

FILED UNDER THE ELECTRONIC BRIEFING RULES

**SUPREME COURT
OF THE
STATE OF CONNECTICUT**

SC 20661

**IN RE PETITION OF REAPPORTIONMENT
COMMISSION, EX. REL.**

PROCEEDINGS BEFORE SPECIAL MASTER

**RESPONSE OF THE REAPPORTIONMENT COMMISSION
DEMOCRATIC MEMBERS TO REDISTRICTING PLAN
SUBMITTED BY REAPPORTIONMENT COMMISSION
REPUBLICAN MEMBERS AND MAPS SUBMITTED BY
CONNECTICUT REPUBLICAN PARTY**

**ATTORNEYS FOR
REAPPORTIONMENT
COMMISSION
DEMOCRATIC MEMBERS**

**Aaron S. Bayer
Paul Tuchmann
Wiggin and Dana LLP
265 Church Street
P.O. Box 1832
New Haven, CT 06508-1832
(203) 498-4400
abayer@wiggin.com
ptuchmann@wiggin.com
Juris No. 067700**

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I. The Democratic Commission Members’ Plan More Faithfully Follows the Supreme Court’s December 23rd Order Than the Plan Submitted by the Republican Commission Members

Both the Democratic Reapportionment Commission Members and the Republican Reapportionment Commission Members have filed redistricting plans that meet most of the requirements of the Supreme Court’s December 23, 2021 Order Appointing and Directing Special Master (the “Order”), including the requirements that they equalize the population in the districts, maintain the contiguity of the districts, avoid violating the VRA, and not substantially reduce the districts’ compactness or substantially increase the number of towns divided between two districts. However, as discussed below, the Republican Members’ plan fails to meet the most critical requirement in that Order – that it make no more changes to the existing districts than are reasonably required.

A. The Republican Members’ plan makes more changes to existing districts than are “reasonably required” to meet the requirements of the Supreme Court’s Order

The brief of the Republican Members (p. 7) says that its proposed plan “modifies the existing congressional districts only to the extent necessary to comply with considerations of population equality, contiguity, and the Voting Rights Act and applicable federal law.” But the changes it proposes go beyond those “reasonably required” to comply with those provisions of the Court’s Order.

Under the Republican Members’ plan, 124,981 residents would be moved to new congressional districts, or roughly 3.5% of the State’s total population of 3,605,944. (Rep. Members’ Br. p. 8). That such significant changes are not reasonably required is evident from the

plan submitted by the Democratic Members, which moves only 71,736 residents out of their existing congressional districts, i.e., just under 2% of the total population in the State. As a result, the Republican Members' plan does not comply with the "least changes" approach required by the Court's Order.

B. Unifying a town in one congressional district is not required by the Supreme Court's Order and contravenes the Order if it moves more people to new congressional districts than is reasonably necessary

The Republican Members' apparent justification for moving more people to new districts than is necessary is that the Republican plan moves the entire Town of Torrington into the Fifth District, thereby unifying one of the few towns that is currently divided between two districts. But that is not one of the requirements of the Court's Order. The Court's Order does *not* direct the Special Master to change the existing districts to the extent reasonably required to *reduce* the number of towns that are divided between two districts, while meeting the other requirements of the Order. If the Court's Order said that, any number of plans could have been proposed by the parties that would unify Torrington.

What the Order specifically requires is that the Special Master adopt a redistricting plan that changes the existing districts only to the extent reasonably required to equalize the population among the districts and meet the other requirements specifically spelled out in the Order. The Democratic Members' plan complies with that Order. The Republican Members' plan does not. In order to unify one additional town in a single district, the Republican Members' plan changes the existing districts *more than* is reasonably required,

moving *more residents* to new districts than is reasonably required to comply with the Order.

C. If unifying another town in a single congressional district is a desirable goal permitted by the Court’s Order, the Special Master can do so in ways that would be more compliant with the Order

Only five of the State’s 169 towns are currently divided between two congressional districts. If the Special Master wishes to reduce that number by unifying Torrington in a single congressional district, that can be accomplished in a way that more faithfully complies with the “least changes” approach required by the Court’s Order.

Attached as Exhibit 1 is a plan that would move Torrington into the First District.¹ This “alternative plan” is offered here to show that there are ways to unify Torrington that comply far better with the Court’s Order.² (A map of this alternative plan overlaid over a map of the current districts is attached as Exhibit 1A.) The alternative plan would unify Torrington while moving only 87,175 people statewide into a new district, rather than the 124,981 who would be moved under the Republican Members’ plan. In other words, under the alternative plan, 37,806 fewer residents would be taken out of their existing districts.

¹ This is similar to a plan offered by the Democratic Members during discussions within the Reapportionment Commission.

² The figures below are derived from the shape files for this alternative plan, which are provided as Exhibit 2 for informational purposes.

The alternative plan would also come close to placing all of Waterbury within the Fifth District.³

The Republican Members' brief also touts the fact that its proposed plan would, in a few towns, better synchronize congressional lines with the state House and Senate district lines. To the extent that is a concern, it is one that is not mentioned in the Supreme Court's Order. Moreover, it is one that can just as easily be addressed without moving 125,000 people into new districts. Under the alternative plan (compared to the Republican Members' plan), the congressional dividing line in Waterbury would be more synchronous with the State House and Senate districts in that city, *see* Exhibit 3, Middletown would be less synchronous, *see* Exhibit 4, and Glastonbury and Shelton would be equally synchronous, *see* Exhibits 5 and 6.⁴ And, as noted above, the alternative plan would move only 87,175 people statewide, rather than 125,000 people.

³ Using current Census numbers, 82.7% of the residents of Waterbury fall within the Fifth District, and 17.3% fall within the Third District. Under the shape files for the alternative plan, only 4,321 Waterbury residents, or 3.8%, would remain in the Third District; 110,082 Waterbury residents, or 96.2%, would reside in the Fifth District.

⁴ The real difference between unifying Torrington in the Fifth District, as opposed to the First District, is the political consequences of these alternatives -- and the Court's Order specifically precludes the Special Master from considering those consequences. Considering the political implications of alternative plans, including alternative plans to unify a town in a single congressional district, was appropriate when the discussion was taking place within the Reapportionment Commission, but it is not appropriate now.

D. The Republican Members' Plan Needlessly Reduces the Racial Diversity of the Fifth District

The Republican Members' proposed plan also would unnecessarily reduce the influence of Black and Latino voters in the Fifth District, and for no reason other than political ones. As currently constituted, the Fifth District is 7.9% Black or African-American⁵ and 20.9% Hispanic or Latino. Under the Democratic Members' Proposed Plan, both the Black population and the Latino population would remain essentially steady, at 8% and 20.9%, respectively. But under the Republican Members' plan, the Fifth District's population of Black residents would fall to 7.5% and the population of Latino residents would fall to 20.0%. While these decreases in minority population percentages are admittedly small, there is no reason for the minority population of the Fifth District, and the commensurate ability of that population to influence elections in the Fifth District, to be reduced *at all*. And nothing in the Supreme Court's Order suggests that the Court would favor such a result. As is evident from the plan submitted by the Democratic Members, compliance with the Court's order can easily be accomplished without reducing the percentage of minority residents.

