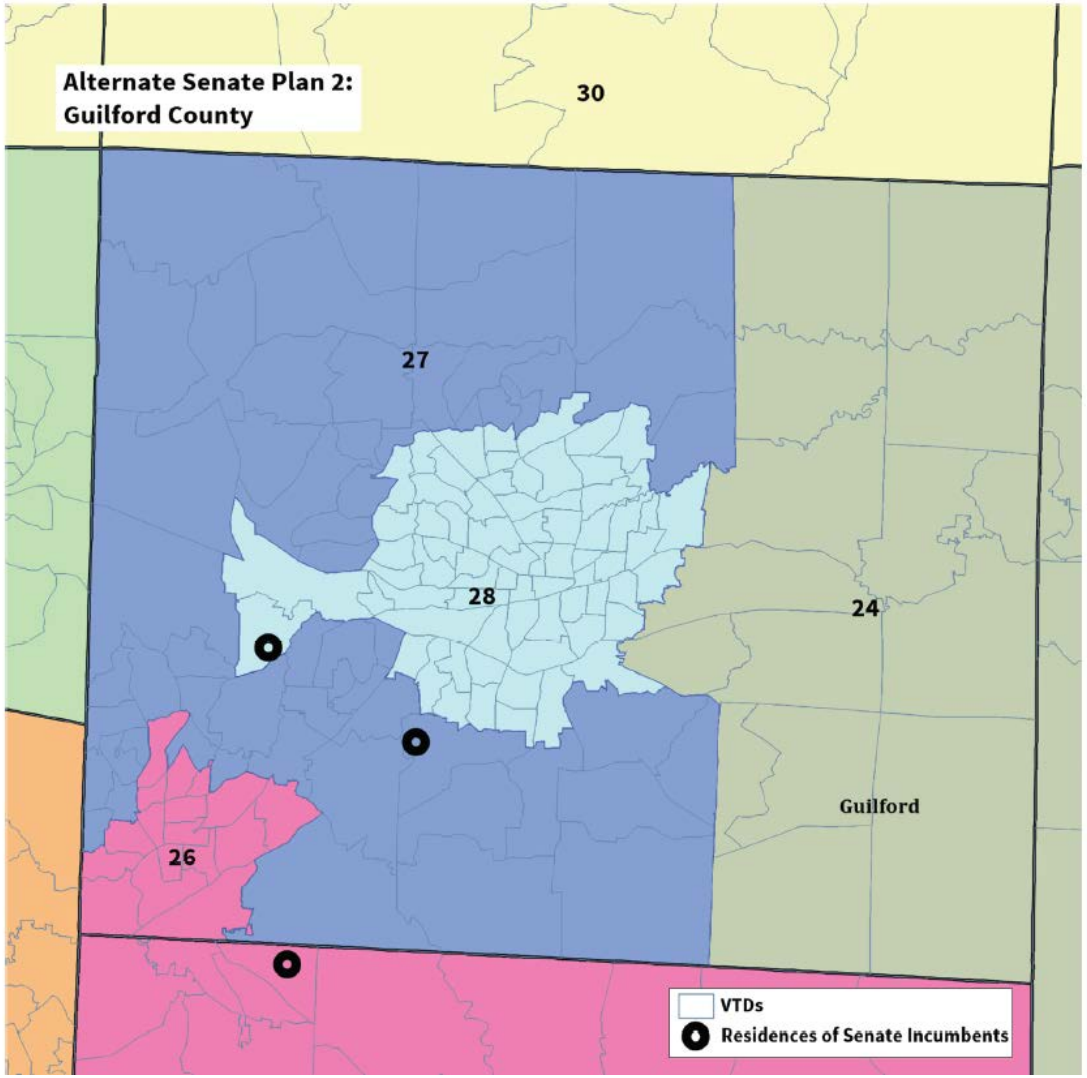
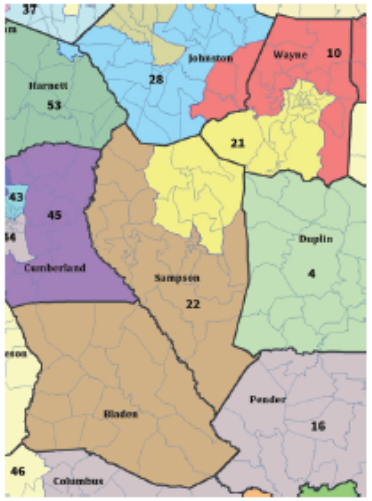
# Alternatives to Deal with Incumbent Pairing



