

Approved

Ivan Sand
Date 3-16-88

MINUTES OF THE House COMMITTEE ON Local Government

The meeting was called to order by Representative Ivan Sand at
Chairperson

1:30 A.M./P.M. on March 3, 1988 in room 521-S of the Capitol.

All members were present except:

Representative Baker, excused

Committee staff present:

Mike Heim, Legislative Research Dept.
Bill Edds, Revisor of Statutes' Office
Lenore Olson, Committee Secretary

Conferees appearing before the committee:

Richard Heaton, Superintendent of U.S.D. 406 of Wathena
Richard Funk, Kansas Association of School Boards
John Reinhart, Secretary of State's Office
Marla Howard, City of Wichita
Senator Paul Burke
Marcia Rinehart, Mayor of Leawood
Richard Garofano, Leawood City Administrator
Robert McKay, Director of Planning and Development, Leawood

The minutes of March 2, 1988 were approved.

Mike Heim gave an overview of HB 3037.

Richard Funk testified in support of HB 3037, stating that it represents a compromise from their original request. (Attachment 1)

Richard Heaton testified in favor of HB 3037, stating that they are not seeking to change the legal obligations of boards of education, but only to seek release from the lack of proper public notice to the voters of the school district. (Attachment 2)

A motion was made by Representative Graeber and seconded by Representative Johnson to add to line 31 of HB 3037 the words "number of" before the word "publications" and to delete the words "all of the other notices." The motion carried.

A motion was made by Representative Schauf and seconded by Representative Johnson to add to line 32 of HB 3037 the words "prior to the taking of such action or exercise of such authority." The motion carried.

A motion was made by Representative Dean and seconded by Representative Acheson to pass HB 3037 as amended. The motion carried.

John Reinhart testified in favor of HB 3045, stating that this bill is an effort to clean up statutes that are confusing or that are not being used. (Attachment 3)

Chairman Sand closed the hearing on HB 3045.

Mike Heim gave an overview of HB 3048.

Senator Burke testified in favor of HB 3048, stating that he is concerned with manifest injury to both parties involved in an annexation.

Marcia Rinehart testified in favor of HB 3048, stating that she hopes the Committee will consider the seriousness of the situation which has evolved under the current statute. (Attachment 4)

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Local Government

room 521-S, Statehouse, at 1:30 a.m./p.m. on March 3, 1988

Representative Brown spoke on HB 3048, stating that she was speaking on behalf of some of the residents in Leawood, who stated that they want to be annexed into the city of Overland Park.

Richard Garofano testified in favor of HB 3048, stating that he is advocating that good planning and the economic viability of a city should be given the same opportunity in the right to appeal when a petitioner's land is in the general area of, or bordering on, an adjacent city which will feel the impact of the annexation.

Robert McKay testified in favor of HB 3048, stating that the city of Leawood has been looking at this area for 13 years. (Attachment 5)

Marla Howard testified against HB 3048, stating that it would impede and could effectively prohibit unilateral annexation and landlock cities, regardless of size, in areas where a number of cities are located close together. (Attachment 6)

Chairman Sand closed the hearing on HB 3048.

A motion was made by Representative Patrick and seconded by Representative Douville to, in HB 3048, strike lines 60, 61 and 62 through the word "state," and to change the date in lines 63 and 64 to February 15, 1988; also to incorporate lines 161 through 186 of SB 715 into HB 3048.

A substitute motion was made by Representative Graeber and seconded by Representative Beauchamp to pass HB 3048. The motion failed.

A substitute motion was made by Representative Dean and seconded by Representative Francisco to table HB 3048. The motion failed, with 6 for and 9 against.

A substitute motion was made by Representative Brown and seconded by Representative Francisco to amend HB 3048 to change the references on 3 miles to 1 mile and to add to section 1. 7. d. "if the latter city files a notice protesting such annexation with the board of county commissioners of the county in which the land sought to annexed is located any time prior to the effective date of the annexation ordinance." The motion carried. (Attachment 7)

A motion was made by Representative Schauf and seconded by Representative Miller to pass HB 3048 as amended. The motion carried, with 8 yes and 5 no.

A motion was made by Representative Miller and seconded by Representative Kennard to pass HB 2699 as amended. The motion carried.

A motion was made by Representative Johnson and seconded by Representative Kennard to amend HB 2865 in line 32 by striking the word "permanent" to make it read "an appointment" and to strike lines 84 - 89. The motion carried.

A motion was made by Representative Johnson and seconded by Representative Kennard to pass HB 2865 as amended. The motion carried.

The meeting adjourned.

KANSAS
ASSOCIATION



OF
SCHOOL
BOARDS



5401 S. W. 7th Avenue Topeka, Kansas 66606
913-273-3600

TESTIMONY ON H.B. 3037

by

Richard S. Funk, Assistant Executive Director
Kansas Association of School Boards

March 3, 1988

Mr. Chairman and members of the committee, we appreciate the opportunity to appear today on behalf of the 302 members of the Kansas Association of School Boards. KASB supports the provisions found in H.B. 3037.

The Delegate Assembly of the Kansas Association of School Boards approved a resolution in December 1987 that states in part: "...that legislation be enacted that clarifies that the failure of a newspaper to fully publish a legal notice of a board of education not invalidate an election nor invalidate the action of any board of education when such board of education documents that it has fully complied with every other aspect of the legal requirement."

House Bill 3037 represents a compromise from our original request. We are asking that if a newspaper fails to publish a legal notice that must be published in a consecutive manner, such legal notice may be published at the next available time and not cause the invalidation of the action by the board of education.

*Attachment 1
3/3/88*

For example: a legal notice must be published once a week for three consecutive weeks. It is published week one and week two but not week three. Under present law the publication cycle must be repeated and the legal notice paid for twice. House Bill 3037 would allow the legal notice to be published on the fourth week and still have the effect of meeting the publishing of legal notice requirements.

I must stress that the local board must be fully correct in its procedure and data; the local board must also prove that the legal notice was published three times.

We would ask you to report H.B. 3037 favorably for passage.

1.2

TESTIMONY OF

Richard Heaton, Superintendent

Representing U.S.D. 406

Wathena, Kansas

before the House Local Government Committee

Representative Ivan Sand, Chairman

March 3, 1988

Mr. Chairman and Committee Members

Thank you for the opportunity to appear before your Committee.