Moreover, to the extent unifying Torrington in a single district is a goal, that too can easily be accomplished without making the Fifth District less racially diverse. The alternative plan (Exhibit 1) would

⁵ As counted by the U.S. Census, Hispanic/Latino individuals may be of any race. As used here, "Black or African-American" individuals are those who did not identify as Hispanic/Latino on the Census and who identified as Black or African-American alone or in combination with one or more other races. *See* Exhibit 7 (spreadsheet of racial composition data for various plans for the Fifth District).

unify Torrington, while simultaneously *increasing* the influence of Black and Hispanic voters in the Fifth District. That plan would raise the percentage of Black/African-American residents in the Fifth District to 8.2% and would raise the percentage of Hispanic/Latino residents in the District to 21.3%. The difference in the proportion of Black and Latino residents between these plans is 2%; that is not a large number, but it is a meaningful one. And it shows that, even if unifying a currently divided town is a legitimate goal, it need not come at the expense of minority voters.⁶

II. The Alternative Map Proposed by the Connecticut Republican Party Directly Contravenes the Supreme Court’s Order and Its Underlying Public Policy Purposes

A. The Republican Party maps are “most changes” plans that flout the Supreme Court’s order

The alternative redistricting maps submitted by the Connecticut Republican Party would fundamentally alter every congressional district in the state. The map titled “Most Proportional” would change the district lines for 20 whole towns and would move over half a million residents to new districts. The other map, titled “Least Splits,”

⁶ While the Voting Rights Act does not require the creation of minority influence districts, enhancing or at least preserving the ability of minority groups to influence the outcomes of elections through their communities of interest with similarly situated communities in other towns in the Fifth District, such as Danbury, Meriden, and New Britain, is an appropriate goal. The Republican Members’ plan does not further that goal.

would also change the district lines for 20 whole towns and would move even more residents to new districts.⁷

These maps directly flout the Court’s Order. If the people of Connecticut and their elected representatives want to completely overhaul the state’s congressional districts, they are free to do so. But it is not the role of the Court to impose such vast changes on the people, as the Court’s December 23rd Order makes abundantly clear.

B. There is no legitimate basis to disregard the Supreme Court’s Order in favor of selected “traditional redistricting criteria”

The Republican Members’ brief (p. 11) reiterates its contention that the “congressional map should be drawn based on traditional redistricting principles,” rather than on the requirements of the Court’s Order. That contention is partly based on the claim that the existing districts are the result of an improper “political gerrymander” in 2001 (*id.*). (The two maps submitted by the Connecticut Republican Party appear to be what would follow from using what the Republican Members refer to as a “traditional redistricting” approach.) The Special Master should reject this approach outright.

First, the Special Master has no authority to disregard the Court’s Order, as this recommended approach would require.

Second, the 2001 redistricting map is *not* the result of improper “gerrymandering,” as that term is commonly understood. It is the result of a legitimate, negotiated, bipartisan political compromise that

⁷ Without the underlying shape files, it is difficult to determine with certainty the number of people that would be moved under each map. We calculate that 501,204 would move to new districts under the Most Proportional map, and 501,734 would move to new districts under the Least Splits map.

was successfully reached through the legislative redistricting process. That bipartisan compromise produced lawful, competitive districts, and those districts have not materially changed since then.⁸

Third, respecting the existing district lines to the extent reasonably possible, *i.e.*, a “least changes” approach, reflects appropriate deference to the legislative redistricting process and appropriate limits on a judicially overseen redistricting process. That approach is consistent with directives from the U.S. Supreme Court and with the approach of other state supreme courts undertaking redistricting duties. *See* Opening Brief of Reapportionment Commission Democratic Members, pp. 6-7.

Finally, any map that revises the congressional districts from scratch as part of a judicial redistricting process – as either of the maps submitted by the Connecticut Republican Party would do – is not a “good government” map, as the Republican Members’ brief suggests (p. 12). It is a map that disrespects the political role of the legislative branch and disregards the limited role of the judicial branch in redistricting -- precisely the result that the Supreme Court’s Order is intended to avoid.

⁸ That the 2001 redistricting was a bipartisan compromise that produced competitive districts is evident from the fact that Republican congressional candidates won three of the five districts in the first election that followed in 2002, while Democrats won two of the five districts in 2004. The more recent elections in which Democrats have won all five congressional seats do not indicate that the districts are somehow no longer competitive; that is clear from the fact that, in the Second and Fifth Districts, the Republican candidates for Governor won in both 2014 and 2018, as did a number of other Republican candidates for statewide office in those years.

Respectfully submitted,

REAPPORTIONMENT
COMMISSION DEMOCRATIC
MEMBERS MARTIN LOONEY,
BOB DUFF, MATTHEW
RITTER, AND JASON ROJAS

BY: /s/ Aaron S. Bayer
Aaron S. Bayer
Paul Tuchmann
Wiggin and Dana LLP
265 Church Street
P.O. Box 1832
New Haven, CT 06508-1832
(203) 498-4400
abayer@wiggin.com
ptuchmann@wiggin.com
Juris No. 067700

CERTIFICATIONS

The undersigned hereby certifies, pursuant to Practice Book § 67-2A, that:

- (1) A copy of the brief and exhibits have been sent electronically to each counsel of record in compliance with § 62-7, except for counsel of record exempt from electronic filing pursuant to § 60-8, to whom a paper copy of the brief and exhibits have been sent; and
- (2) The electronically submitted brief and exhibits were delivered electronically to the last known e-mail address of each counsel of record for whom an e-mail address was provided; and
- (3) The electronically submitted brief and exhibits and the filed paper brief and exhibits have been redacted or do not contain any names or other personal identifying information that is prohibited from disclosure by rule, statute, court order, or case law, unless the brief is filed pursuant to § 79a-6; and
- (4) The brief and exhibits filed with the appellate clerk are true copies of the brief and exhibits that were submitted electronically; and
- (A) The brief has a word count of 2,261, it is filed in compliance with the Practice Book, and either no deviations from the guidelines were requested, or none were approved; and

The brief complies with all provisions of this rule.

Maura Murphy Osborne
Michael K. Skold
Office of the Attorney General
165 Capitol Ave, 5th Flr.
Hartford, CT 06106
(860) 808-5020
Maura.murphyosborne@ct.gov
Michael.skold@ct.gov

Proloy K. Das
Murtha Cullina LLP
280 Trumbull Street
Hartford, CT 06103
(860) 240-6000
pdas@murthalaw.com