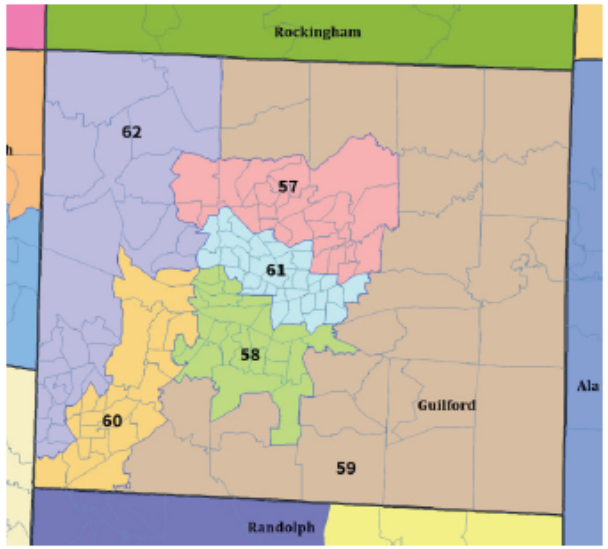



# North Carolina House Special Master's Recommended Plan

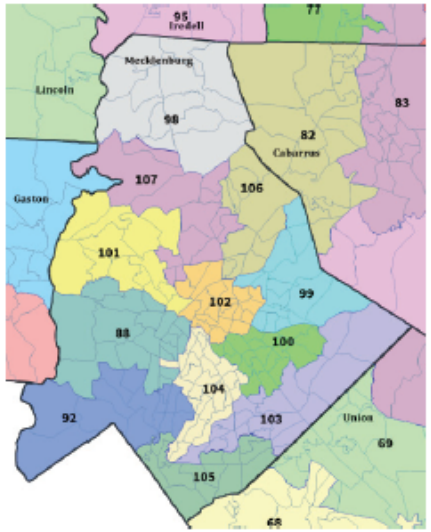
## Bladen, Sampson and Wayne Counties



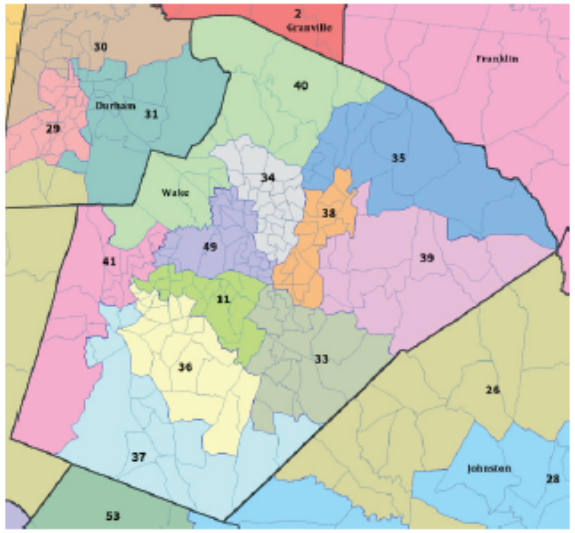

## Guilford County



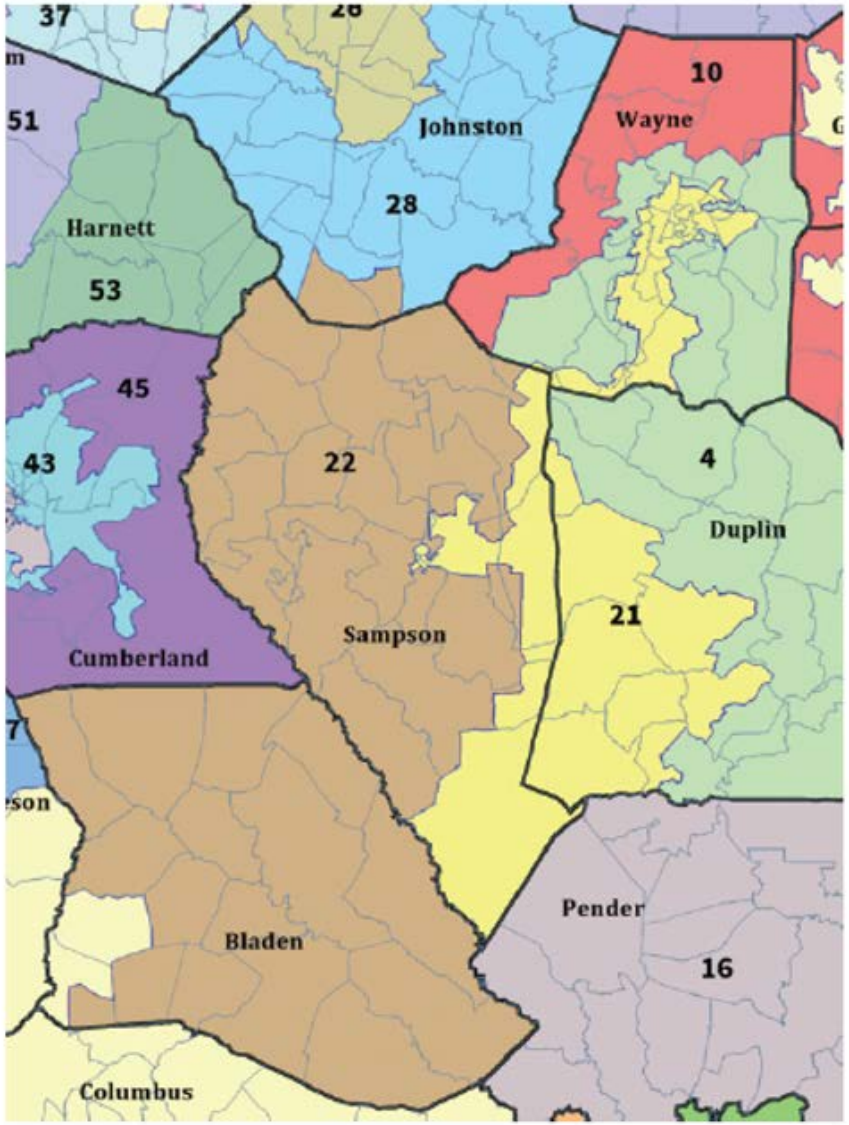

## Mecklenburg County

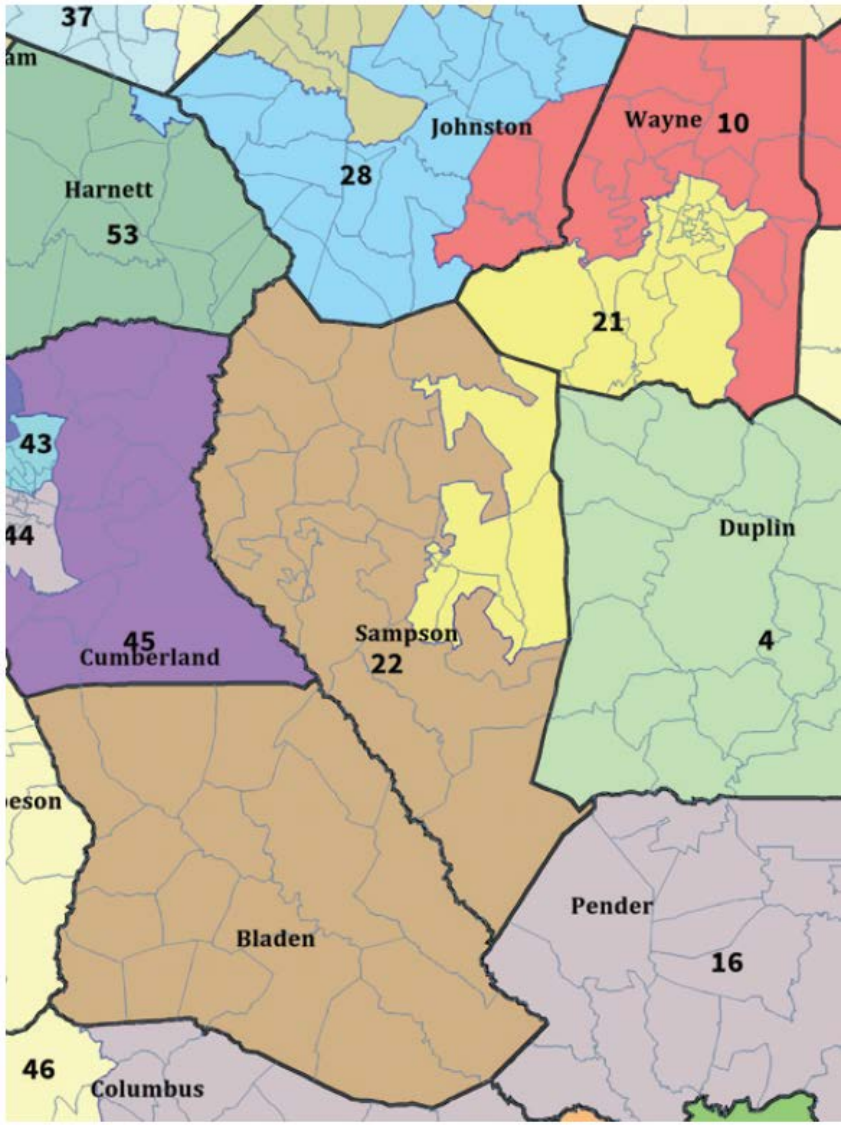


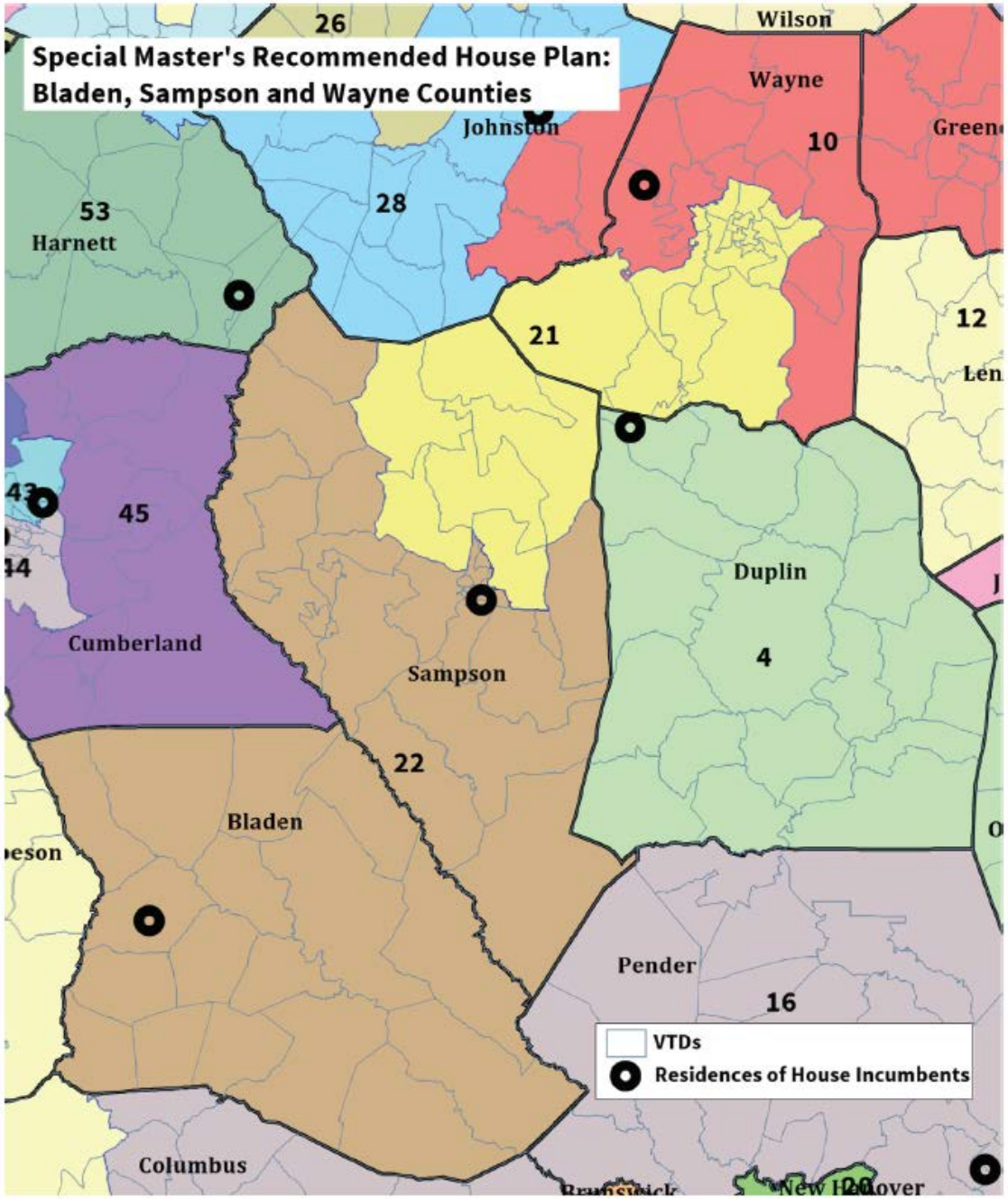

## Wake County



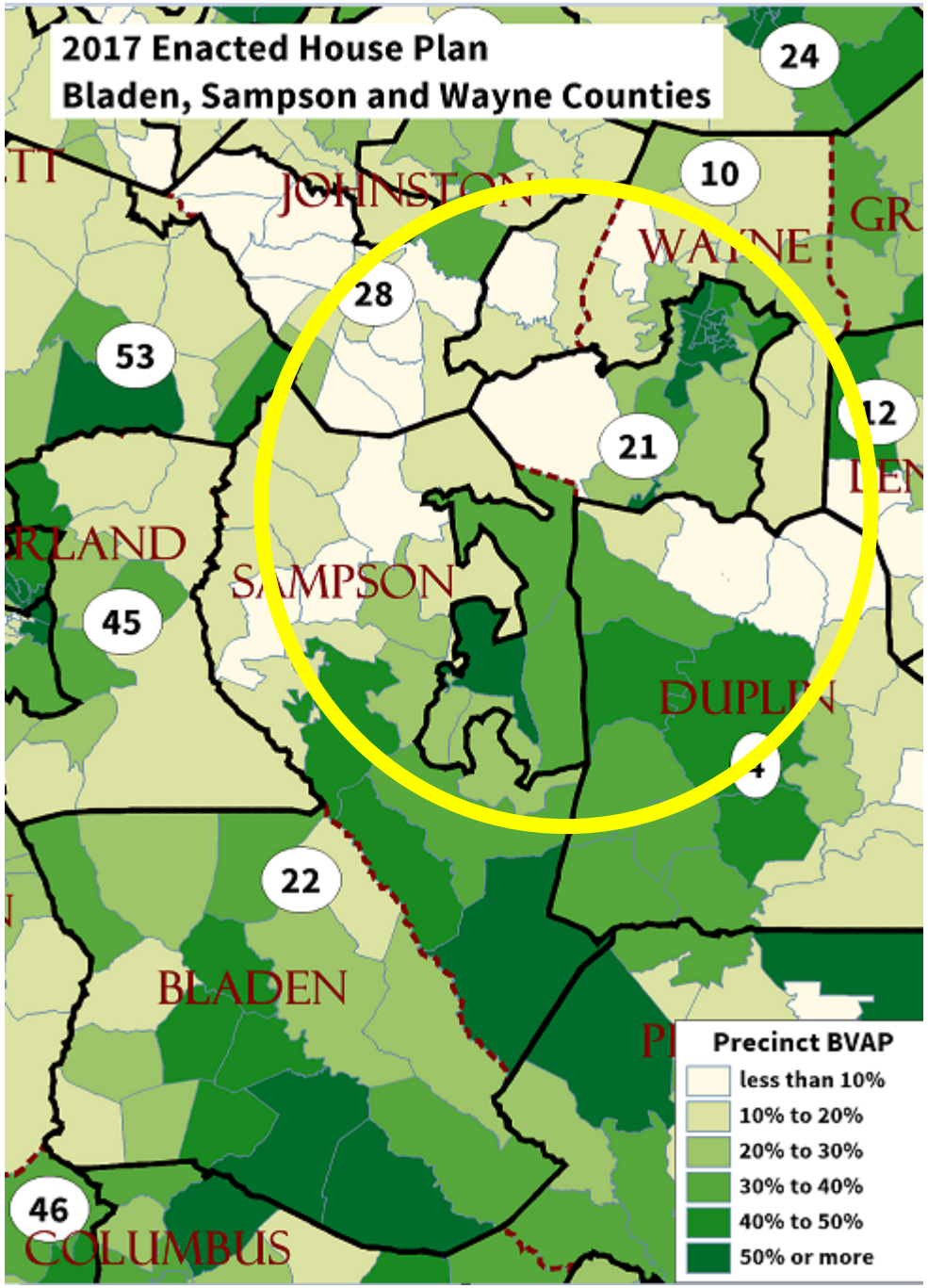
# House Districts 21 and 22
# 2011 and 2017






*District altered from Draft Plan in response to Defendants' objections to reduce number of split precincts in Sampson.


2017 Enacted House Plan
Bladen, Sampson and Wayne Counties
24
10
JOHNSTON
WAYNE
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53
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12
SAMPSON
45
DUPLIN
4
22
BLADEN
46
COLUMBUS
Precinct BVAP
less than 10%
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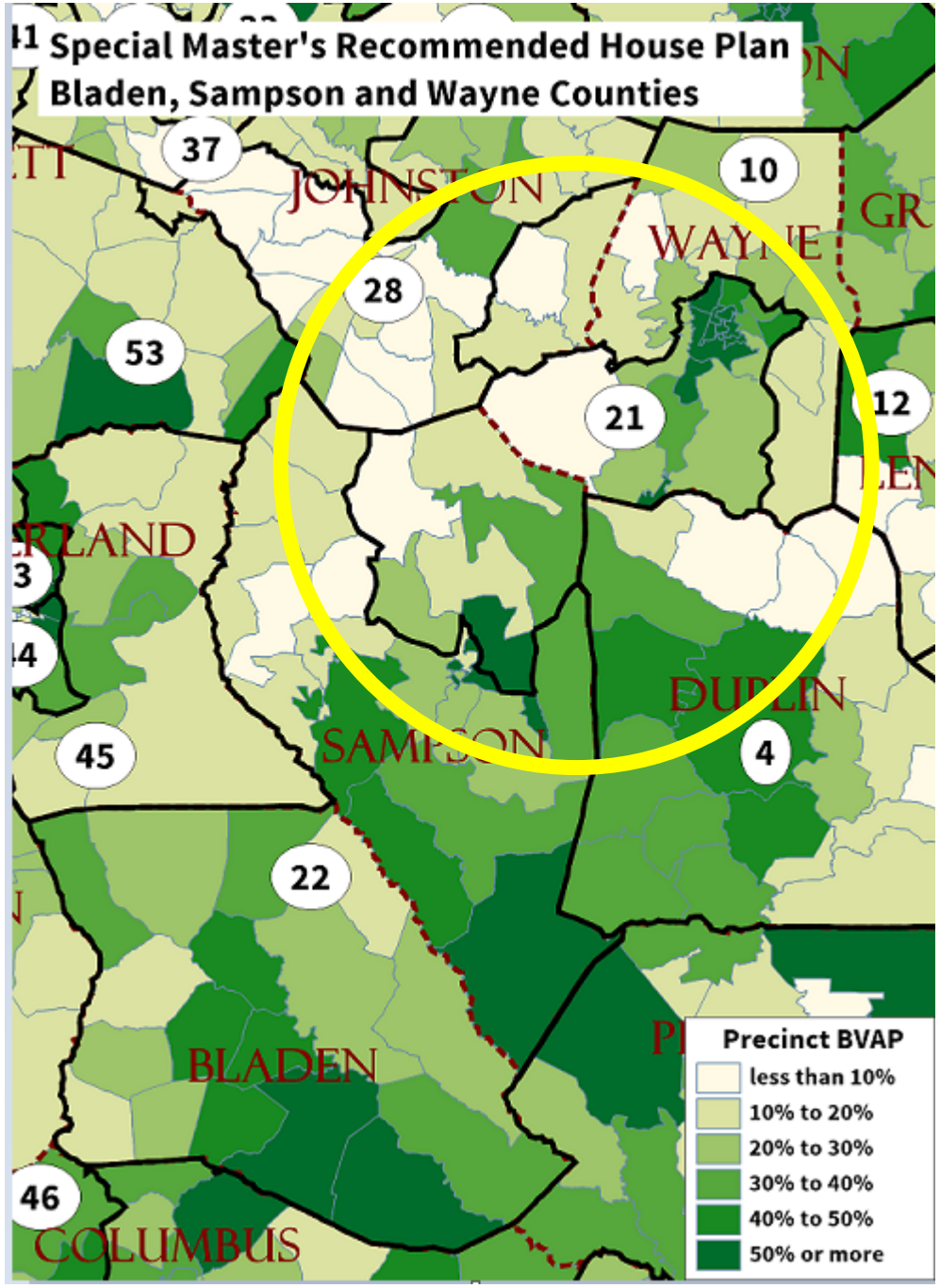
Special Master's Recommended House Plan
Bladen, Sampson and Wayne Counties
37
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JOHNSTON
28
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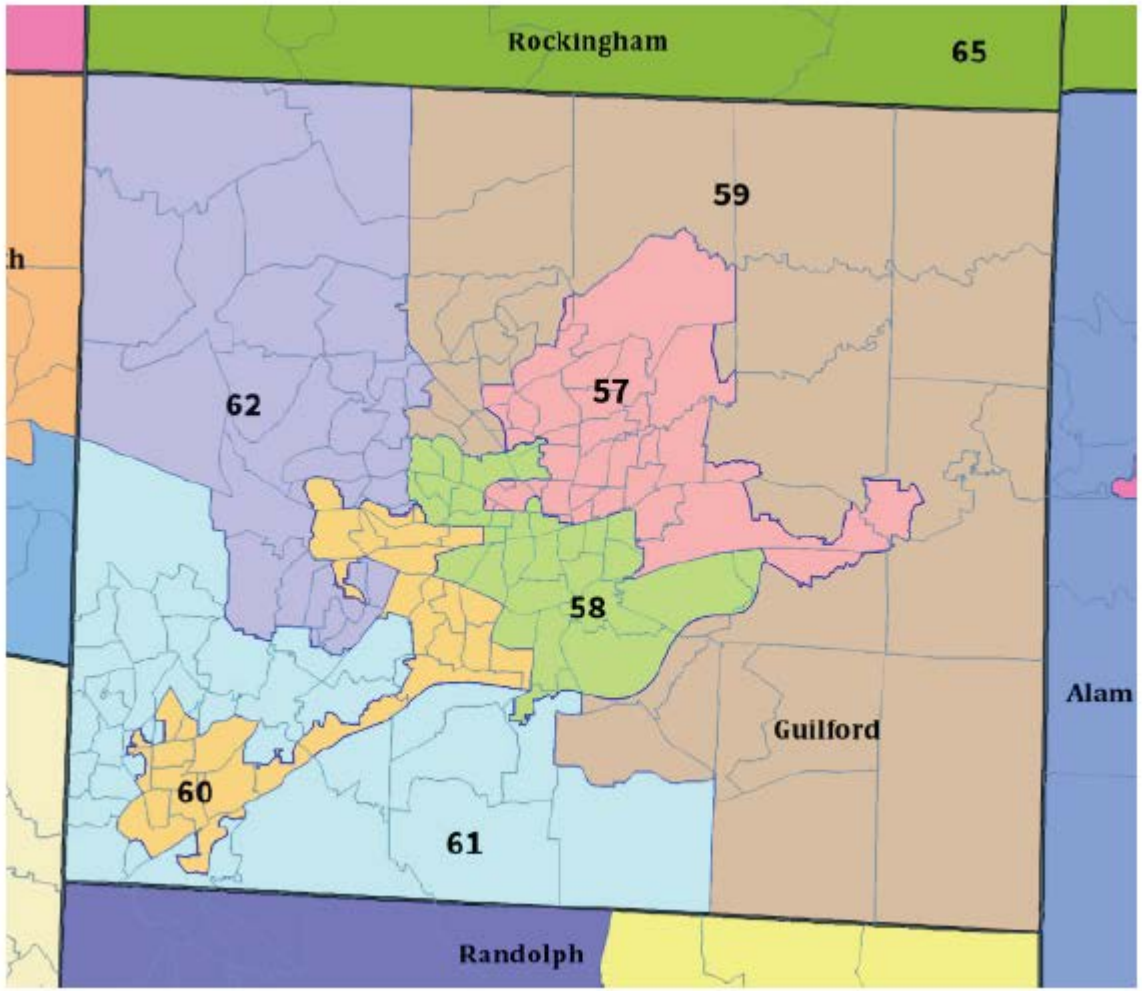
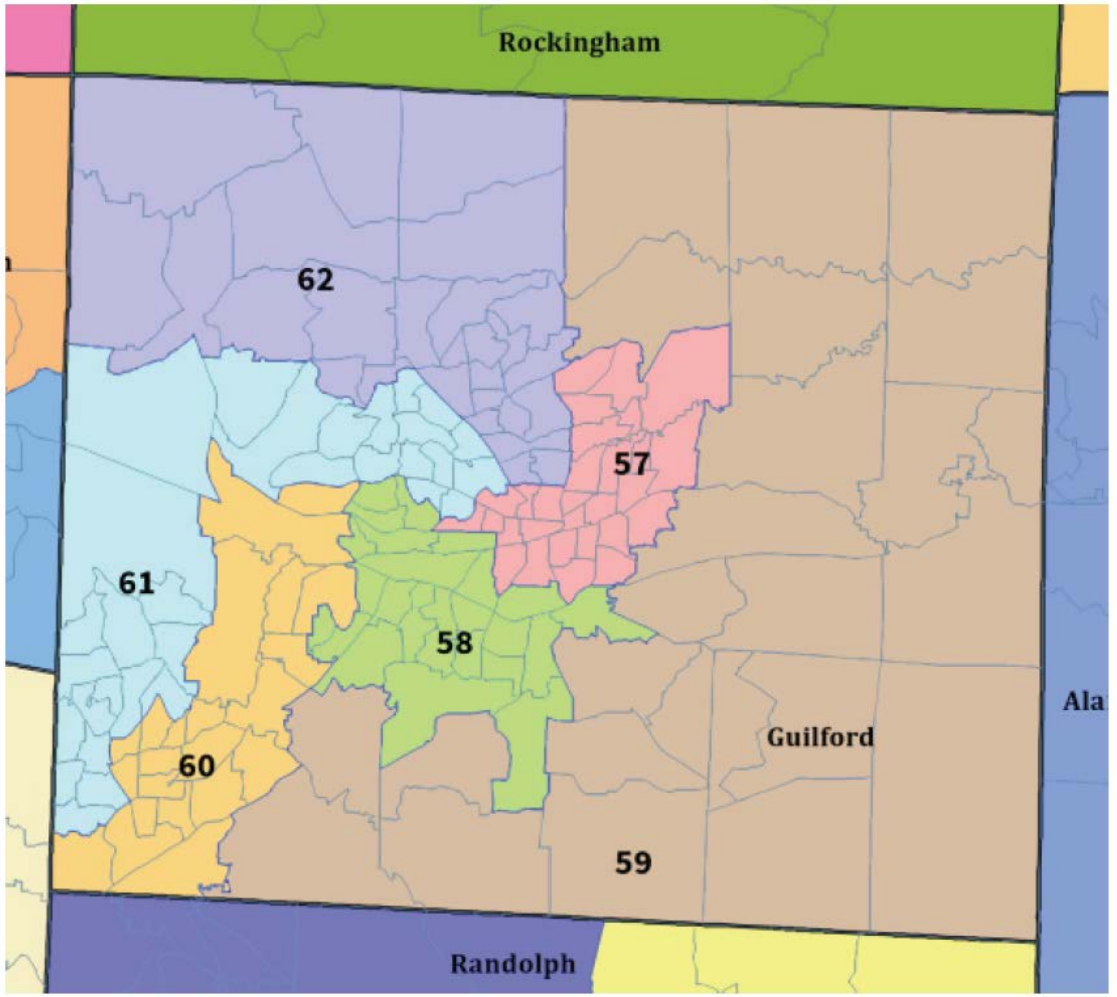
21
12
45
4
22
BLADEN
46
COLUMBUS
Precinct BVAP
less than 10%
10% to 20%
20% to 30%
30% to 40%
40% to 50%
50% or more