We are requesting favorable passage of House Bill 3037. Boards of education spend a great deal of time and money on bond and/or budget elections only to have their efforts aborted by the failure of the local newspapers to properly publish legal notices. We are not seeking to change the legal obligations of boards of education, but only to seek release from the lack of proper public notice to the voters of the school district. Therefore, we are requesting your support of House Bill 3037.

*Attachment 2
3/3/88*



Bill Graves
Secretary of State

2nd Floor, State Capitol
Topeka, KS 66612-1594
(913) 296-2236

STATE OF KANSAS

Testimony before
HOUSE COMMITTEE ON LOCAL GOVERNMENT
on House Bill 3045

March 3, 1988

By John Reinhart
Office of the Secretary of State

Essentially, House Bill 3045 represents a bit of housekeeping by our office. It is an effort to clean up statutes that are confusing or that are not being used.

House Bill 3045 does two things:

1. It eliminates a rate chart that sets forth rates that newspapers may charge for legal rates.

Under current law, newspapers may set rates in one of two ways. They may follow the rate chart or they may set rates not exceeding the lowest regular classified advertising rate charged to its commercial customer.

The chart is rarely used. Among the 305 newspaper with rates on file with our office 11 use the chart. All others have elected to establish a fee equal to or lower than their regular classified advertising rate.

By eliminating the chart, Kansas law would be in keeping with the law in most other states. Although states have a variety of ways in which legal ad rates are determined, by far the most common practice is that

attachment 3
3/3/88

legal ad rates must not exceed the lowest regular classified ad rate.

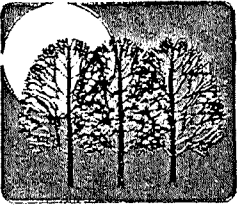
I want to emphasize that H.B. 3045 preserves the status quo as to the rates a newspaper may charge for legal ads. It does not raise those rates, nor does it lower those rates. It simply eliminates a rate chart that, for all intents and purposes, is not being used.

2. The second effect of H.B. 3045 is to eliminate the need for newspapers to file their legal ad rates with the Secretary of State's Office.

We are asking this practice be eliminated because it serves no purpose. We go to a great deal of trouble to contact the newspapers, collect and file their rates, only for that information to go unused. In four and one-half years, we have received less than a dozen inquiries.

I might add that most of the inquiries we do receive are from newspaper publishers checking on their competitors' rates.

On behalf of Secretary of State Bill Graves, I urge favorable action on H.B. 3045.



City of Leawood

March 3, 1988

To Members of the House Committee on Local Government:

I am pleased to have the opportunity to address your committee regarding recent annexation actions which will severely impact our City. Joining me in this testimony will be Richard Garofano, City Administrator, and Robert McKay, Director of Planning & Development for the City of Leawood. Richard Wetzler, City Attorney, will be available to address any questions of a legal nature.

We sincerely hope that the Committee considers the seriousness of the situation which has evolved under the current statute regulating the annexation authority of Kansas cities. We are seeking your support in amending the current legislation to ensure fairness to all in annexation proceedings.

We would be happy to provide you with additional information or to discuss this issue further at any time.

Sincerely,

A handwritten signature in cursive script that reads "Marcia Rinehart".

Marcia Rinehart
Mayor

*Attachment 4
3/3/88*

**Testimony Before
House Committee on Local Government**

March 3, 1988

History

In September 1987 the Leawood City Council approved an ad hoc committee to review the City's policy regarding future annexation. The committee was to conduct a broad study of the question ranging in scope from whether the City should undertake any annexation in the future to identifying specific future annexation areas if the City should opt to follow that direction. In the course of its deliberations the committee set forth a study area which did include land south of the existing boundaries of Leawood's neighboring city, Overland Park.

After much discussion the committee recommended that the City Council authorize a more detailed study of an area bounded by the current city limits on the north, Nall Avenue on the west, State Line Road on the east and 167th to the south. This was consistent with a long-standing "gentlemen's agreement" with Overland Park that Nall Avenue would constitute the common boundary of the two cities.

Media accounts of the committee's review dwelt heavily on the fact that an area west of Nall Avenue, south of Overland Park, was "under consideration" for annexation by Leawood. The fact is, however, that the Leawood City Council specifically directed its staff to provide detailed financial data on the feasibility of annexing the area recommended by the committee (that being east of Nall Avenue, south to 167th Street). Despite this fact, officials in Overland Park expressed grave concerns over Leawood's "aggressiveness" in considering annexation south of their city.

The analysis completed by Leawood's staff revealed that it was not economically feasible for the City to consider annexing the 4 square miles it was directed to study. The costs of providing services and improving the infrastructure far exceeded the revenue that would be generated in the area. As a result, the staff provided details on a reduced area, that bounded by Nall Avenue on the west and the Blue River to the south. The analysis revealed that it would be economically feasible to annex this specific area.

Even though the Leawood City Council had not yet directed the filing of an annexation petition to the Board of County Commissioners, property owners in the study area began to react to the "threat" of annexation. Overland Park officials still expressed concerns publicly that Leawood was attempting to annex land directly south of their city, despite continual assurances from Leawood that such was not the case.

On December 21, 1987, in an effort to calm the fears of Overland Park, the Leawood City Council passed a resolution indicating its desire to enter into an agreement with Overland Park establishing Nall Avenue as the common boundary (Attachment A). In the meantime, property owners began to file annexation petitions with Overland Park indicating publicly that their preference was to remain unincorporated but if annexation was imminent, Overland Park represented the "lesser of two evils." In one instance a property owner likened the possibility of annexation as trying to "choose between a rattlesnake and a copperhead."

Attempts at Resolution

In an effort to acknowledge the property owners' stated preference to be left unincorporated and to calm ever-intensifying fears on the part of our neighboring city, the City of Leawood proposed a five-year moratorium on any annexations in the area south of its city boundaries, east of Nall Avenue. The first offer of such a moratorium was made by letter to all property owners who had petitioned for annexation by Overland Park (Attachment B). Later the Leawood City Council adopted a resolution detailing the specifics of an annexation moratorium to the City of Overland Park, which again reaffirmed that Leawood wished to acknowledge Nall Avenue as the common boundary (Attachment C).

Throughout the efforts of attempting to put a moratorium in place, a common argument was championed by the attorney representing the property owners, as well as by officials in Overland Park. That argument centered on the legal inability to enforce such a moratorium coupled with the inability of the Leawood City Council to bind future city councils to the terms of an agreement. This argument eventually undermined all attempts at bringing about a moratorium to annexations in the area south of Leawood.