Benjamin Proto, Chairman
176 Lanning Street
Southington, CT 06489
ben@ct.gop

Dated: January 7, 2022

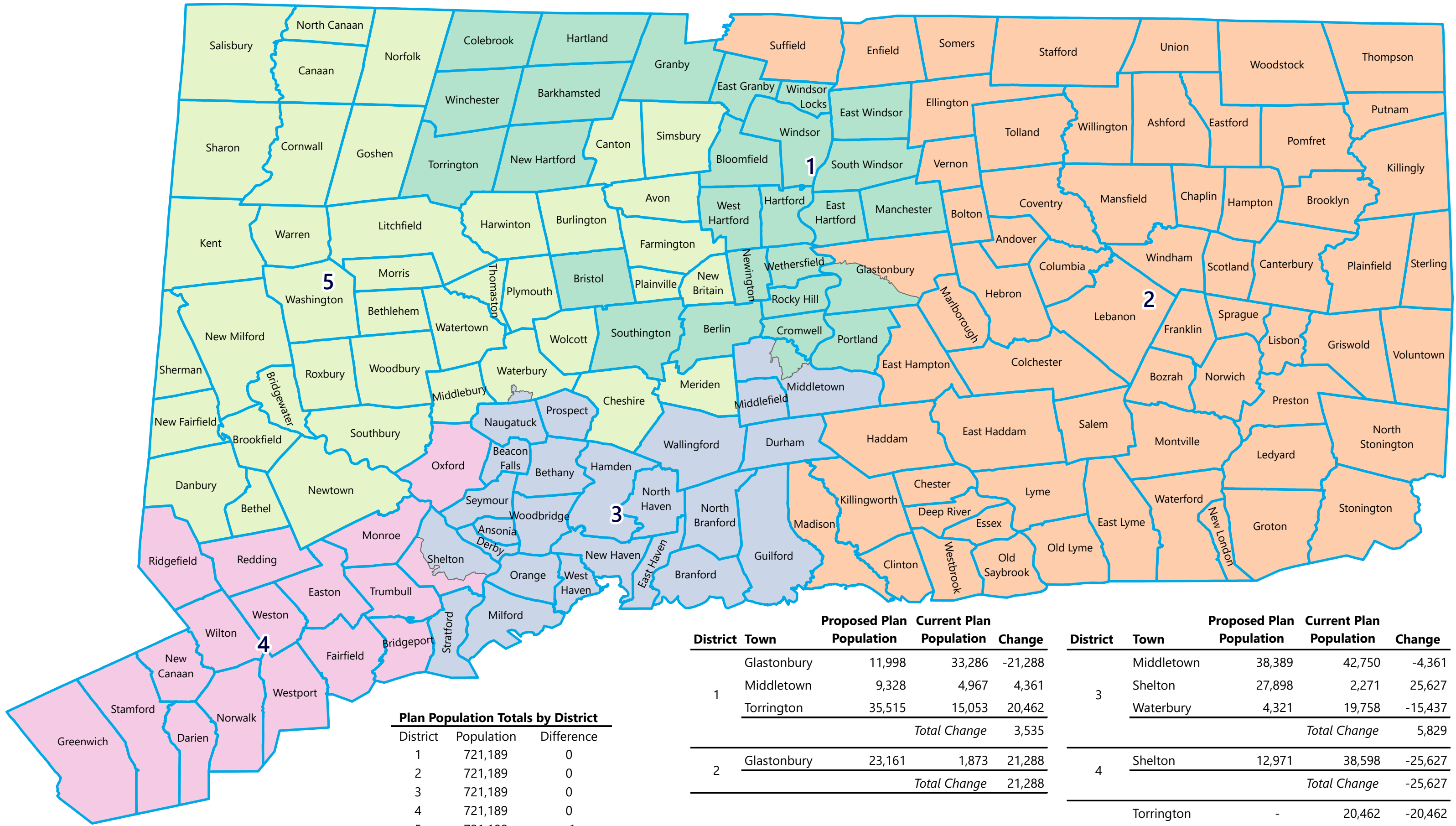
By: /s/ Aaron S. Bayer
Aaron S. Bayer

EXHIBIT INDEX

- Exhibit 1:** Map, Alternative Plan for Unifying Torrington
- Exhibit 1A:** Map, Alternative Plan for Unifying Torrington with Current District Overlay
- Exhibit 2:** Data File, Alternative Plan for Unifying Torrington by the Reapportionment Commission Democrats (data provided separately in electronic form)
- Exhibit 3:** Map, Alternative Plan, Split Town Comparison - Waterbury
- Exhibit 4:** Map, Alternative Plan, Split Town Comparison - Middletown
- Exhibit 5:** Map, Alternative Plan, Split Town Comparison - Glastonbury
- Exhibit 6:** Map, Alternative Plan, Split Town Comparison - Shelton
- Exhibit 7:** District 5 Diversity Comparison

EXHIBIT 1

Reapportionment Commission Democrats Alternative Plan



Town Boundary

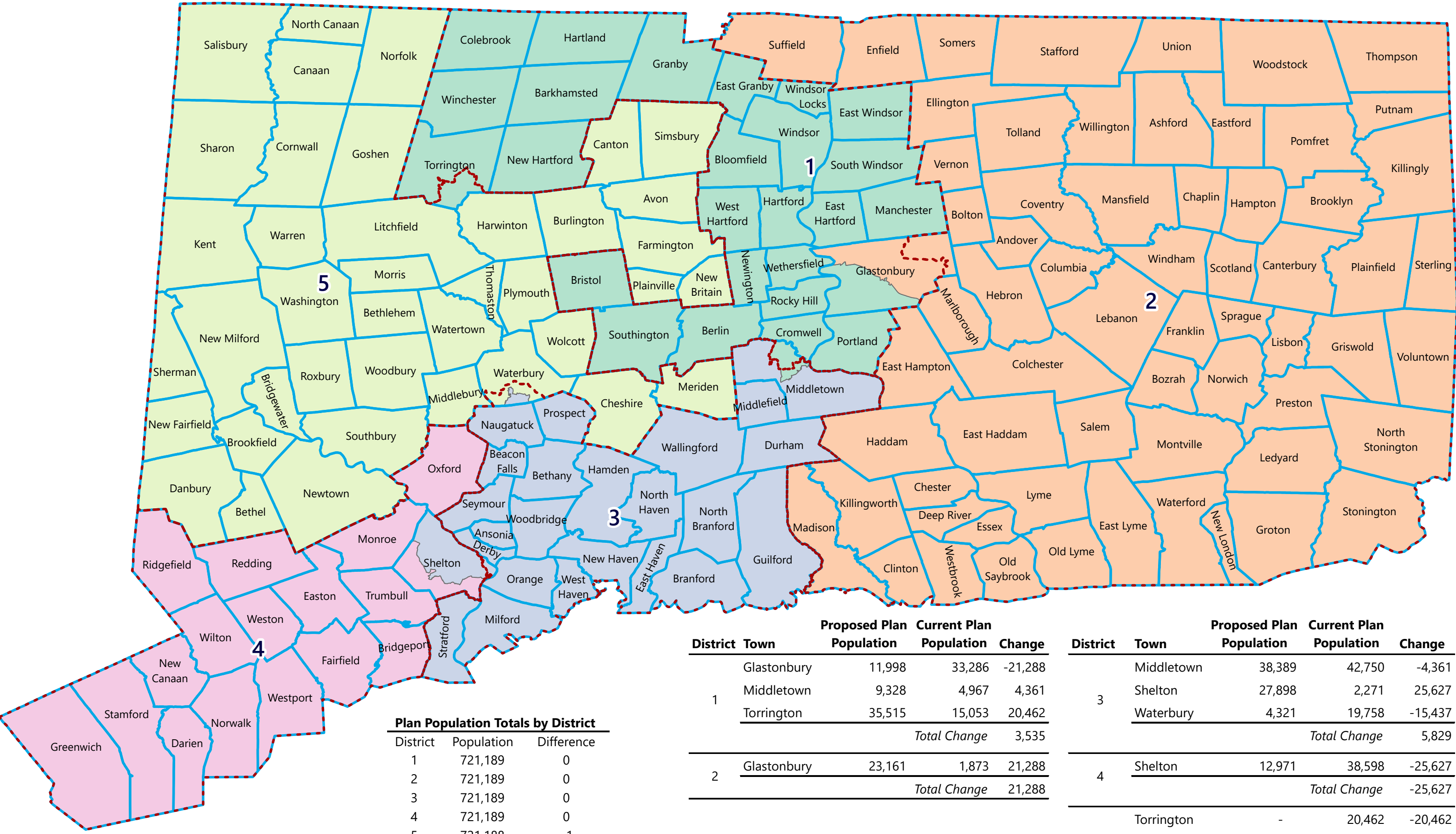
Plan Population Totals by District		
District	Population	Difference
1	721,189	0
2	721,189	0
3	721,189	0
4	721,189	0
5	721,188	-1