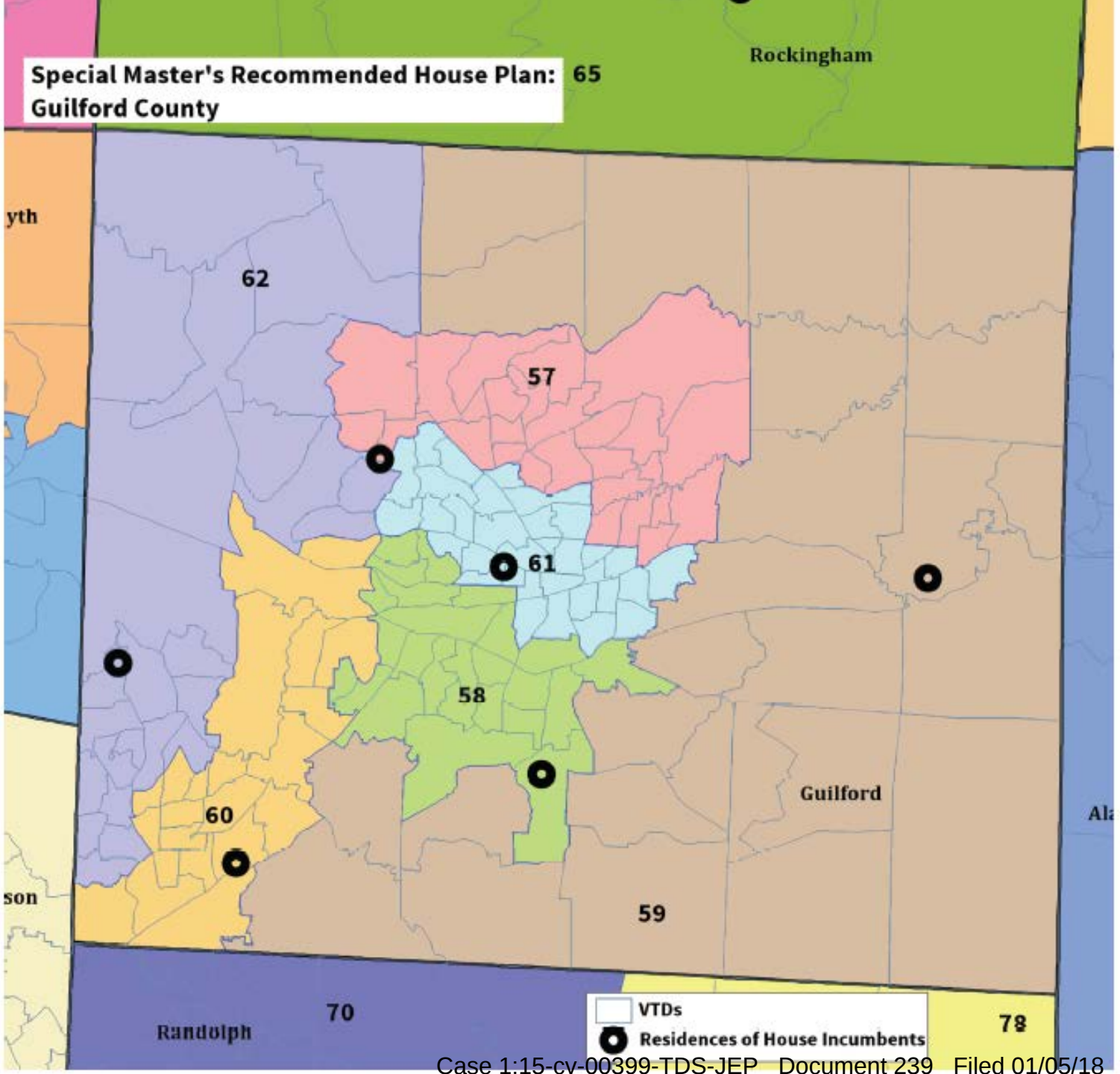
# Special Direction in Court Order for Guilford House Districts

- "As to House District 57, the redrawn lines shall also ensure that the unconstitutional racial gerrymanders in 2011 Enacted House Districts 58 and 60 are cured."

# Guilford County House Districts 2011 and 2017



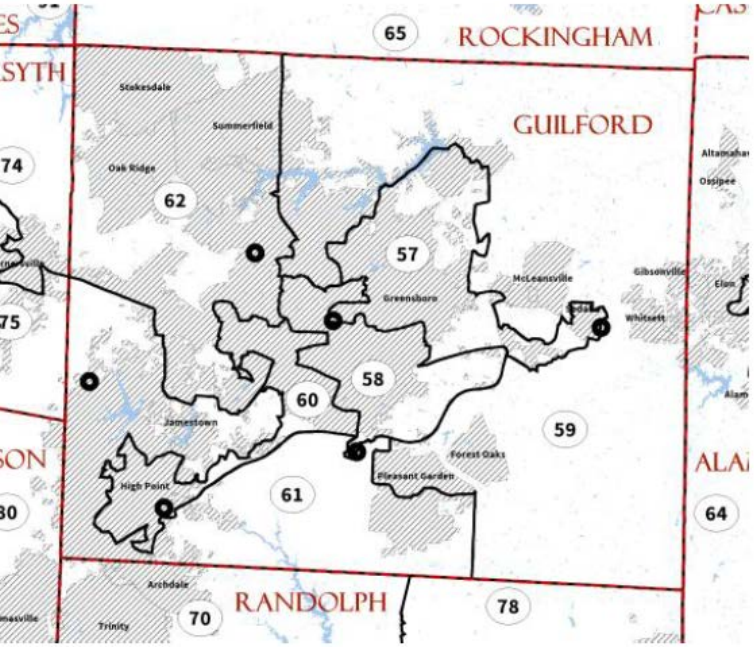





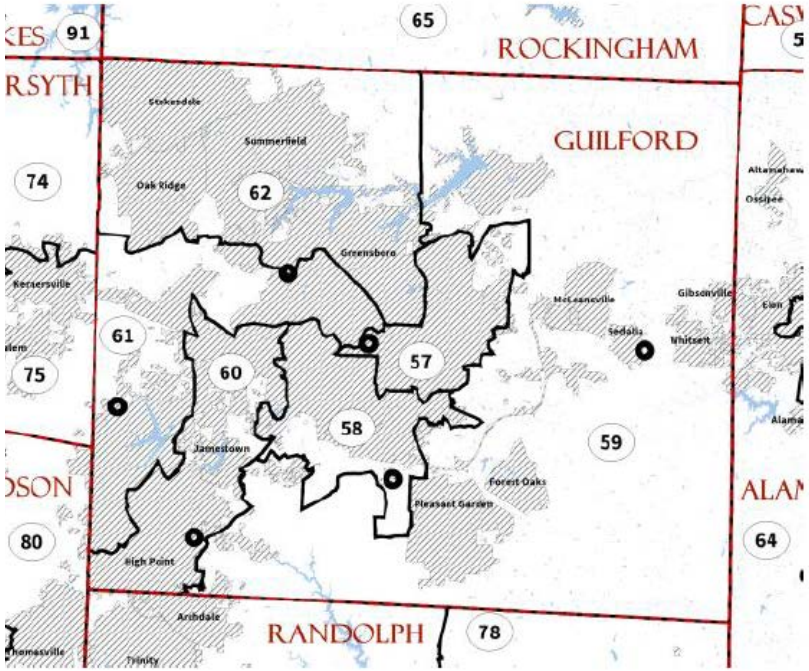

Changes made from Draft Plan to Recommended Plan in Guilford County House Districts in response to Legislative Defendants' expressed concerns:

1. All incumbents were unpaired and retain a majority of the people in their 2017 district.
2. Fewer districts were redrawn (Districts 58 and 60 are identical to 2017 plan and 59 is changed only a little).
3. 57 and 61 are reworked to be more compact than in Draft Plan.