Existing Annexation Legislation

The annexation law, as written, is not in the best interest of cities in urban counties in the State of Kansas. K.S.A. 1987 Supp. 12-520(a)(f) provides for annexations of land by petition without resolution, notice or public hearing requirements. This provision does not make allowance for appeals from any city sharing common boundaries with the land being petitioned to a neighboring city or which is in the path of an adjacent city's future growth.

Land owners are afforded an appeal procedure when a city proposes annexation under K.S.A. 12-521. K.S.A. 12-521(c) states that the Board of County Commissioners is required to

hear testimony as to the advisability of the annexation and is to consider the impact of approving or disapproving the annexation on the entire community involved. K.S.A. 12-521(c)(11) also requires that, in determining whether manifest injury would result from the annexation, the Board is to consider the "effect of the proposed annexation on the city and other adjacent areas including, but not limited to, other cities" K.S.A. 521(c)(14)(e) further states that "any owner or the city aggrieved . . . may appeal the decision of the Board to the district court" It is our opinion that the cities in the State of Kansas should be afforded the same appeals procedure from a petition to annex, and, without such an appeals process, adjoining cities would certainly be subject to manifest injury.

Cities are provided some relief when land being petitioned does not adjoin the City to which the request is being made. K.S.A. 12-520(c) (3) provides for a determination that the annexation will not hinder or prevent the proper growth and development of any other incorporated city within the same county. However, this has no effect when multiple petitions are submitted thus making the area petitioned congruous to or adjoining such city.

We are not advocating that land owners within areas proposed to be annexed by a city be unprotected. On the contrary, we are advocating that good planning and the economic viability of a city should be given the same opportunity in a right to appeal when a petitioner's land is in the general area of, or bordering on, an adjacent city which will certainly feel the impact of the annexation.

What is Fair?

More than anything, the City of Leawood is seeking amendments to the current annexation law that will provide fairness to all involved. We strongly believe that the interests of individual landowners must be balanced against the interests of a city as a sound economic, social and physical entity - the issue is that of private interests versus the public good. Is it sound public policy to enable individual property owners in the path of the natural extension of a city to petition another city for annexation and for that second city to be able to effectively seal the fate of another city through its acceptance of such petitions - all of which can be accomplished without the review of a higher authority!

We believe that the existing annexation laws which allow the above-described act to occur certainly foster annexation decisions based upon facts other than sound land use planning principles and sound public policy. Is it sound public

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policy for a city to be able to annex land in the path of another city's growth in order to protect its own borders and ensure its ability to grow? Is it sound public policy for a city to effectively curtail the future development of another in response to the petitions of individual property owners? Is it sound public policy for such ominous annexation actions to take place without the review of a higher authority to determine if another city may suffer irreparable harm especially while that same protection is afforded other types of annexation under the current legislation. We think not.

(We strongly urge this committee to pursue a revision to the current annexation law which will provide that annexation actions such as we have described be reviewed or appealed to a higher authority for a final, independent determination. We urge that this committee support the concept that the same determination as to "manifest injury" as found in Sec. 12-520(c) of the existing legislation be extended to apply to annexation actions under Sec. 12-520 (a)(d). The City of Leawood is obviously frustrated by its inability to appeal the proposed annexation actions which threaten to curtail its future growth and development. We would much prefer an appeal mechanism provided by statute than pursuing litigation to protect the future well-being of our City. We feel that such protection, the right to appeal actions which threaten a city's future viability and right to self-determination, is in the best interest of all cities throughout the State of Kansas and, as such, is in the interest of the public good.

RESOLUTION NO. 881

RESOLUTION OF INTENT TO ESTABLISH COMMON BOUNDARY.

WHEREAS, the City of Leawood has under consideration annexation of property in the general area south of its existing boundaries; and

WHEREAS, the City of Overland Park has received petitions from property owners in the area presently under consideration by the City of Leawood, requesting annexation to the City of Overland Park; and

WHEREAS, it is the desire of the City of Leawood to avoid a dispute and possible litigation over annexation; and

WHEREAS, representatives of the City of Overland Park and the City of Leawood have expressed interest in the execution of joint resolutions or agreements whereby both cities would agree that their common boundary would be Nall Avenue; and

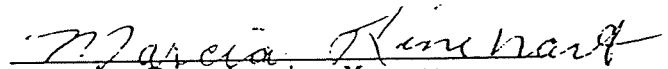
WHEREAS, it is desirable that negotiations between Overland Park and Leawood result in an agreement establishing Nall Avenue as their common boundary;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the City of Leawood:


1. The Governing Body does hereby direct its representatives to meet with representatives of the City of Overland Park for the purpose of preparing appropriate resolutions or agreements establishing Nall Avenue as a common boundary between the two cities;

2. The Governing Body does hereby set forth its intent to postpone any decision to annex additional property pending discussions with the City of Overland Park for the purpose of establishing common boundaries.

Adopted by the Governing Body this 21st day of December, 1987.


Marcia Rinehart, Mayor

Attest:


Martha Heizer, City Clerk

Mayer Corr
PLA

City of Leawood

February 5, 1988

[REDACTED]
Stanley, Kansas 66223

Dear Ms. [REDACTED],

Members of Leawood's staff have met with several of the property owners south of our city limits to discuss concerns regarding possible annexation. We understand from these discussions and from various public statements that property owners would prefer to remain in the County and not be annexed by any city at the present time. We respect the desire to remain outside of either city and offer the following proposal as a means to accomplish that end.

The City of Leawood stands ready to enter into an agreement with those property owners who withdraw their petitions for annexation from the City of Overland Park. This agreement would preclude Leawood from pursuing any annexation south of existing city limits (other than voluntary petitions for annexations) for a period of five years. In addition, this agreement would be made public and placed on file with the Board of County Commissioners in order to provide you with added assurances of our intent. As you are aware, except in the case of voluntary petitions for annexation, the City of Leawood would be required to file its petition for annexation with the Board of County Commissioners who have the authority to decide the matter.

The City of Overland Park has expressed concern over the possibility that Leawood might annex land west of Nall Avenue. In order to calm such fears, the City of Leawood will also stipulate that in no case will it pursue any annexations west of Nall Avenue either now or in the future. This stipulation and the agreement not to pursue any non-voluntary annexation for at least five years do not eliminate the opportunity for any landowner to petition the City of Overland Park for annexation at any time in the future.