District	Town	Proposed Plan	Current Plan	
		Population	Population	Change
1	Glastonbury	11,998	33,286	-21,288
	Middletown	9,328	4,967	4,361
	Torrington	35,515	15,053	20,462
<i>Total Change</i>				3,535
2	Glastonbury	23,161	1,873	21,288
	<i>Total Change</i>			

District	Town	Proposed Plan	Current Plan	
		Population	Population	Change
3	Middletown	38,389	42,750	-4,361
	Shelton	27,898	2,271	25,627
	Waterbury	4,321	19,758	-15,437
<i>Total Change</i>				5,829
4	Shelton	12,971	38,598	-25,627
	<i>Total Change</i>			
5	Torrington	-	20,462	-20,462
	Waterbury	110,082	94,645	15,437
<i>Total Change</i>				-5,025

EXHIBIT 1A

Reapportionment Commission Democrats Alternative Plan



Plan Population Totals by District

District	Population	Difference
1	721,189	0
2	721,189	0
3	721,189	0
4	721,189	0
5	721,188	-1

District	Town	Proposed Plan Population	Current Plan Population	Change
1	Glastonbury	11,998	33,286	-21,288
	Middletown	9,328	4,967	4,361
	Torrington	35,515	15,053	20,462
<i>Total Change</i>				3,535
2	Glastonbury	23,161	1,873	21,288
	<i>Total Change</i>			

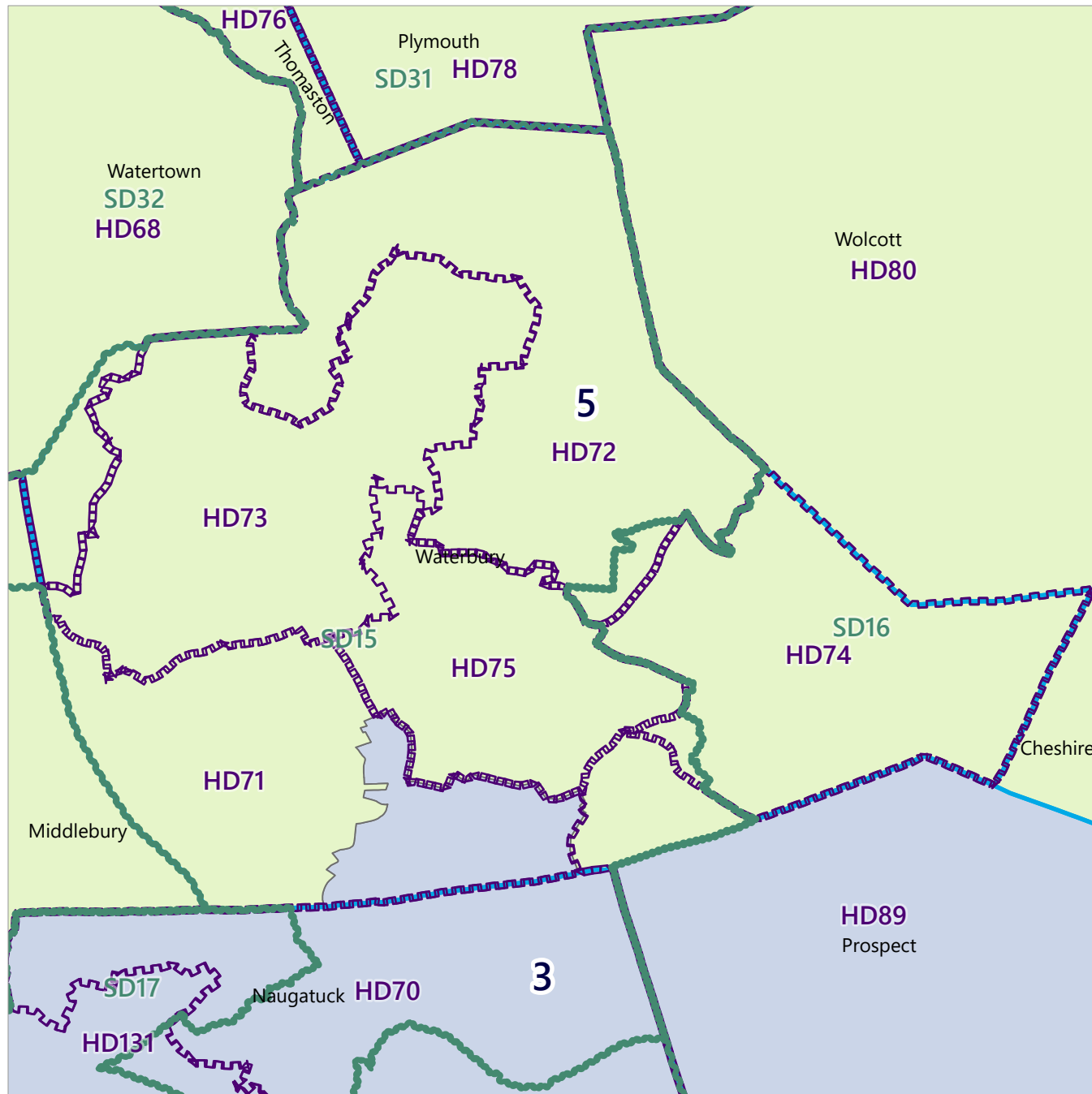
District	Town	Proposed Plan Population	Current Plan Population	Change
3	Middletown	38,389	42,750	-4,361
	Shelton	27,898	2,271	25,627
	Waterbury	4,321	19,758	-15,437
<i>Total Change</i>				5,829
4	Shelton	12,971	38,598	-25,627
	<i>Total Change</i>			
5	Torrington	-	20,462	-20,462
	Waterbury	110,082	94,645	15,437
<i>Total Change</i>				-5,025