## 2011 Plan




## 2017 Plan

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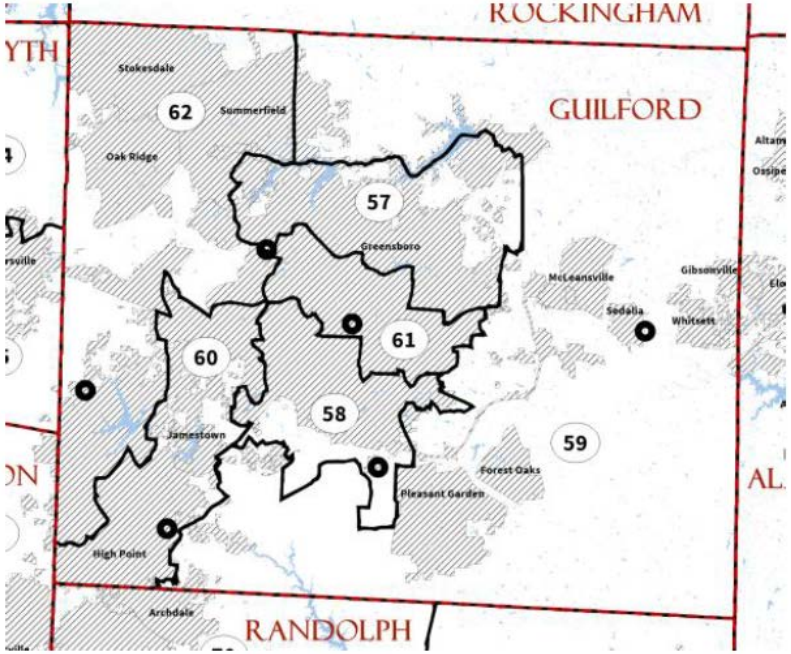

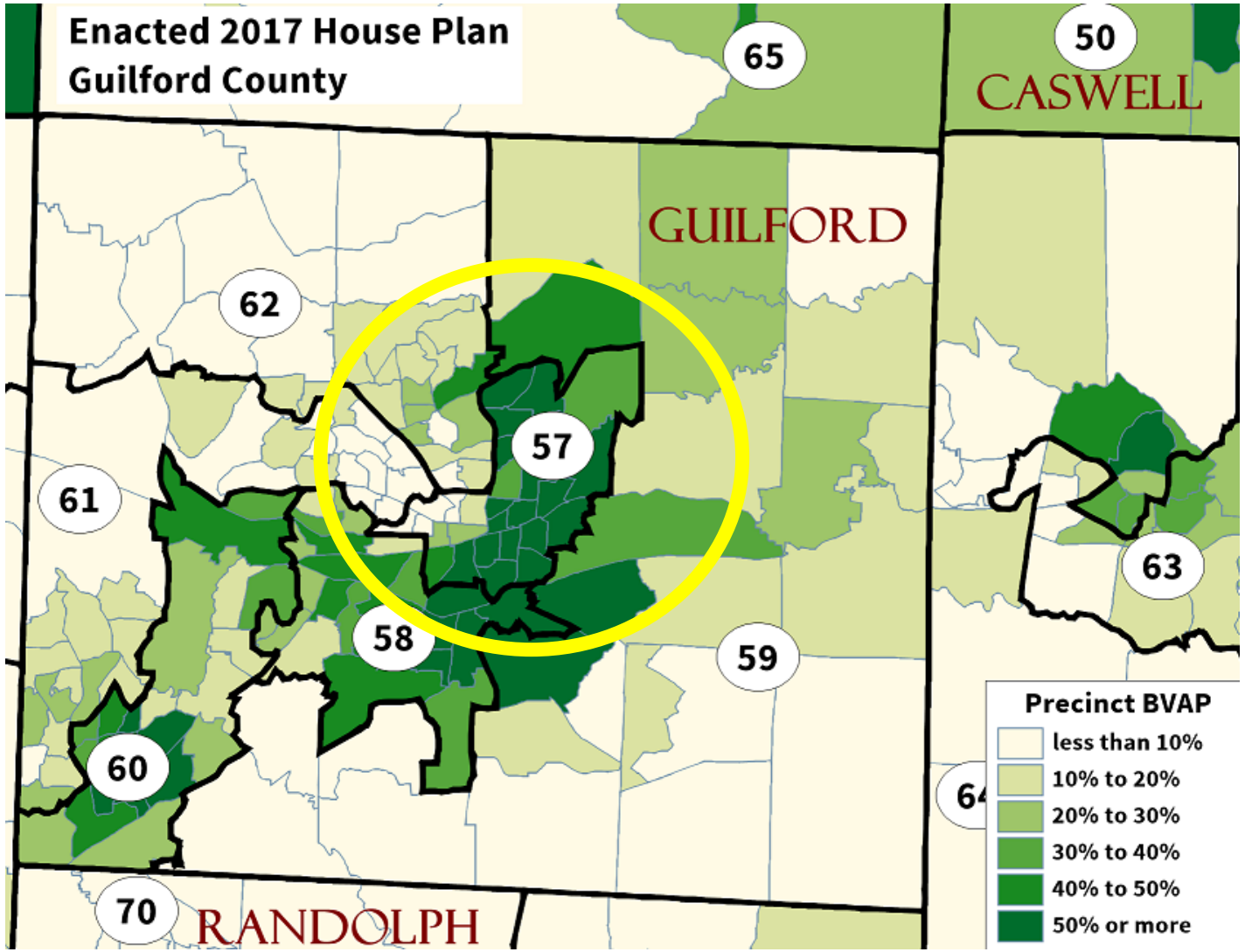
Enacted 2017 House Plan
Guilford County
65
50
CASWELL
GUILFORD
62
57
61
63
58
59
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70
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Precinct BVAP
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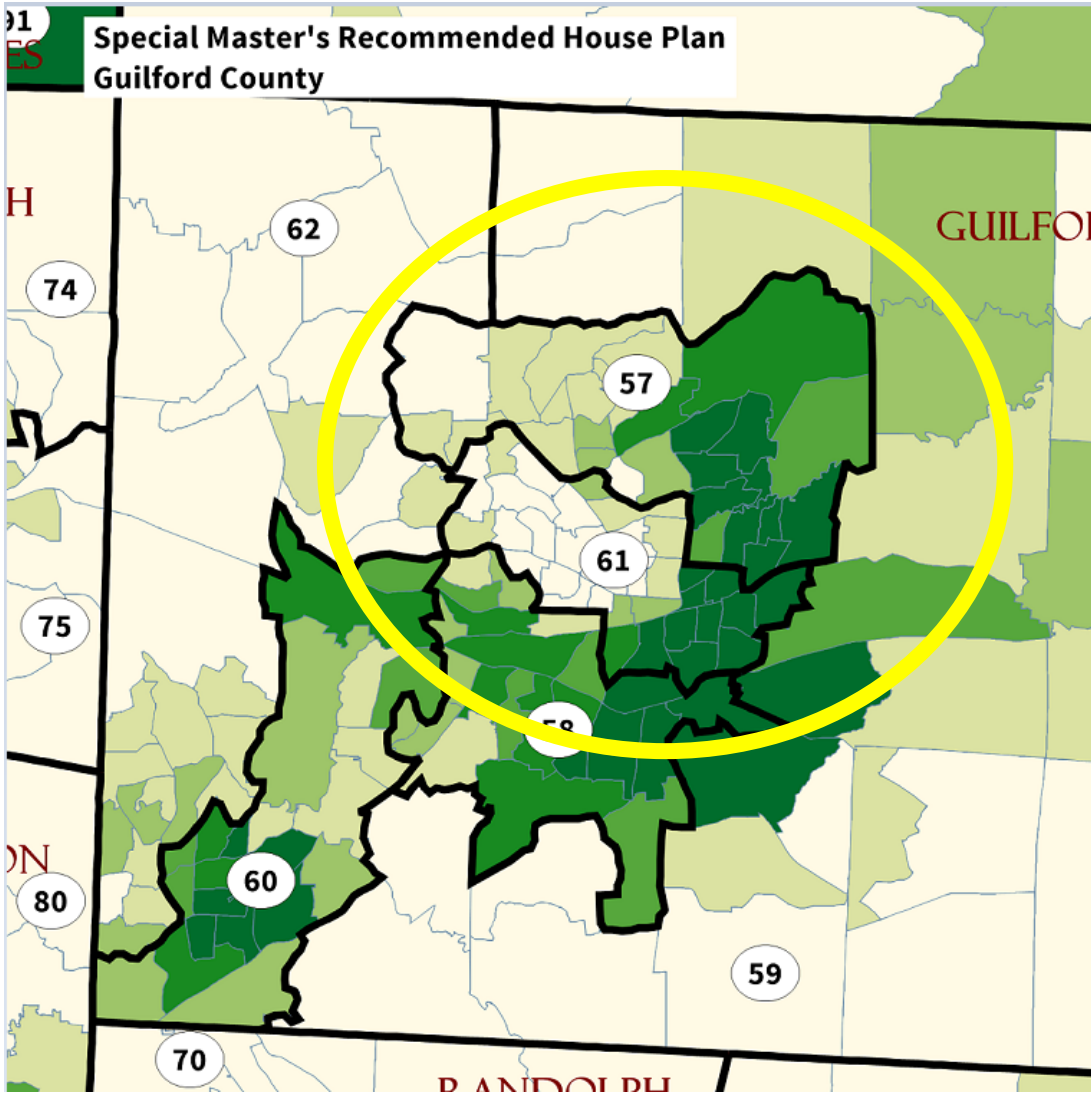
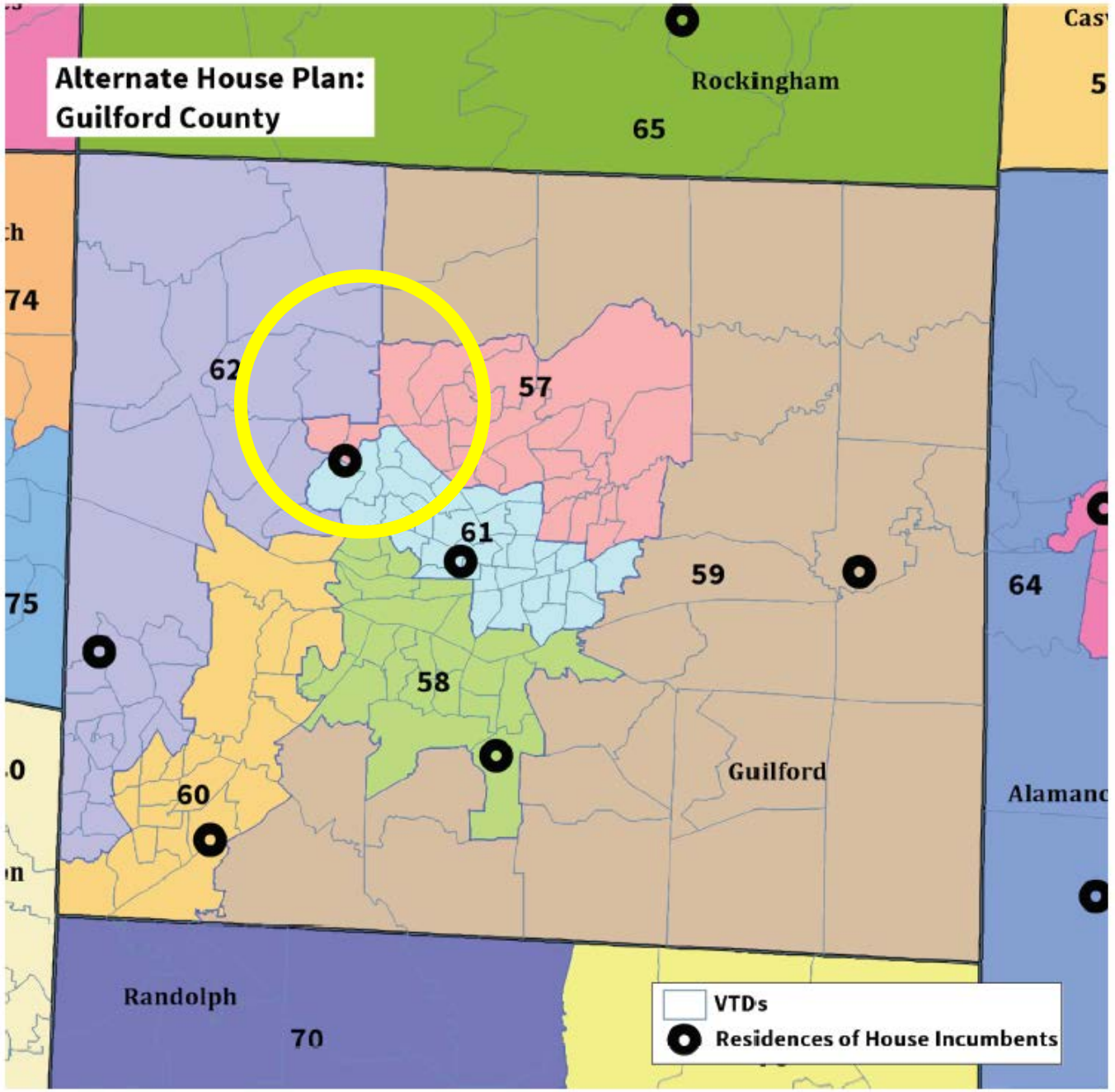
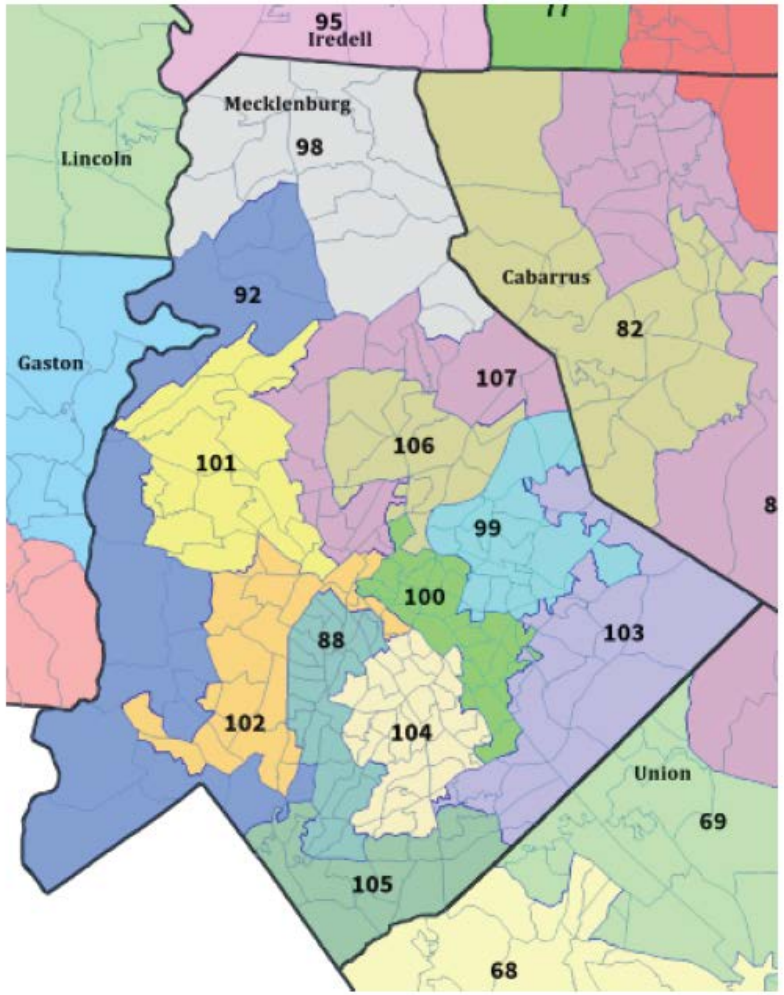
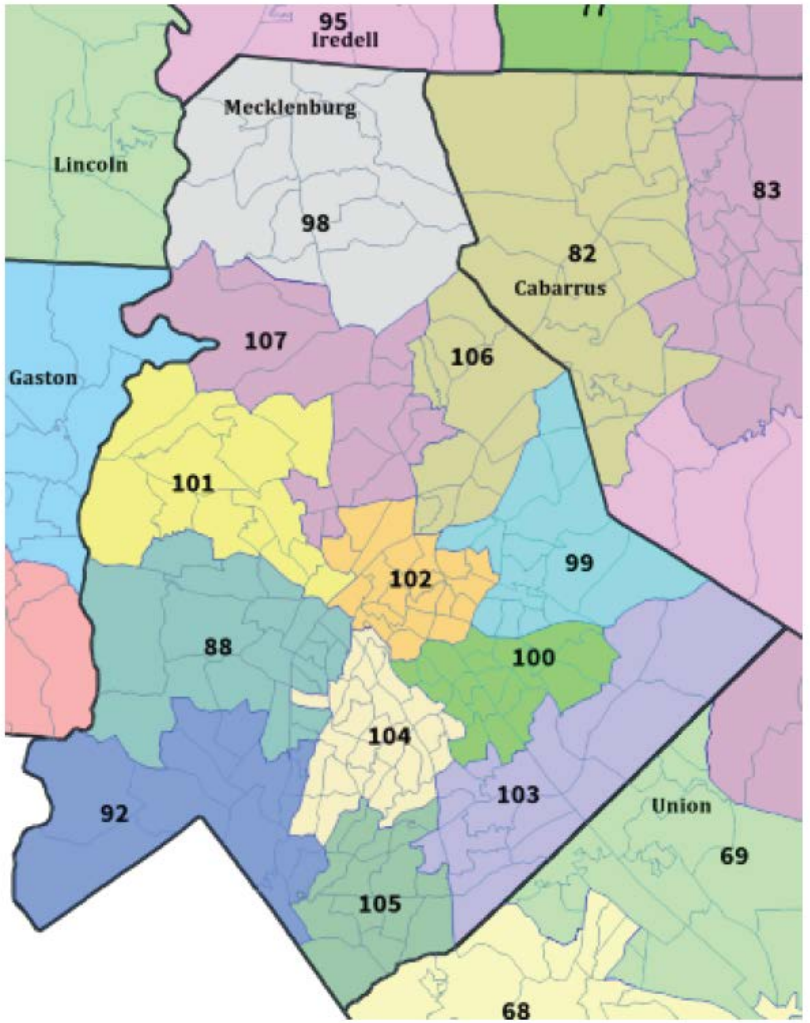