It is our intent to establish ongoing communications with property owners to the south of our current city limits so that we may begin to address items of mutual concern. We would like to work with you in the future to discuss your desires regarding the eventual development of your property or other concerns related to future annexation possibilities. We feel that the next five years would provide ample opportunity to address and resolve any mutual concerns.

We would appreciate a response to this proposal at your earliest possible convenience, as your annexation petition will be considered by the Overland Park City Council within the next several days.

Sincerely,



Marcia Rinehart, Mayor
City of Leawood

RESOLUTION NO. 890

WHEREAS, the City of Leawood and the City of Overland Park have lengthy common boundaries; and

WHEREAS, the two cities have in the past worked together to promote their mutual interests and to maintain common boundaries; and

WHEREAS, concerns have arisen in recent months regarding statements in the media that Leawood might seek to annex ground south of the existing boundaries of the City of Overland Park west of Nall Avenue; and

WHEREAS, the Governing Body of the City of Leawood has consistently indicated that it is not in the best interests of the City of Leawood to seek to annex territory in the area south of the current boundaries of the City of Overland Park and west of Nall Avenue; and

WHEREAS, the Governing Body of the City of Leawood feels that acceptance by Overland Park of area south of Leawood's current boundaries and east of Nall Avenue would be of nominal benefit to the City of Overland Park but would render irreparable harm to the potential future development of the City of Leawood; and

WHEREAS, the Governing Body of the City of Leawood has for a number of years included the area south of its existing boundaries and east of Nall Avenue within its published master plan; and

WHEREAS, in order to promote and preserve the good relationship which has existed for many years between the two cities, the City of Leawood offers a proposed agreement whereby it would publicly agree to not annex any ground in the area south of the current boundaries of the City of Overland Park and west of Nall; and

WHEREAS, the City of Leawood is willing to agree to an annexation moratorium for a period of five (5) years;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the City of Leawood that the Mayor of Leawood is hereby authorized to execute an agreement in the form approved by the City attorney to include the following provisions:

Section 1. The City of Leawood will not initiate any annexation proceedings nor accept voluntary petitions for annexation of property located west of Nall Avenue at any time in the future.

Section 2. The City of Leawood will not initiate any annexation proceedings for any property located south of its current City limits, east of Nall Avenue, for a period of five (5) years.

Section 3. The City of Overland Park will not initiate any annexation proceeding for property located east of Nall Avenue at any time in the future.

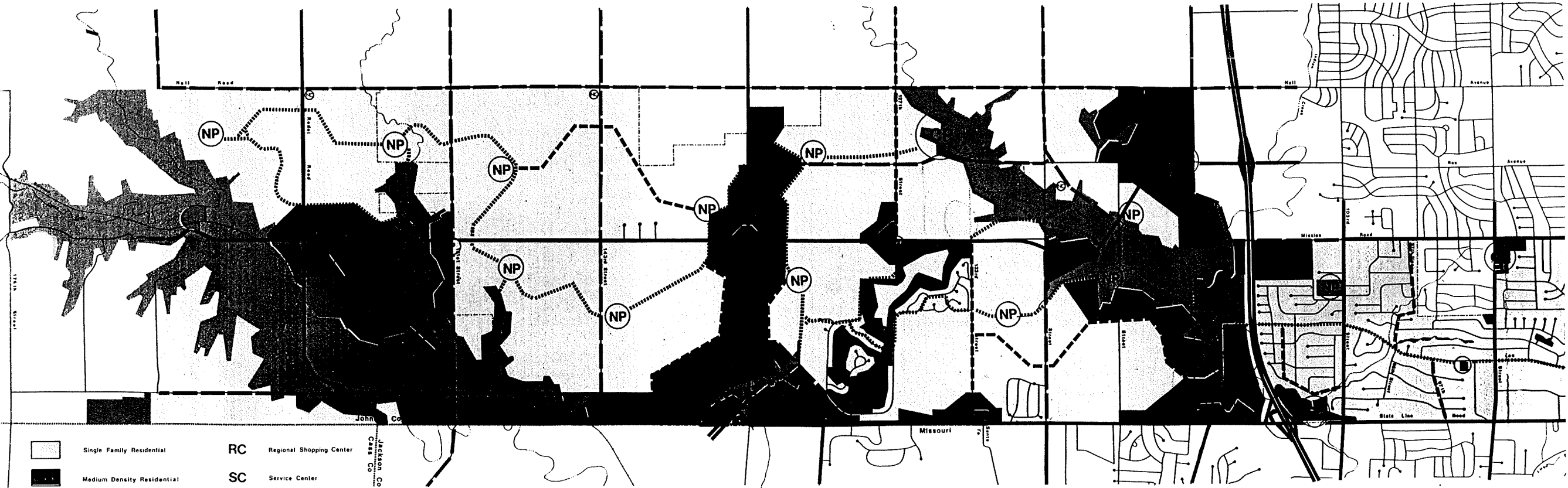
Section 4. The City of Overland Park will not accept any voluntary petitions for annexation of any property located east of Nall Avenue for a period of five (5) years.












Adopted by the Governing Body this 12th day of February, 1988.

Marcia Reinhardt
Mayor

ATTEST:

Marta Heizer
City Clerk



	Single Family Residential	RC	Regional Shopping Center		Interstate and Primary Arterial
	Medium Density Residential	SC	Service Center		Secondary Arterial
	Commercial	CC	Commercial Shopping Center		Collector
	Industrial, Transportation, Utilities	NC	Neighborhood Convenience Center		Parkway
	Public	P	Public		
	Recreation	CP	Community Park		
	Floodplain	NP	Neighborhood Park		

Land not included within a numbered area has not been scheduled for residential development.