- - - Current Congressional District Boundary
_ _ _ Town Boundary

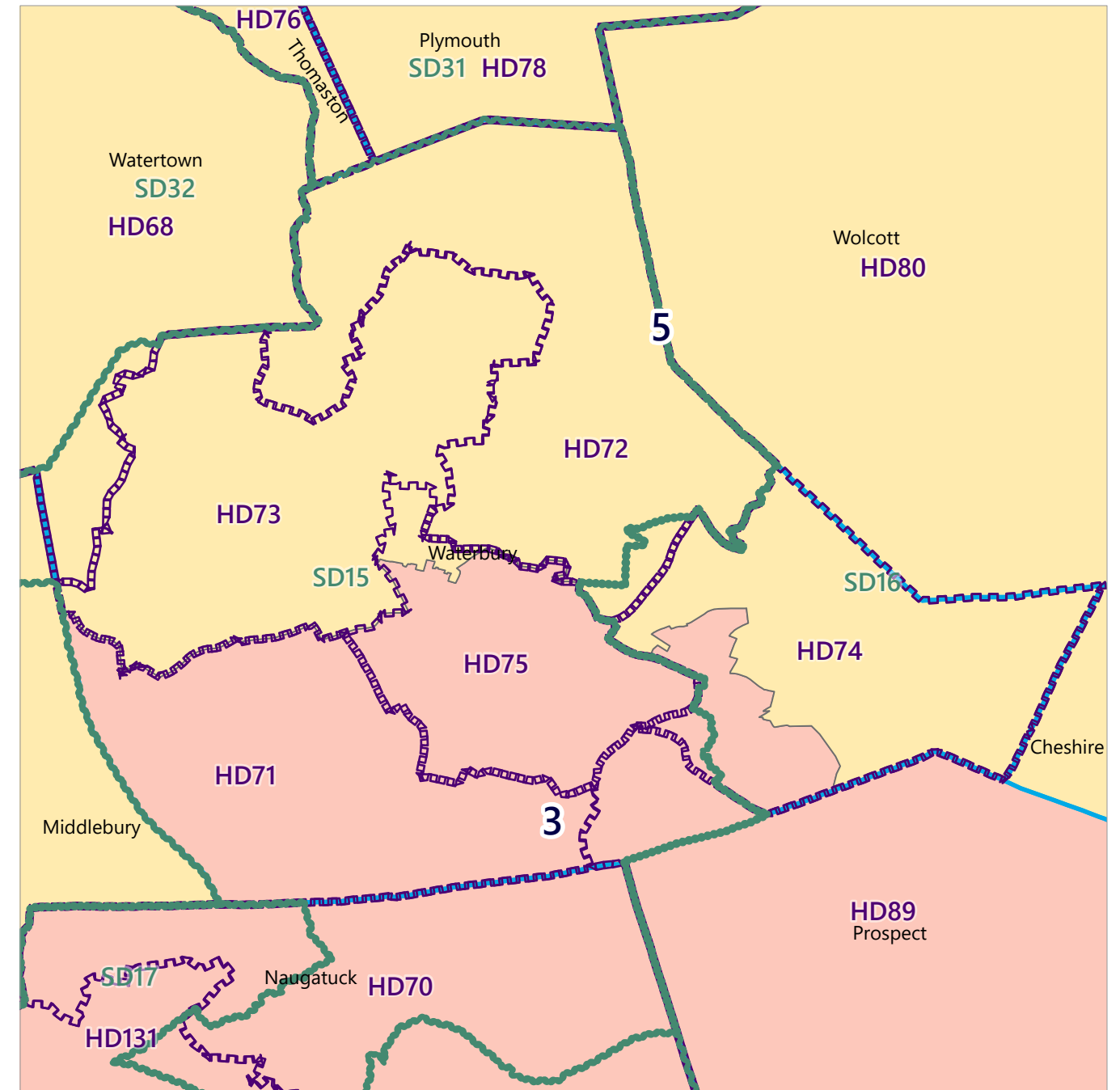
EXHIBIT 3

Waterbury

Reapportionment Commission Democrats Reply Brief Alternative Plan



Reapportionment Commission Republicans Proposed Plan



The line between Districts Three and Five only splits State House District 71, and is wholly within State Senate District 15.

The line between District Three and Five splits State Senate Districts 15 and 16, as well as State House Districts 74 and 75.




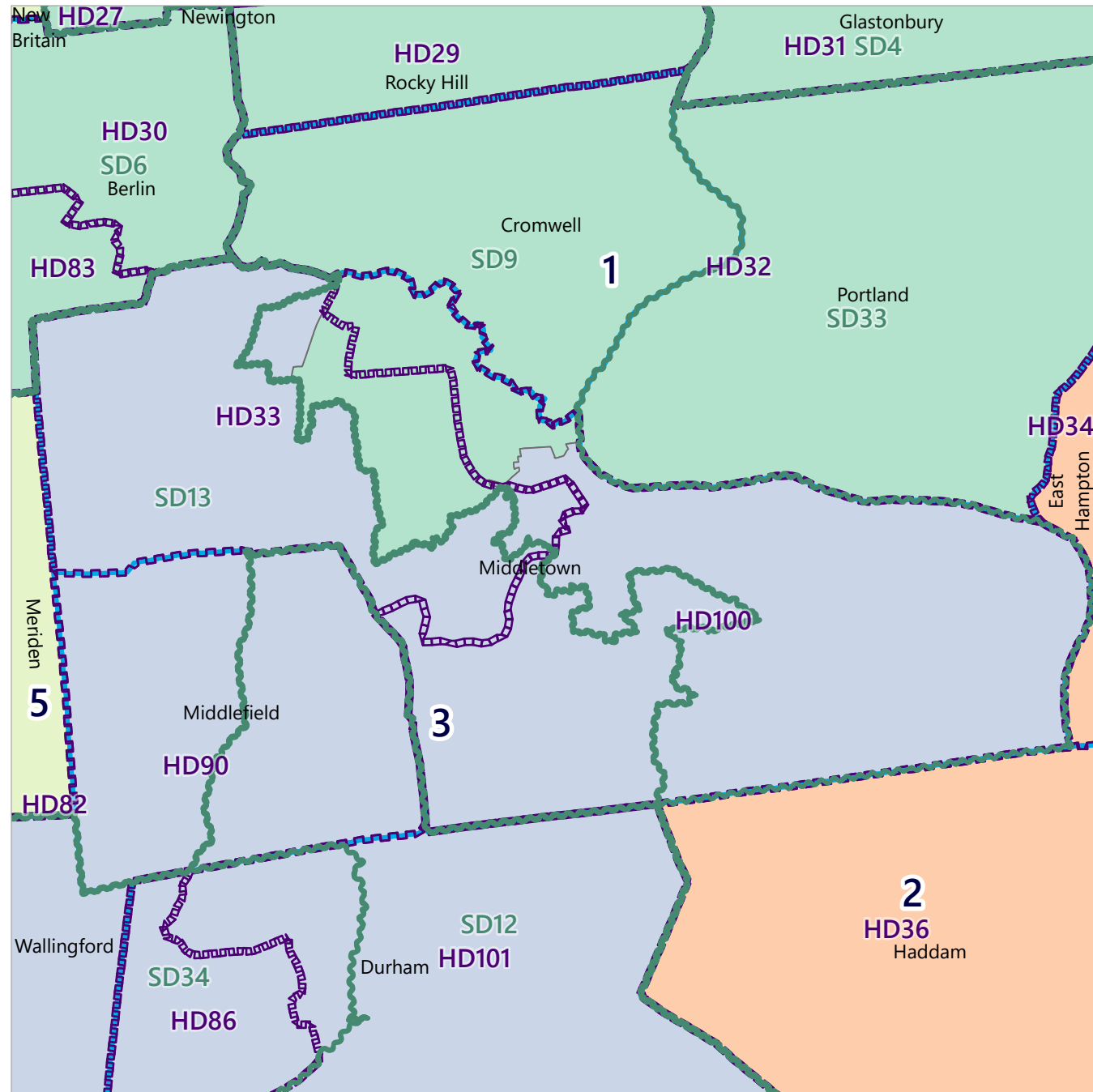
-  State Senate District Boundary
-  State House District Boundary
-  Town Boundary