Special Master's Recommended House Plan
Guilford County
62
74
57
61
75
60
80
59
70

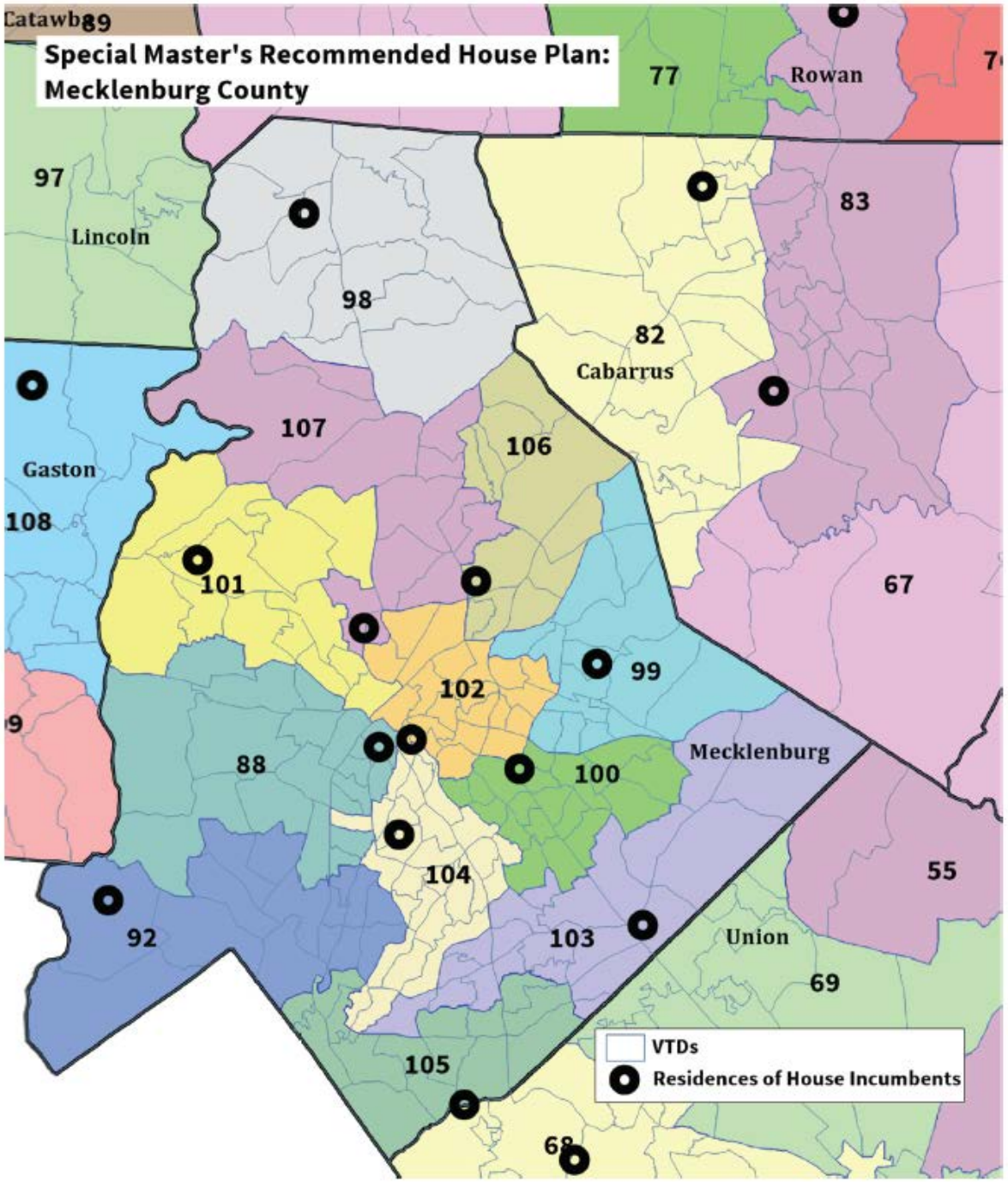
Alternative Plan eliminates District 57's small intrusion into Summerfield and therefore would not increase number of municipality splits.



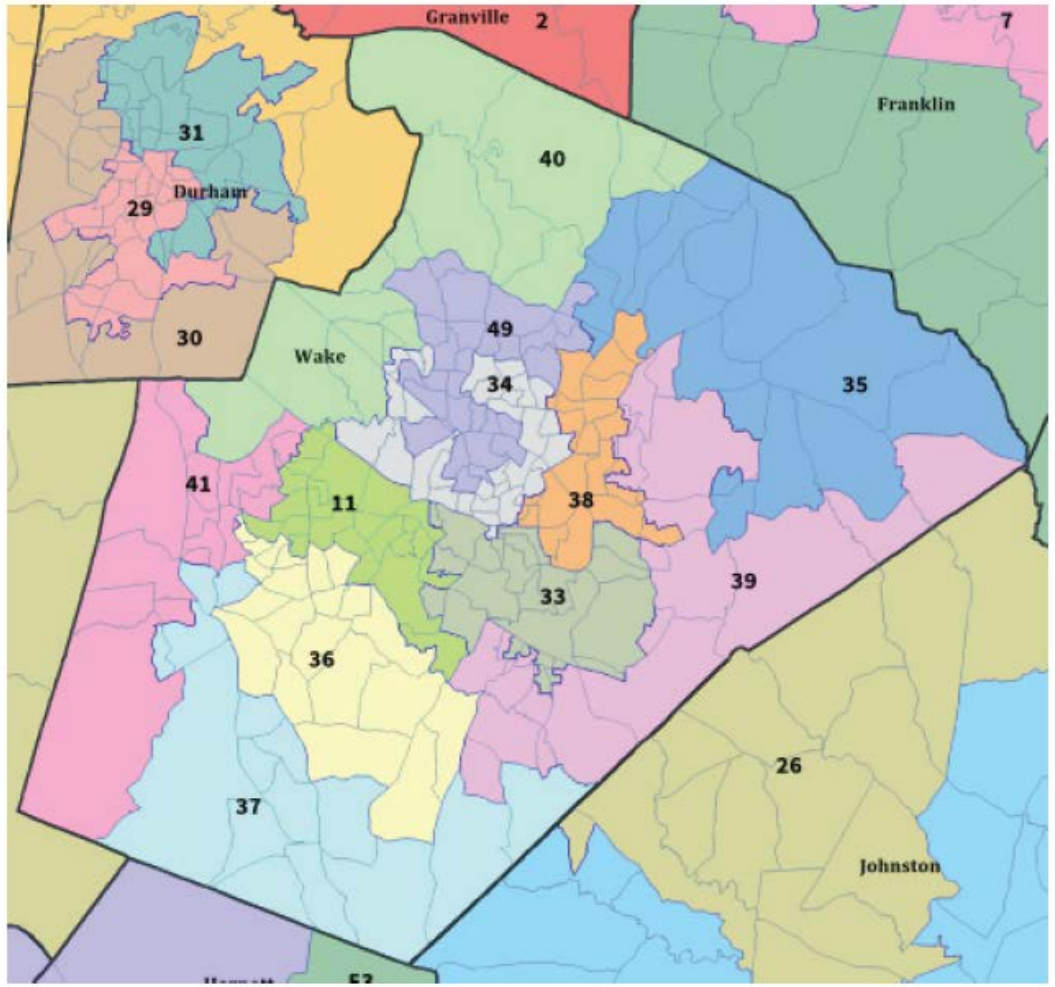
# Mecklenburg County House Districts 2011 and 2017