Lawrence - Leiter and Company
Management Consultants
114 West Tenth Street
Kansas City, Missouri 64105



FEB. 24, 1975

The City of **LEAWOOD, KANSAS:**

Comprehensive Development Plan

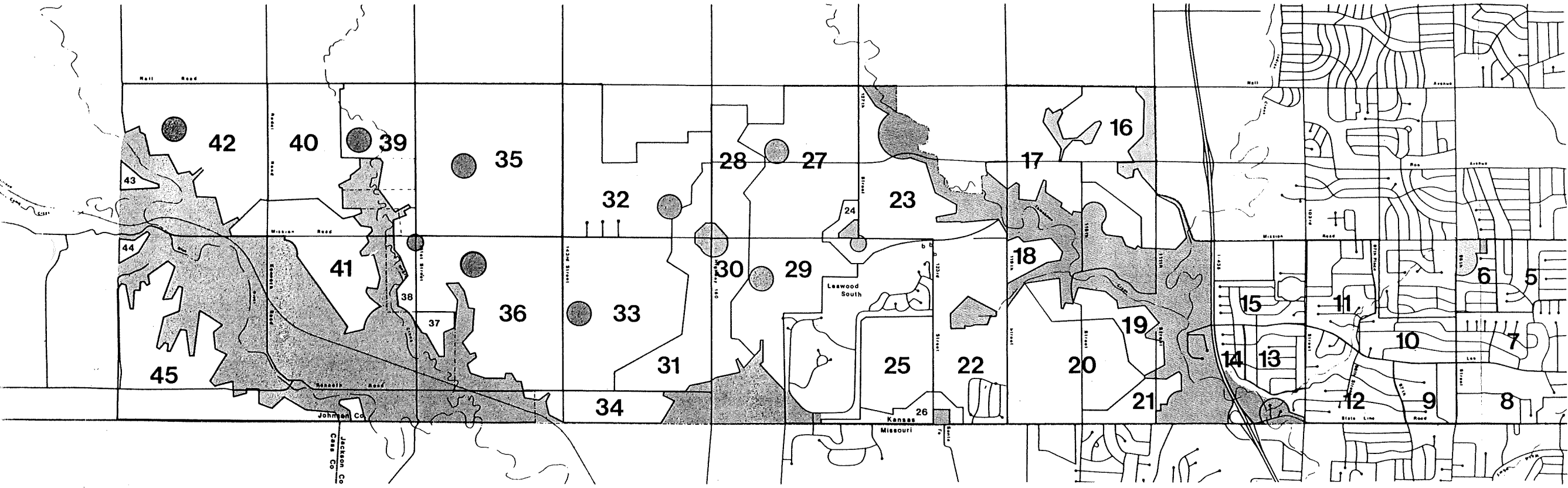
*Attachment 5
3/3/80*

TABLE 5

PLANNED RESIDENTIAL DENSITIES

ALTERNATIVE A							ALTERNATIVE B						
Area Number	Homes	Persons	Acres	PPA*	HPA**	Density Category	Area Number	Homes	Persons	Acres	PPA*	HPA**	Density Category
1	381	1,246	209	5.96	1.82	Low	1	381	1,246	209	5.96	1.82	Low
2	439	1,435	298	4.81	1.47	Low	2	439	1,435	298	4.81	1.47	Low
3	56	183	73	2.5	.76	Low	3	56	183	73	2.5	.76	Low
4	244	798	138	5.78	1.77	Low	4	244	798	138	5.78	1.77	Low
5	265	866	143	6.0	1.85	Low	5	265	866	143	6.0	1.85	Low
6	106	347	60	5.78	1.76	Low	6	106	347	60	5.78	1.76	Low
7	332	1,086	191	5.68	1.73	Low	7	332	1,086	191	5.68	1.73	Low
8	127	415	161	2.57	.78	Low	8	127	415	161	2.57	.78	Low
9	109	356	100	3.56	1.09	Low	9	109	356	100	3.56	1.09	Low
10	201	657	132	5.0	1.50	Low	10	201	657	132	5.0	1.50	Low
11	184	602	179	3.36	1.02	Low	11	184	602	179	3.36	1.02	Low
12	237	775	210	3.7	1.13	Low	12	237	775	210	3.7	1.13	Low
13	162	530	113	4.7	1.43	Low	13	162	530	113	4.7	1.43	Low
14	100	327	84	3.9	1.19	Low	14	100	327	84	3.9	1.19	Low
15	218	713	141	5.0	1.54	Low	15	218	713	141	5.0	1.54	Low
16	1,064	3,192	266	12	4	Med	16	1,596	4,788	266	18	6	Med
17	540	1,620	270	6	2	Low	17	540	1,620	270	6	2	Low
18	188	564	47	12	4	Med	18	282	846	47	18	6	Med
19	508	1,524	127	12	4	Med	19	762	2,286	127	18	6	Med
20	768	2,304	384	6	2	Low	20	768	2,304	384	6	2	Low
21	236	708	59	12	4	Med	21	352	1,062	59	18	6	Med
22	722	2,166	361	6	2	Low	22	722	2,166	361	6	2	Low
23	500	1,500	250	6	2	Low	23	500	1,500	250	6	2	Low
24	180	540	45	12	4	Med	24	270	810	45	18	6	Med
25	372	1,116	186	6	2	Low	25	372	1,116	186	6	2	Low
26	228	684	57	12	4	Med	26	342	1,026	57	18	6	Med
27	826	2,478	413	6	2	Low	27	826	2,478	413	6	2	Low
28	560	1,680	140	12	4	Med	28	840	2,520	140	18	6	Med
29	528	1,584	264	6	2	Low	29	528	1,584	264	6	2	Low
30	448	1,344	112	12	4	Med	30	672	2,016	112	18	6	Med
31	972	2,916	243	12	4	Med	31	1,458	4,374	243	18	6	Med
32	800	2,400	400	6	2	Low	32	800	2,400	400	6	2	Low
33	924	2,772	462	6	2	Low	33	924	2,772	462	6	2	Low
34	452	1,356	113	12	4	Med	34	678	2,034	113	18	6	Med
35	1,264	3,792	632	6	2	Low	35	1,264	3,792	632	6	2	Low
36	984	2,952	492	6	2	Low	36	984	2,952	492	6	2	Low
37	112	336	28	12	4	Med	37	168	504	28	18	6	Med
38	192	576	45	12	4	Med	38	270	810	45	18	6	Med
39	396	1,188	198	6	2	Low	39	396	1,188	198	6	2	Low
40	1,100	3,300	275	12	4	Med	40	1,650	4,950	275	18	6	Med
41	1,024	3,072	256	12	4	Med	41	1,536	4,608	256	18	6	Med
42	1,588	4,764	397	12	4	Med	42	2,382	7,146	397	18	6	Med
43	20	60	10	6	2	Low	43	20	60	10	6	2	Low
44	20	60	10	6	2	Low	44	20	60	10	6	2	Low
45	782	2,346	391	6	2	Low	45	782	2,346	391	6	2	Low
			9,165							9,165			
Leewood South	314	1,027	422				Leewood South	314	1,027	422			
TOTAL	21,773	66,057	9,587				TOTAL	26,179	79,481	9,587			