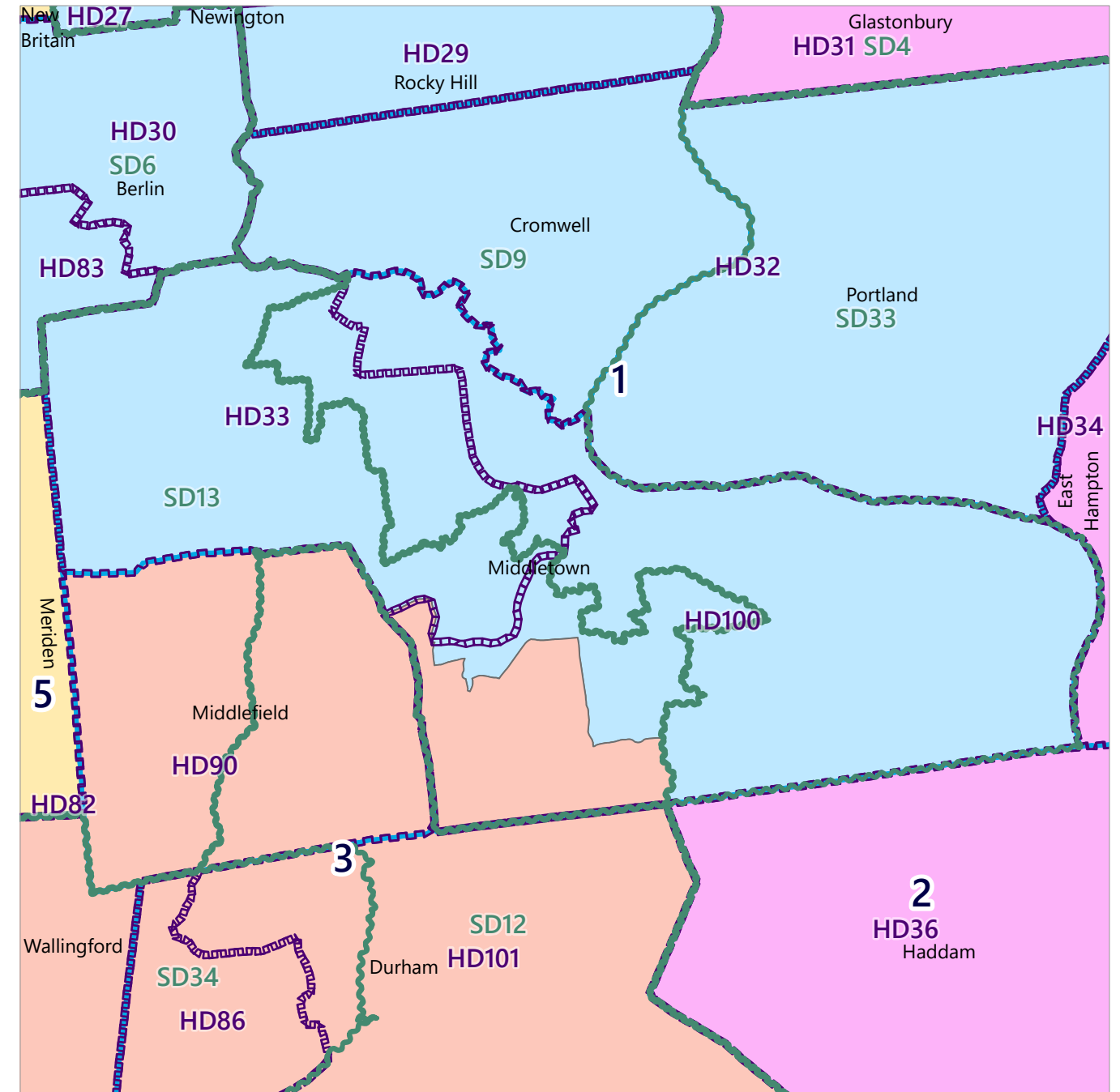
EXHIBIT 4

Middletown

Reapportionment Commission Democrats Reply Brief Alternative Plan



Reapportionment Commission Republicans Proposed Plan



The line between Districts One and Three splits State House Districts 33 and 100 and is wholly within State Senate District 9.

The line between Districts One and Three only splits State House District 100 and is wholly within State Senate District 13.




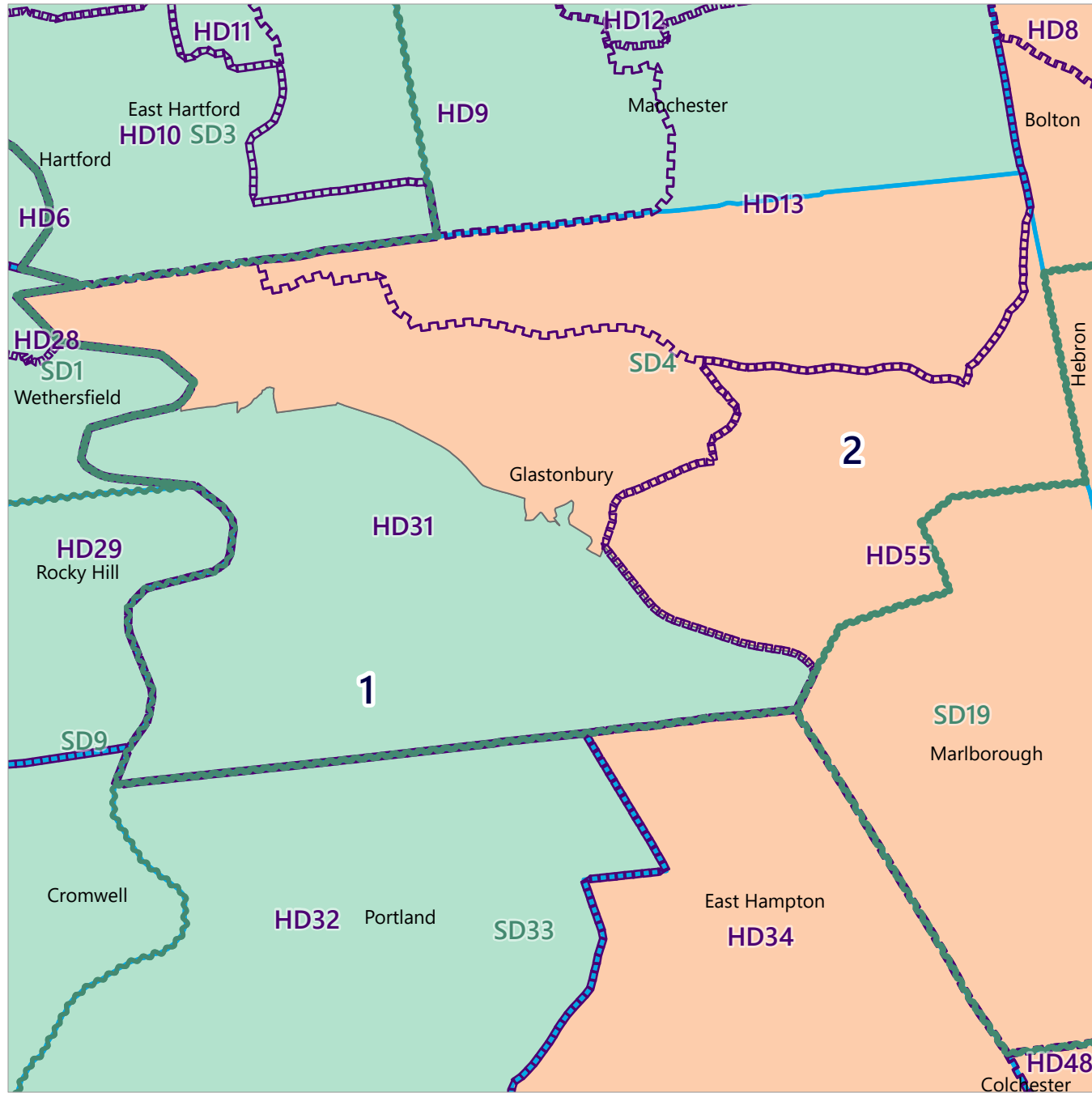
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-  State House District Boundary
-  Town Boundary