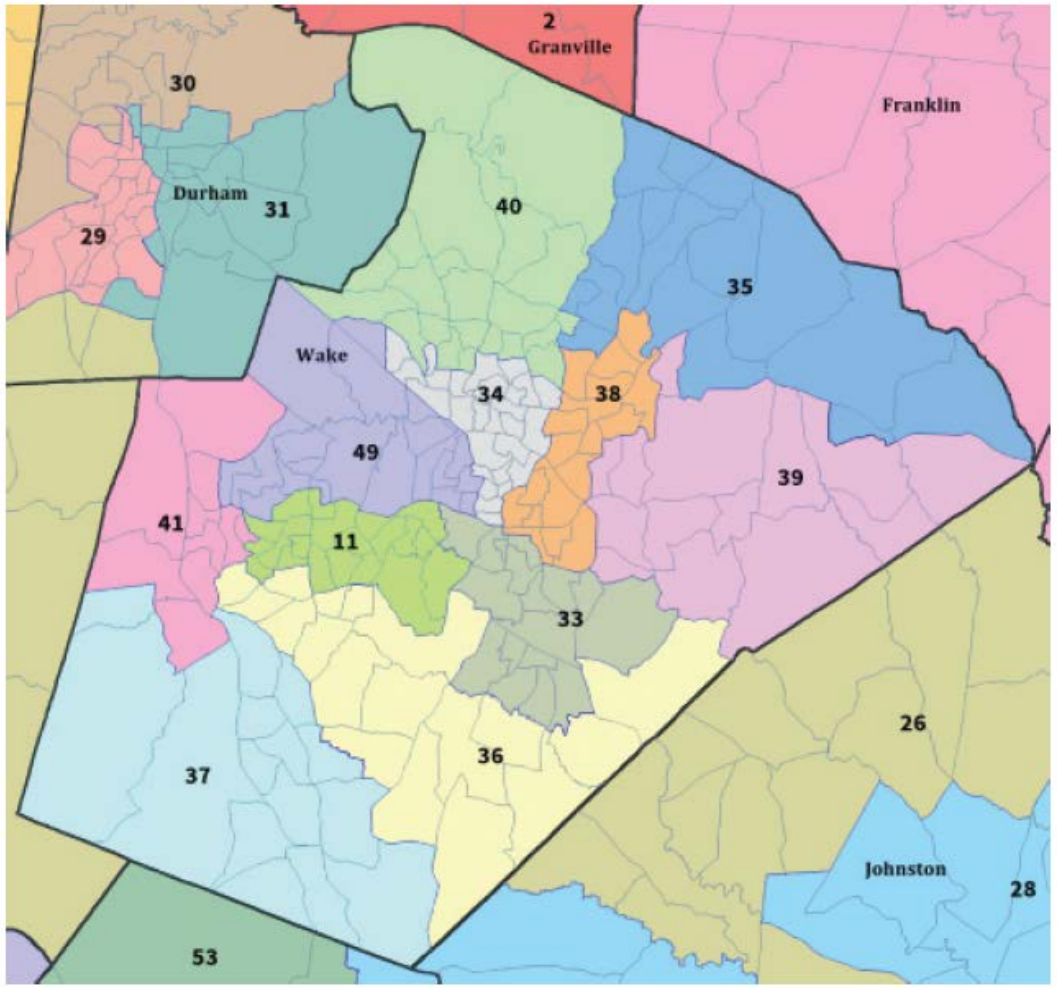


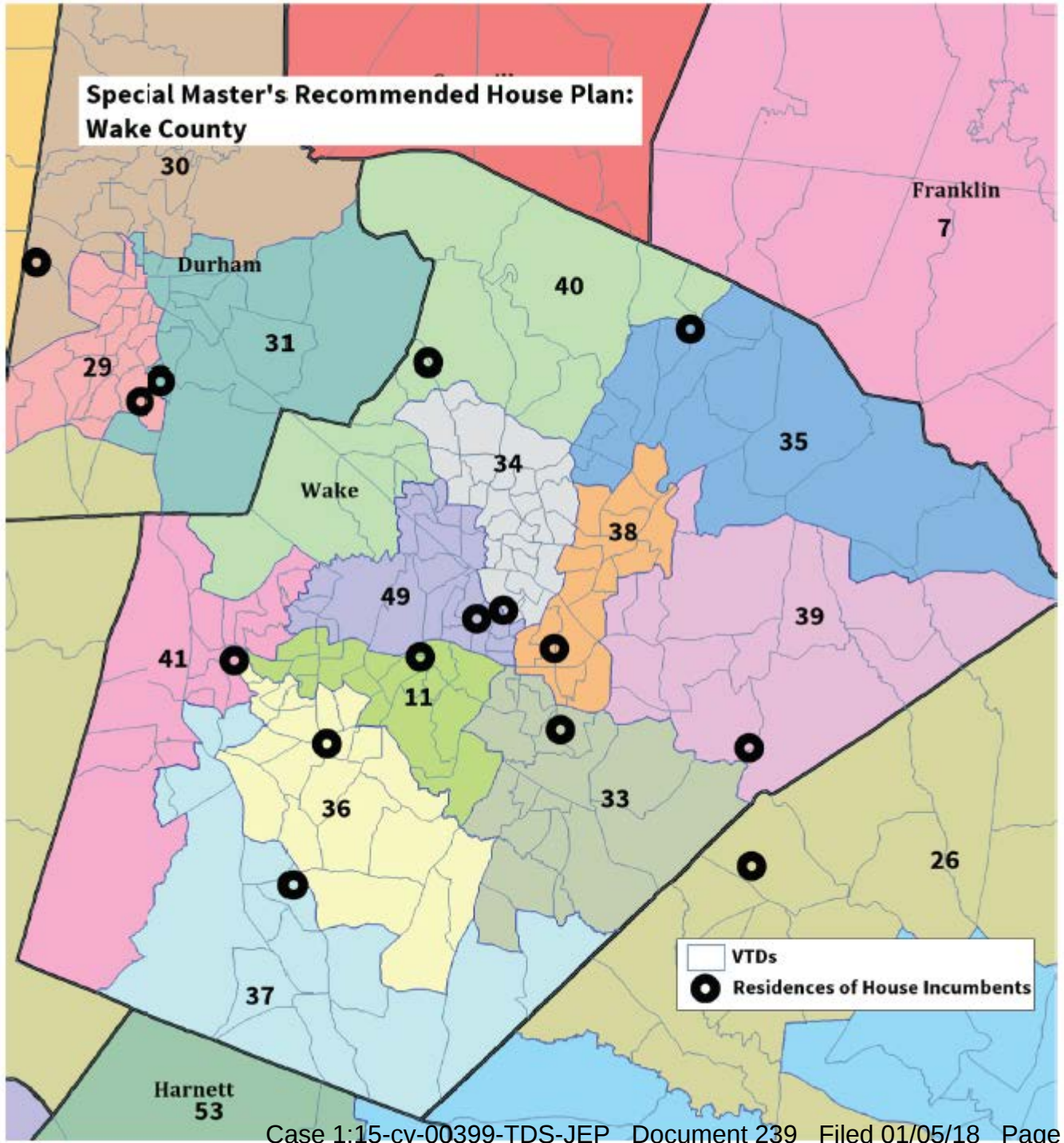




Special Master's Recommended House Plan:
Mecklenburg County
Catawba
89
77
Rowan
97
Lincoln
98
83
82
Cabarrus
107
106
Gaston
108
101
67
99
102
88
Mecklenburg
100
104
55
92
103
Union
69
105
68
VTDs
Residences of House Incumbents

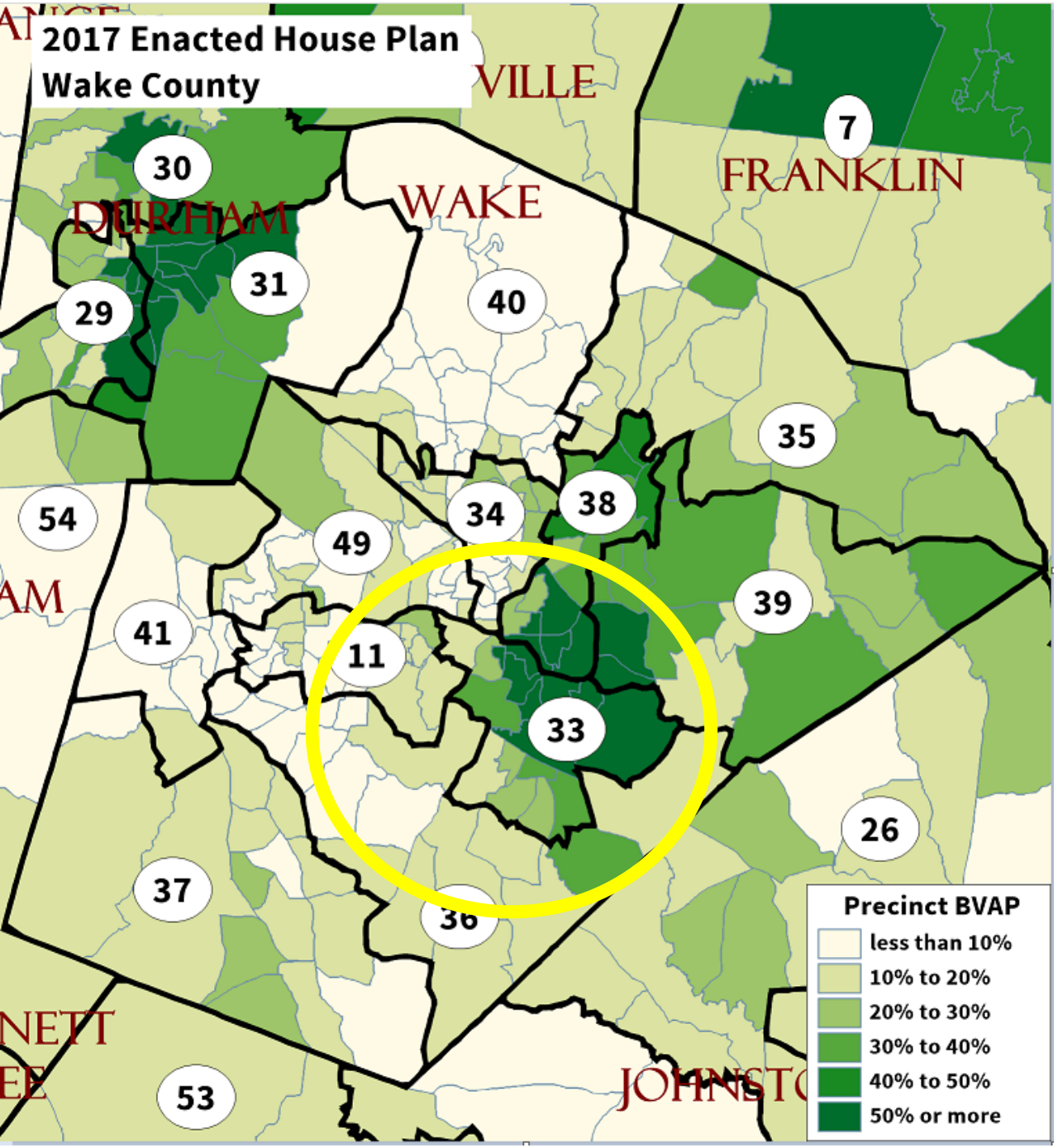
# Wake County House Districts
# 2011 and 2017

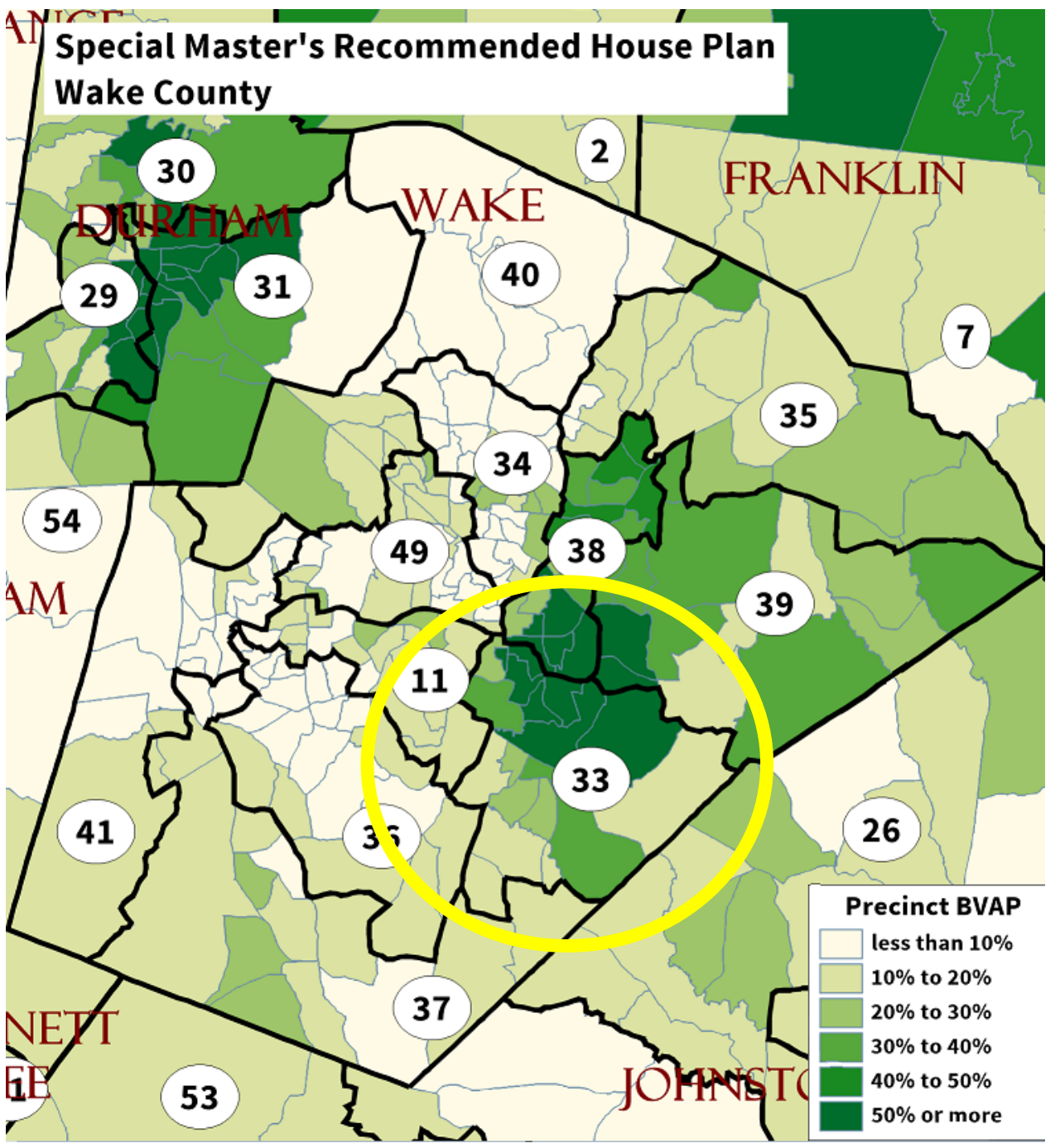





Changes from Draft Plan made in response to Plaintiffs' Suggestions: Small changes were made to Districts 34, 40, and 49 to unpair incumbents and ensure that the Court-ordered 2011 districts were reinstated.