52



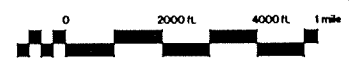
**Planned Residential
Density Map**

The City of **LEAWOOD,
KANSAS:**

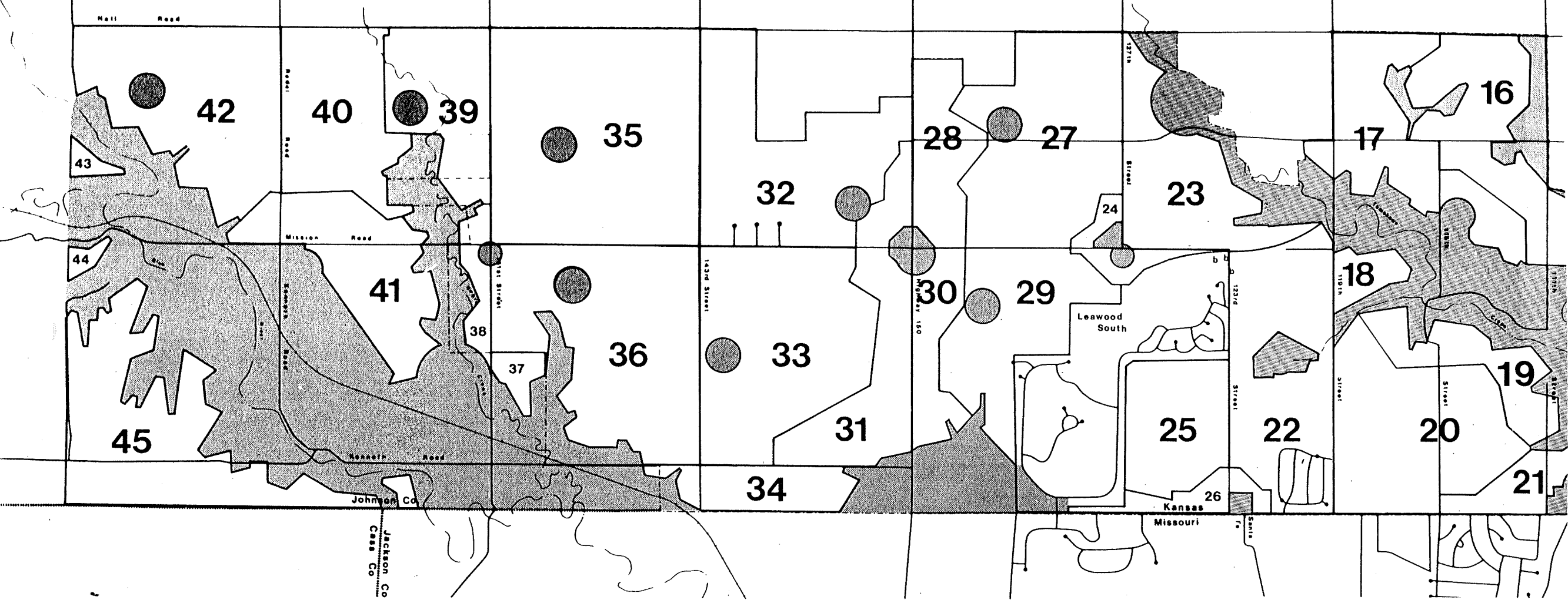
**Comprehensive
Development
Plan**

Land not included within a numbered area has not been scheduled for residential development.

Lawrence - Leifer and Company
Management Consultants
114 West Tenth Street
Kansas City, Missouri 64105



53

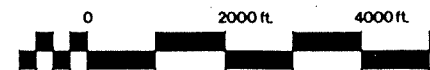


Planned Residential Density Map

514

Land not included within a numbered area has not been scheduled for residential development.

Lawrence Leiter and Company
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 114 West Tenth Street
 Kansas City, Missouri 64105



THE CITY OF WICHITA



OFFICE OF THE CITY MANAGER
CITY HALL — THIRTEENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202
(316) 268-4351

TO: CHAIRMAN IVAN SAND AND MEMBERS OF
THE HOUSE LOCAL GOVERNMENT COMMITTEE

FROM: MARLA J. HOWARD, PUBLIC AFFAIRS OFFICER

DATE: MARCH 3, 1988

RE: HB 3048, ANNEXATION AND LIMITATIONS ON POWER

Dear Chairman Sand and Members of the Committee:

On behalf of the City of Wichita, I appreciate this opportunity to testify before you in opposition to House Bill 3048 concerning limitations on annexation powers.

HB 3048 would impede and could effectively prohibit unilateral annexation and landlock cities, regardless of size, in areas where a number of cities are located close together. This bill will create areas of "no man's land" between cities, with the county commission acting as final arbitrator and making the decision on which city, if any, will be allowed to expand and grow.

Neither does this bill protect peoples rights to have a voice in whether they are annexed and, if so, by what city, because the bill does not contain any provisions for annexation petitions in situations where the land in question is within three miles of another city. Property owners could petition for annexation by one city, only to be overruled by the county commission.

As we all know, the Kansas Legislature considered the issue of annexation in the 1987 session, with the result that cities are now prohibited from annexing certain improvement districts incorporated prior to 1987. Coupled with that limitation, HB 3048, if passed, would have a devastating effect on the City of

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Wichita's ability to expand, as well as impacting a number of other cities in Sedgwick County. There are currently nine cities located within three miles of Wichita - Derby, Haysville, Andover, Bel Aire, Kechi, Park City, Valley Center, Maize and Goddard - that would be impacted by this legislation. Because of the close proximity of several of these cities to each other and Wichita, HB 3048 would literally prohibit unilateral annexation for some of them. The county commission would be placed in situations of determining the growth of each of these cities.

In addition, this legislation would be retroactive, to January 1, 1988; negating all annexations within three miles of another city regardless of whether the annexation was petitioned or if it actually impacted another city. Two areas annexed by the City of Wichita since January 1, 1988 are close enough to the City of Maize that it is questionable at this point whether they are within the three mile area and whether either annexation would be valid if this bill is passed. Both areas are next to developing sections of Wichita and both were petitioned for annexation by the property owners.

Another concern we have with this bill is that you could have situations where a city wants to annex one direction, west for example, and another city located to the east is within three miles of the proposed annexation area. Although the annexation does not affect the other city, you would still be required to submit the question to the county commission.