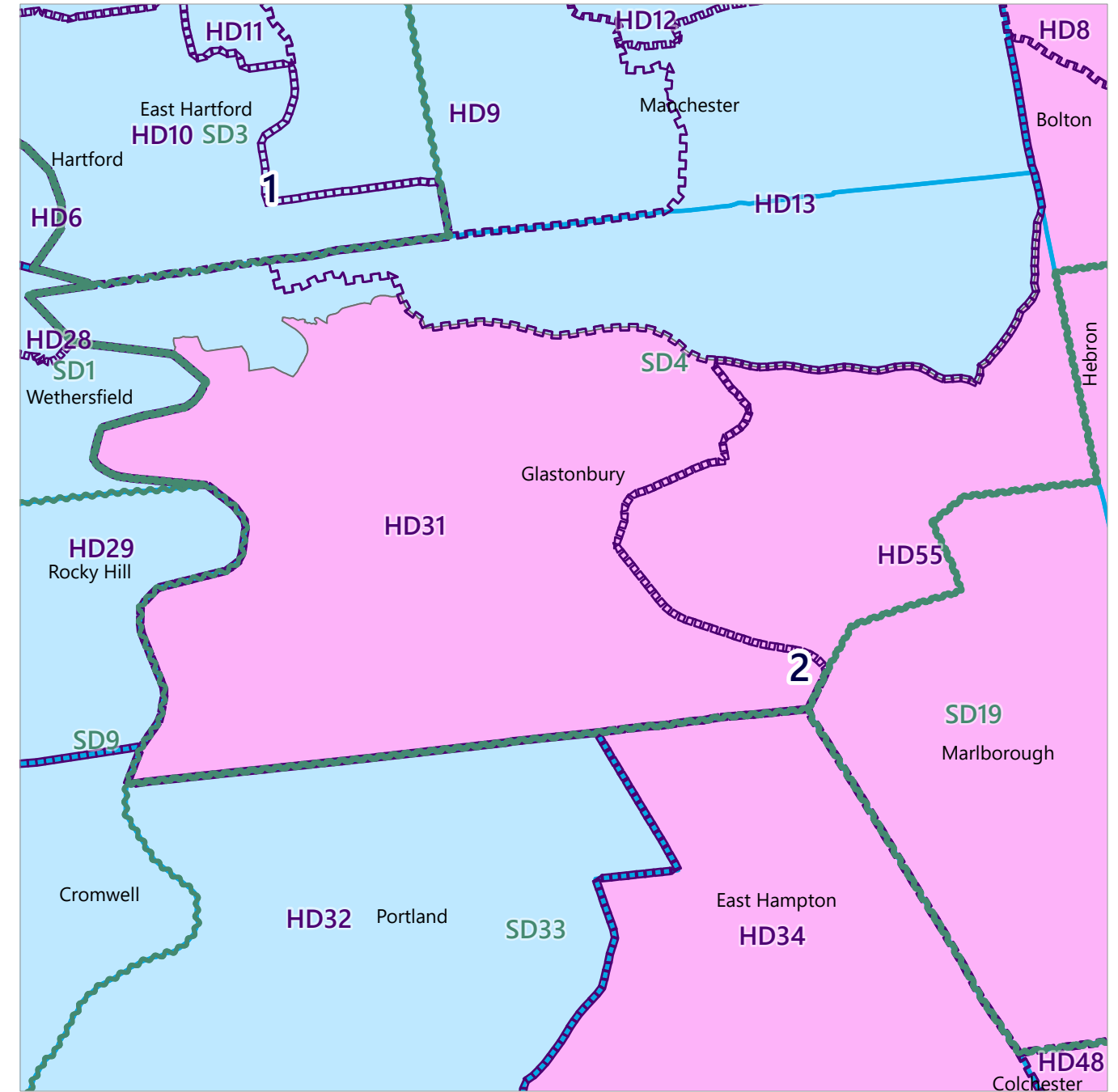
EXHIBIT 5

Glastonbury

Reapportionment Commission Democrats Reply Brief Alternative Plan



Reapportionment Commission Republicans Proposed Plan



The line between Districts One and Two only splits State House District 31 and is wholly within State Senate District 4.

The line between Districts One and Two only splits State House District 31 and is wholly within State Senate District 4.