2017 Enacted House Plan
Wake County
VILLE
WAKE
FRANKLIN
DURHAM
AM
NETT
EE
JOHNSTO
30
31
29
40
7
35
54
34
38
49
39
41
11
33
26
37
36
53
Precinct BVAP
less than 10%
10% to 20%
20% to 30%
30% to 40%
40% to 50%
50% or more


Special Master's Recommended House Plan
Wake County
WAKE
FRANKLIN
DURHAM
AM
NETT
EE
JOHNSTO
30
2
31
29
40
7
35
34
54
49
38
39
11
33
41
26
37
53
Precinct BVAP
less than 10%
10% to 20%
20% to 30%
30% to 40%
40% to 50%
50% or more

# Response to Allegation of Racial Targeting

1. Special Master was made aware of district demographics from the outset: Record in the case (filings by Plaintiffs and Defendants) identifies relevant districts and areas within districts by race.
2. Analysis of the districts demonstrated that the 2017 Enacted Subject Districts tracked African American populations and excluded White areas.
3. Strategy to resolve the racially gerrymandered districts was to adopt compact districts of whole precincts that largely followed political subdivision lines – *which did not replicate the shape of the districts the Court identified as constitutionally infirm*.
4. **However, no racial targets were sought or achieved.**

## Senate Plan BVAP% Comparison

| District | Enacted 2017 BVAP | Recommended Plan BVAP |
|---|---|---|
| 28 | 50.5% | 43.6% |
| 21 | 47.5% | 42.1% |
| 19 | 26.0% | 31.7% |
| 24 | 18.7% | 19.6% |
| 27 | 12.7% | 18.3% |

Alleged range

## House Plan BVAP% Comparison

| District | Enacted 2017 BVAP | Recommended Plan BVAP |
|---|---|---|
| 33 | 44.2% | 45.1% |
| 61 | 11.5% | 40.3% |
| 21 | 42.3% | 39.0% |
| 57 | 60.8% | 38.4% |
| 22 | 28.2% | 31.5% |
| 92 | 30.2% | 27.9% |
| 59 | 22.2% | 18.8% |
| 11 | 14.3% | 16.5% |
| 35 | 15.6% | 16.2% |
| 37 | 14.3% | 13.8% |
| 49 | 12.8% | 13.3% |
| 34 | 15.8% | 13.1% |
| 62 | 14.0% | 11.5% |
| 40 | 7.7% | 9.8% |
| 105 | 8.3% | 9.5% |
| 103 | 7.7% | 8.1% |
| 36 | 9.2% | 7.7% |
| 41 | 8.1% | 7.4% |
| 104 | 6.2% | 6.8% |

Alleged range

**1. District 33 falls outside alleged range.**
**2. Enacted 2017 District 21 was already within alleged range.**

# Summary of Recommended Plan

- ✓Remedies the identified violations of the N.C. and U.S. Constitutions

- ✓Complies with the applicable law:
  - ✓One person, one vote
  - ✓*Shaw v. Reno*
  - ✓State constitutional requirements

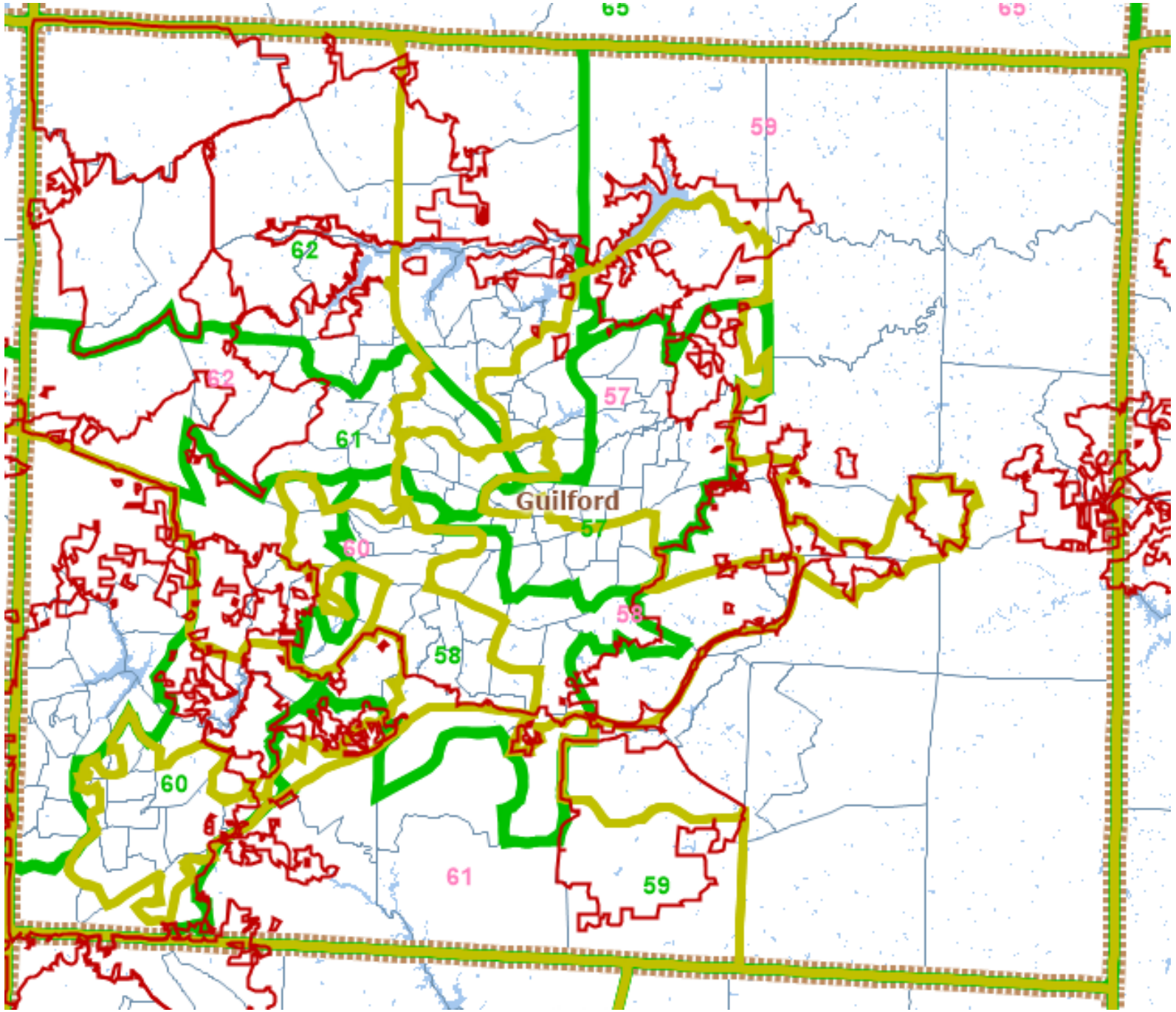
- ✓Superior to existing districts on:
  - ✓Compactness
  - ✓Precinct splits

- ✓Considers municipal and precinct boundaries

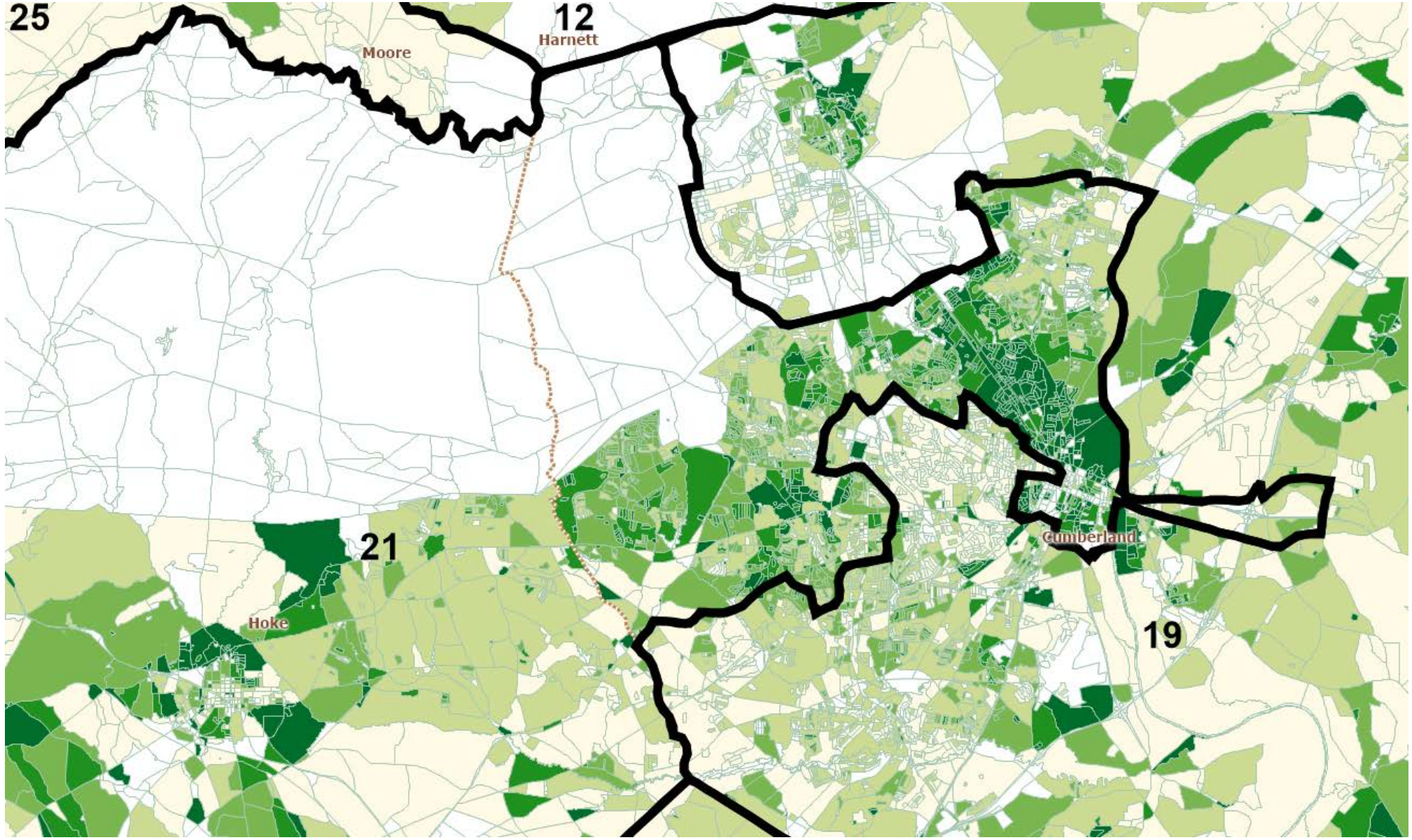
- ✓Unpairs all but two incumbents – only as a subsidiary consideration.
- ✓Avoids consideration of any political data.
- ✓Accommodates all specific concerns voiced by parties to the draft plan.
- ✓Provides several alternative plans for consideration.