Further, what happens in situations where two cities are located within three miles of each other, but are in different counties next to the county line? If one city proposes annexation of land within the other county, then that county commission would have to decide between the two cities.

The City of Wichita urges your opposition to further limitations on annexation powers and to give the legislation adopted last year a chance to work before considering additional changes.

Thank you.

HOUSE BILL No. 3048

By Committee on Local Government

2-24

0017 AN ACT relating to cities; concerning annexation and limitations
0018 on such power; amending K.S.A. 1987 Supp. 12-520 and
0019 12-521 and repealing the existing sections.

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. K.S.A. 1987 Supp. 12-520 is hereby amended to
0022 read as follows: 12-520. (a) Except as hereinafter provided, the
0023 governing body of any city by ordinance may annex land to such
0024 city if any one or more of the following conditions exist:

0025 (1) The land is platted, and some part of the land adjoins the
0026 city.

0027 (2) The land is owned by or held in trust for the city or any
0028 agency thereof.

0029 (3) The land adjoins the city and is owned by or held in trust
0030 for any governmental unit other than another city, except that no
0031 city may annex land owned by a county which has primary use as
0032 a county-owned and operated airport, or other aviation related
0033 activity or which has primary use as a county owned and
0034 operated zoological facility, recreation park or exhibition and
0035 sports facility without the express permission of the board of
0036 county commissioners of the county.

0037 (4) The land lies within or mainly within the city and has a
0038 common perimeter with the city boundary line of more than
0039 50%.

0040 (5) The land if annexed will make the city boundary line
0041 straight or harmonious and some part thereof adjoins the city,
0042 except no land in excess of 21 acres shall be annexed for this
0043 purpose.

0044 (6) The tract is so situated that $\frac{2}{3}$ of any boundary line
0045 adjoins the city, except no tract in excess of 21 acres shall be

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0046 annexed under this condition.

0047 (7) The land adjoins the city and a written petition for or
0048 consent to annexation is filed with the city by the owner.

0049 (b) No portion of any unplatted tract of land devoted to
0050 agricultural use of 21 acres or more shall be annexed by any city
0051 under the authority of this section without the written consent of
0052 the owner thereof.

0053 (c) No city may annex, pursuant to this section, any improve-
0054 ment district incorporated and organized pursuant to K.S.A 19-
0055 2753 *et seq.*, and amendments thereto, or any land within such
0056 improvement district. The provisions of this subsection shall
0057 apply to such improvement districts for which the petition for
0058 incorporation and organization was presented on or before Jan-
0059 uary 1, 1987.

0060 (d) *No city may annex, pursuant to this section, any land*
0061 *which lies within a distance of three miles or less of the bound-*
0062 *ary line of any other incorporated city of this state. Any annex-*
0063 *ation ordinance which has become effective on or after January*
0064 *1, 1988, to the extent that it involves any land described by the*
0065 *foregoing provisions and annexed under this section, is hereby*
0066 *declared to be void and of no legal effect.*

0067 (d) (e) Whenever any city annexes any land under the au-
0068 thority of paragraph 2 of subsection (a) which does not adjoin the
0069 city, tracts of land adjoining the land so annexed shall not be
0070 deemed to be adjoining the city for the purpose of annexation
0071 under the authority of this section until the adjoining land or the
0072 land so annexed adjoins the remainder of the city by reason of
0073 the annexation of the intervening territory.

0074 (e) (f) No city shall be authorized to annex the right-of-way of
0075 any highway under the authority of this section unless at the time
0076 of the annexation the abutting property upon one or both sides
0077 thereof is already within the city or is annexed to the city in the
0078 same proceeding.

0079 (f) (g) The governing body of any city by one ordinance may
0080 annex one or more separate tracts or lands each of which con-
0081 forms to any one or more of the foregoing conditions. The
0082 invalidity of the annexation of any tract or land in one ordinance

one mile

if the latter city files a notice protesting such annexation with the board of county commissioners of the county in which the land sought to be annexed is located any time prior to the effective date of the annexation ordinance

0083 shall not affect the validity of the remaining tracts or lands which
0084 are annexed by the ordinance and which conform to any one or
0085 more of the foregoing conditions.

0086 ~~(g)~~ (h) Any owner of land annexed by a city under the au-
0087 thority of this section, within 30 days next following the publi-
0088 cation of the ordinance annexing the land, may maintain an
0089 action in the district court of the county in which the land is
0090 located challenging the authority of the city to annex the land
0091 and the regularity of the proceedings had in connection there-
0092 with.

0093 Sec. 2. K.S.A. 1987 Supp. 12-521 is hereby amended to read
0094 as follows: 12-521. (a) Whenever the governing body of any city
0095 deems it advisable to annex land which such city is not permitted
0096 to annex under K.S.A. 12-520, and amendments thereto, or if the
0097 governing body of any city is permitted to annex land under
0098 K.S.A. 12-520, and amendments thereto, but deems it advisable
0099 not to annex thereunder, the governing body may annex such
0100 land as provided by this section. The governing body in the
0101 name of the city may present a petition to the board of county
0102 commissioners of the county in which the land sought to be
0103 annexed is located. The petition shall set forth a legal description
0104 of the land sought to be annexed and request a public hearing on
0105 the advisability of such annexation. The governing body of such
0106 city shall make plans for the extension of services to the tract of
0107 land proposed to be annexed and shall file a copy thereof with
0108 the board of county commissioners at the time of presentation of
0109 the petition. Such report shall include:

0110 (1) A sketch clearly delineating the land proposed to be
0111 annexed and the area of the city adjacent thereto to show the
0112 following information:

0113 (A) The present and proposed boundaries of the city affected
0114 by such proposed annexation;

0115 (B) the present streets, water mains, sewers and other city
0116 utility lines, and the proposed extension thereto;

0117 (C) the general land use pattern in the areas to be annexed.