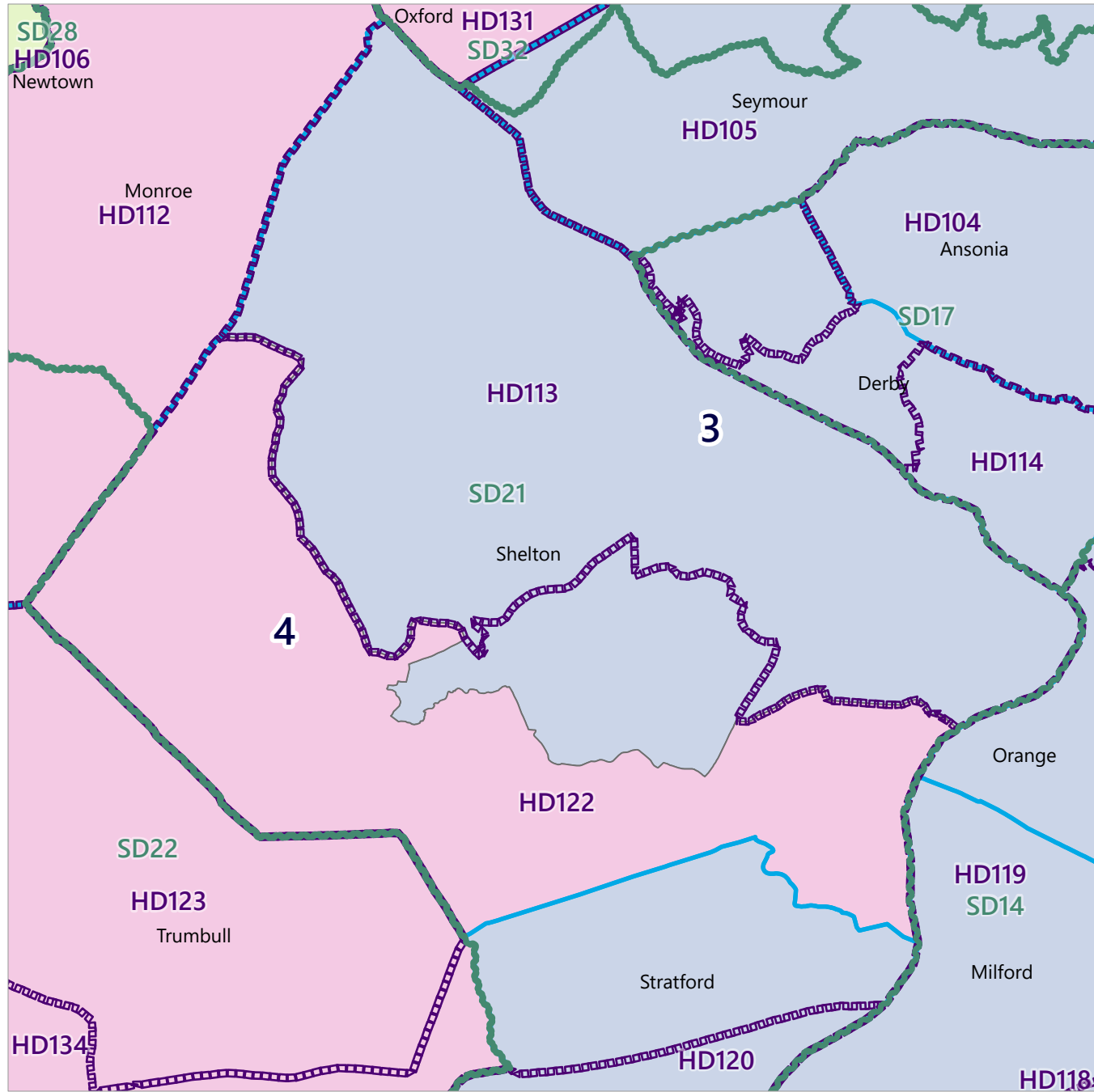
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-  State House District Boundary
-  Town Boundary

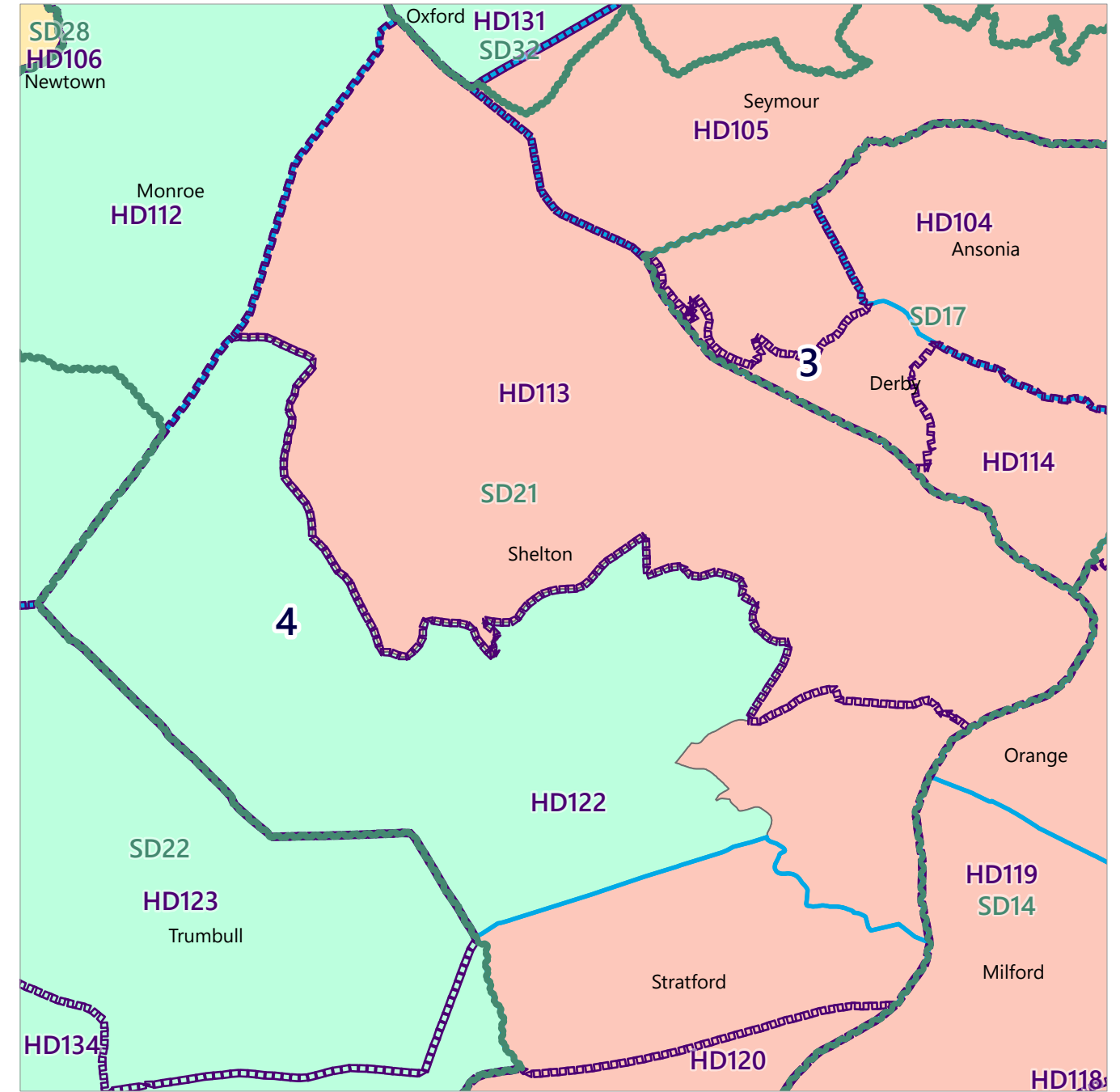
EXHIBIT 6

Shelton

Reapportionment Commission Democrats Reply Brief Alternative Plan



Reapportionment Commission Republicans Proposed Plan



The line between Districts Three and Four only splits State House District 122 and is wholly within State Senate District 21.

The line between Districts Three and Four only splits State House District 122 and is wholly within State Senate District 21.




-  State Senate District Boundary
-  State House District Boundary
-  Town Boundary

EXHIBIT 7

District Five	Total		
	Population	Hispanic*	Black*
Current Congressional Districts	726,213	20.9%	7.9%
The Proposed Plan	721,189	20.9%	8.0%
Rep. Members' Submitted Plan	721,188	20.0%	7.5%
Alternative Plan	721,188	21.3%	8.2%

* Hispanic or Latino individuals may be of any race

* Black or African American alone or in combination, not Hispanic or Latino