# CONCLUSION

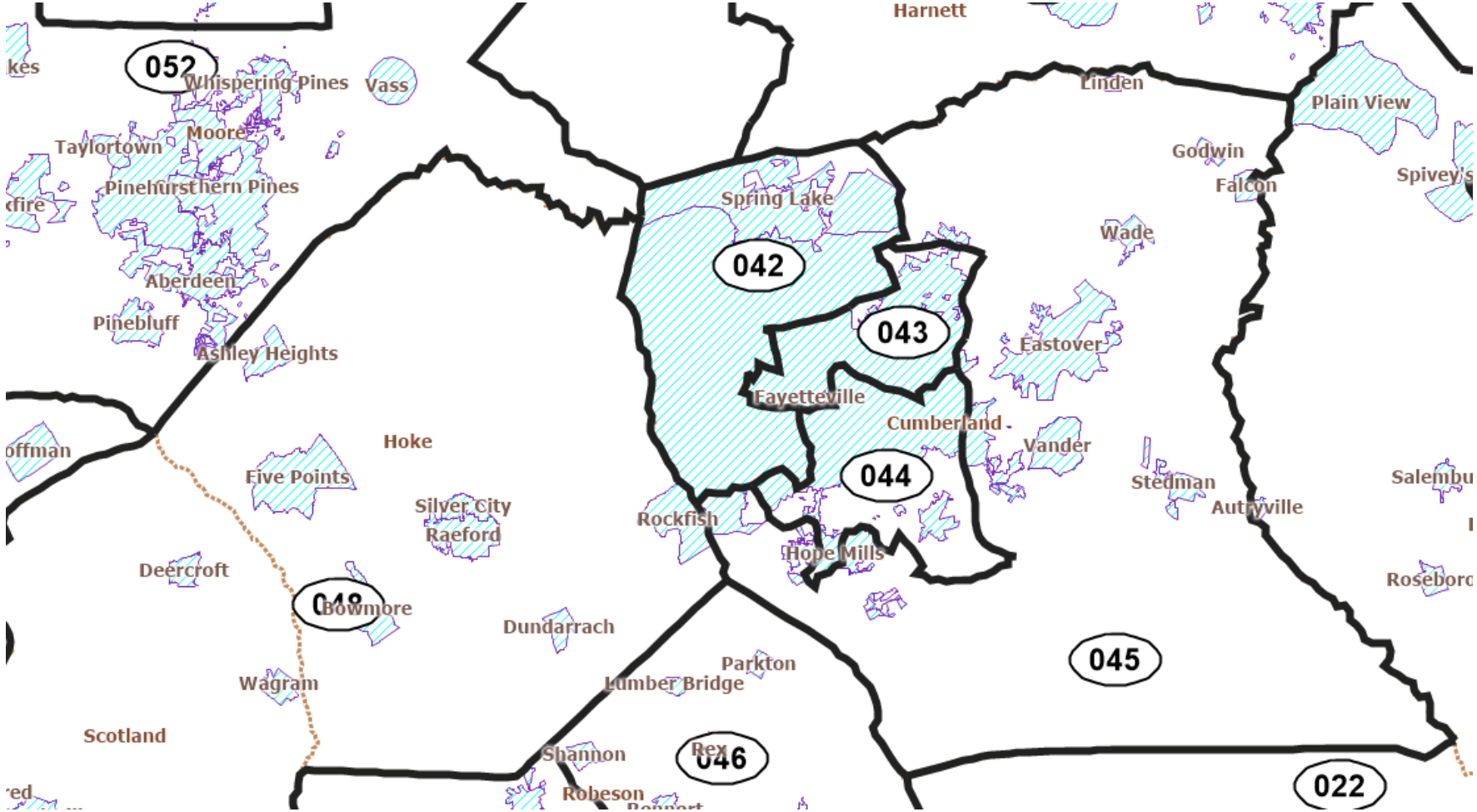
# Additional Slides


65
65
59
62
62
57
61
Guilford
57
60
58
58
60
61
59

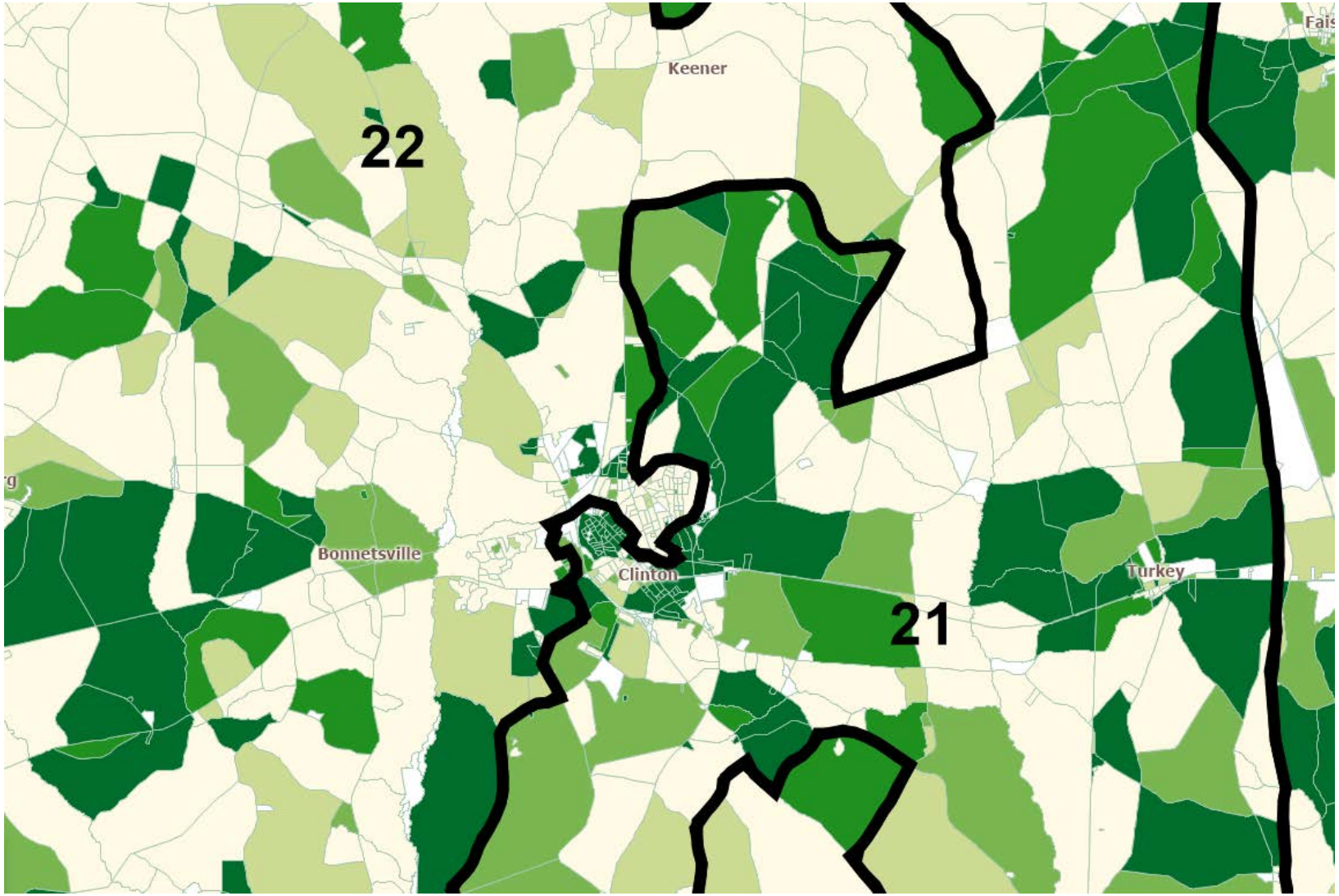
# Census Block BVAP% in Enacted 2017 Senate District 21



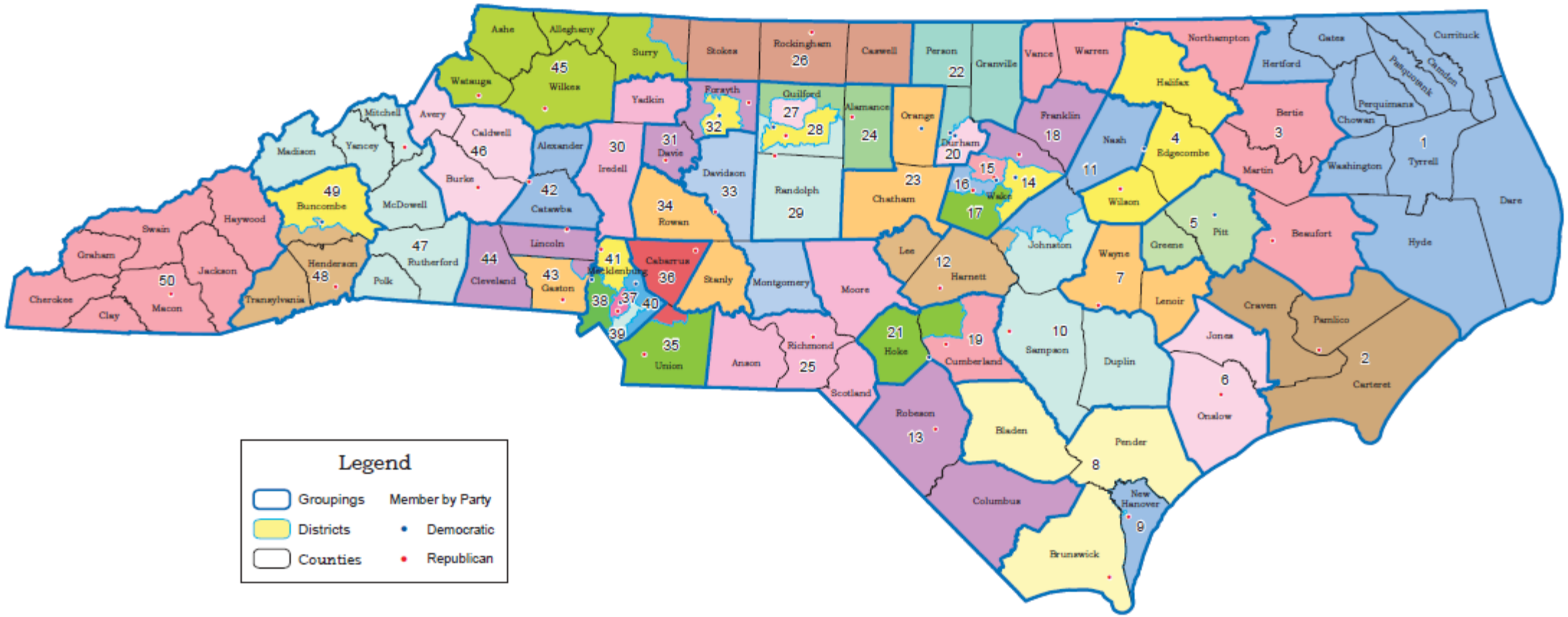
# 2017 House Districts for Hoke and Cumberland County



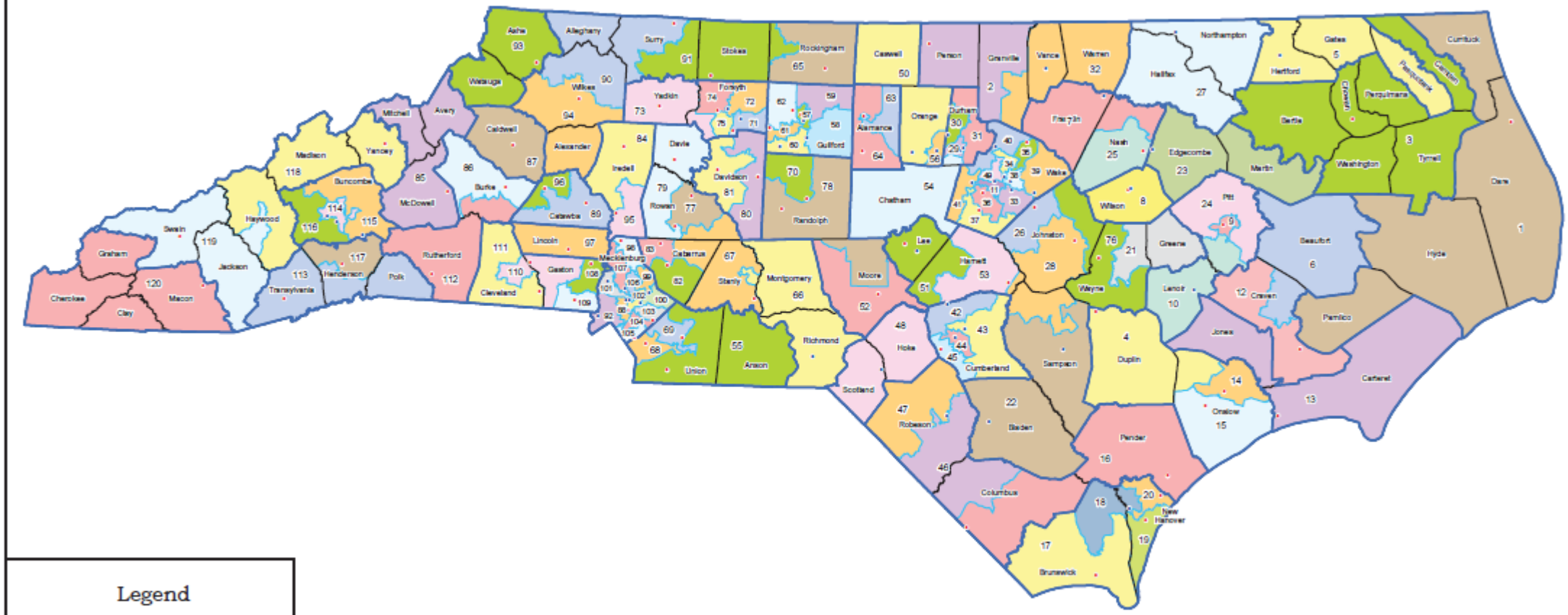
# Census Block BVAP% in Enacted 2017 House Districts 21 and 22 – Clinton Portion



# STV-1-Blue-Fair, Legal and Competitive Senate Districts



# Covington Plaintiffs Proposed House Plan




## Legend

| | |
|---|---|
| Groupings | Member by Party |
| Districts | Democratic |
| Counties | Republican |

0 25 50 100 150 200 Miles

# 2016 Redistricting Base Data

In February of 2016, an extra legislative session was held to comply with a court order which required the General Assembly to redraw the 1st and 12th congressional districts. All information on this page corresponds with the redistricting database compiled by the General Assembly for that effort.

A large amount of reference data is used to draw political districts. That data can be divided into two main groups: numeric and geographic. The numeric component includes items such as population and election results. The geographic component includes features such as roads, rivers, and political boundaries that can be graphically displayed as features on a map.

The numeric data matches up with the geographic data at several different levels. The main levels of interest in district drawing are counties, voting tabulation districts (VTDs), and census blocks. These three main levels have a nesting relationship. In other words, counties are comprised of VTDs that, in turn, are comprised of census blocks. Each level covers the entire territory of the state, such that there is no point within the state's boundaries that cannot be assigned to each of the three levels.

## NUMERIC DATA

1. Population Data - by April 1st of the year following each decennial census, the US Census Bureau provides Public Law 94-171 data to each of the states. This data corresponds with block level geography, the lowest level tabulated by the Census Bureau, and that at which districts are ultimately defined. For the 2016 congressional redraw, only total population and total voting age population values were used from this dataset.
2. Election Returns Data - provided by the State Board of Elections. Election results from twenty statewide contests are included in this database, coming from the 2008 through 2014 general elections.

Complete numeric datasets, as processed for use in the General Assembly's redistricting system, are linked below for download. The field key is required to interpret the field headings. See the data processing notes document for technical details. The "block level keys" table is useful for establishing relationships between the different geographic levels. The numeric data is also appended to each of the corresponding geographic layers, available for download in the following section. Note that the General Assembly's redistricting system is census block-based. All data items therefore have to reconcile to that lowest level of geography. Although election returns are available at all geographic levels, they are most reliable at the VTD and county levels since the original data was VTD-based.

| | | |
|---|---|---|
| Field Key | PDF | 102 KB |
| Data Processing Notes | PDF | 20 KB |
| All Tables in an Access Database | ACCDB/ZIP | 17 MB |
| Block Level Keys | TAB/ZIP | 1.6 MB |
| by County | TAB | 43 KB |
| by Voting Tabulation District | TAB/ZIP | 344 KB |
| by Census Block | TAB/ZIP | 6.2 MB |
| by Census Block Group | TAB/ZIP | 668 KB |
| by Census Tract | TAB/ZIP | 291 KB |
| by Municipality (Census Place) | TAB | 174 KB |

## GEOGRAPHIC DATA

The geographic data in the General Assembly's redistricting system is based on the 2010 TIGER/Line Shapefiles provided by the US Census Bureau. Below are links to various statewide layers derived from that dataset. These files are intended for use with Geographic Information System (GIS) software. Layers are projected in NC State Plane, NAD83, meters.

| | | |
|---|---|---|
| Administrative Areas (*cities, townships, etc.*) | GDB/ZIP | 11 MB |
| Assignment Layers (*counties, VTDs, blocks*) | GDB/ZIP | 156 MB |
| Census Features (*tracts, block groups, landmarks*) | GDB/ZIP | 27 MB |
| Infrastructure (*roads, rail, power lines*) | GDB/ZIP | 102 MB |
| Natural Features (*rivers, lakes, ridgelines*) | GDB/ZIP | 54 MB |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