0118 (2) A statement setting forth a plan of sufficient detail to
0119 provide a reasonable person with a full and complete under-

0120 standing of the intentions of the city for extending to the area to
0121 be annexed each major municipal service provided to persons
0122 and property located within the city and area proposed to be
0123 annexed at the time of annexation and the estimated cost of
0124 providing such services. The plan shall state the estimated cost
0125 impact of providing such services to the residents of the city and
0126 the residents of the area proposed to be annexed. The plan shall
0127 state the method by which the city plans to finance the extension
0128 of such services to such area. The plan shall include a timetable
0129 for the extension of major municipal services to the area pro-
0130 posed to be annexed. The plan shall state the means by which
0131 the services currently provided by a township or special district
0132 in the area to be annexed shall be maintained by the city at a
0133 level which is equal to or better than the level of services
0134 provided prior to annexation. The plan shall state those services
0135 which shall be provided immediately upon annexation and those
0136 services which may be provided upon petition of the landowners
0137 to create a benefit district.

0138 (b) The date fixed for the public hearing shall be not less than
0139 60 nor more than 70 days following the date of the presentation
0140 of the petition requesting such hearing. Notice of the time and
0141 place of the hearing, together with a legal description of the land
0142 sought to be annexed and the names of the owners thereof, shall
0143 be published in a newspaper of general circulation in the city not
0144 less than one week and not more than two weeks preceding the
0145 date fixed for such hearing.

0146 A copy of the notice providing for the public hearing shall be
0147 mailed by certified mail to each owner of the land proposed to be
0148 annexed not more than 10 days following the date of the presen-
0149 tation of the petition requesting such hearing.

0150 A sketch clearly delineating the area in such detail as may be
0151 necessary to advise the reader of the particular land proposed to
0152 be annexed shall be published with such notice and a copy
0153 thereof mailed to the owner of the property with such notice.

0154 The board for good cause shown may continue the hearing
0155 beyond the time specified in the notice without further publica-
0156 tion.

7.4

0157 (c) On the day set for hearing, the board of county commis-
0158 sioners shall hear testimony as to the advisability of such annex-
0159 ation, and a representative of the city shall present the city's
0160 proposal for annexation, including the plan of the city for the
0161 extension of services to the area proposed to be annexed.

0162 The action of the board of county commissioners shall be
0163 quasi-judicial in nature. The board of county commissioners
0164 shall consider the impact of approving or disapproving the an-
0165 nexation on the entire community involved, including the city
0166 and the land proposed to be annexed, in order to insure the
0167 orderly growth and development of the community. The board
0168 shall make specific written findings of fact and conclusions
0169 determining whether such annexation or the annexation of a
0170 lesser amount of such area causes manifest injury to the owners
0171 of any land proposed to be annexed, *to any city whose boundary*
0172 *line lies within ~~three miles~~ or less of the area being proposed*

one mile

0173 *for annexation,* or to the city proposing the annexation if the
0174 annexation is disapproved. The findings and conclusions shall
0175 be based upon the preponderance of evidence presented to the
0176 board. In determining whether manifest injury would result from
0177 the annexation, the board's considerations shall include, but not
0178 be limited to, the extent to which the following criteria may
0179 affect the city, *any city whose boundary line lies within ~~three~~*
0180 *miles or less of the area being proposed for annexation,* the area
0181 to be annexed, the residents of the city and the area to be
0182 annexed, other governmental units providing services to the area
0183 to be annexed, the utilities providing services to the area to be
0184 annexed, and any other public or private person, firm or corpo-
0185 ration which may be affected thereby:

in any case in which a notice of protest has been filed under subsection (d) of K.S.A. 12-520 and amendments thereto

one mile

- 0186 (1) Extent to which any of the area is land devoted to agri-
0187 cultural use;
- 0188 (2) area of platted land relative to unplatted land;
- 0189 (3) topography, natural boundaries, storm and sanitary
0190 sewers, drainage basins, transportation links or any other physi-
0191 cal characteristics which may be an indication of the existence or
0192 absence of common interest of the city and the area proposed to
0193 be annexed;

in any case in which a notice of protest has been filed under subsection (d) of K.S.A. 12-520 and amendments thereto

75

0194 (4) extent and age of residential development in the area to
0195 be annexed and adjacent land within the city's boundaries;
0196 (5) present population in the area to be annexed and the
0197 projected population growth during the next five years in the
0198 area proposed to be annexed;
0199 (6) the extent of business, commercial and industrial devel-
0200 opment in the area;
0201 (7) the present cost, methods and adequacy of governmental
0202 services and regulatory controls in the area;
0203 (8) the proposed cost, extent and the necessity of govern-
0204 mental services to be provided by the city proposing annexation
0205 and the plan and schedule to extend such services;
0206 (9) tax impact upon property in the city and the area;
0207 (10) extent to which the residents of the area are directly or
0208 indirectly dependent upon the city for governmental services
0209 and for social, economic, employment, cultural and recreational
0210 opportunities and resources;
0211 (11) effect of the proposed annexation on the city and other
0212 adjacent areas, including, but not limited to, other cities, fire,
0213 sewer and water districts, improvement districts, townships or
0214 industrial districts;
0215 (12) existing petitions for incorporation of the area as a new
0216 city or for the creation of a special district;
0217 (13) likelihood of significant growth in the area and in adja-
0218 cent areas during the next five years; and
0219 (14) effect of annexation upon the utilities providing services
0220 to the area and the ability of those utilities to provide those
0221 services shown in the detailed plan.
0222 (d) The board of county commissioners shall render a judg-
0223 ment within seven days after the hearing has been adjourned
0224 sine die. If a majority of the board of county commissioners
0225 concludes that the annexation or any part thereof should be
0226 allowed, the board shall so find and grant the annexation by
0227 order; and thereupon the city may annex the land by ordinance.
0228 Orders of the board of county commissioners denying the peti-
0229 tion or a part thereof for annexation shall require a majority vote
0230 of the members of the board. When an order denying a petition

7-6

0231 or part thereof is issued, it shall be by resolution, which shall be
0232 sent by certified mail to the city proposing the annexation. All
0233 orders of the board of county commissioners granting or denying
0234 petitions for annexation shall be spread at length upon the
0235 journal of proceedings of the board. The failure of such board to
0236 spread an order granting annexation upon the journal shall not
0237 invalidate such order.

0238 (e) Any owner or the city aggrieved by the decision of the
0239 board of county commissioners may appeal the decision of the
0240 board to the district court of the same county in the manner and
0241 method set forth in K.S.A. 19-223, and amendments thereto. Any
0242 city so appealing shall not be required to execute the bond
0243 prescribed therein.

0244 Sec. 3. K.S.A. 1987 Supp. 12-520 and 12-521 are hereby
0245 repealed.

0246 Sec. 4. This act shall take effect and be in force from and
0247 after its publication in the Kansas register.