

**Save Downtown Appleton  
1980**

CONSENSUS: DOWNTOWN APPLETON

A consensus on the future of downtown Appleton was reached by the League of Women Voters of Appleton, Wisconsin at meetings held on November 13, 14, and 15, 1979. Forty-two members participated in the consensus.

The League likes <sup>its present traditional character</sup> downtown Appleton ~~the way it is~~ and approaches ~~the issue~~ of redevelopment because of a crisis situation: the planned construction of a regional mall in the Town of Grand Chute. Whatever redevelopment takes place, the League would like the current flavor of the downtown retained as much as possible.

An overwhelming majority of League members favor retaining a strong retail center in downtown Appleton. Characteristics of the downtown that the League wishes to preserve include: an aesthetically pleasing landscape; a diversity of retail, service and governmental functions; a diversity of architecture; and green space. Above all, League members feel that the sense of a traditional downtown should be maintained.

There is strong support for the City to proceed with plans for developing the downtown regardless of whether a regional mall is constructed. However, "development" should not be construed as necessarily equating with structure. While there is support among most League members for developing a downtown mall, any future development should relate to and flow into the existing downtown. Furthermore, development should retain the character of the current downtown and not be detrimental to surrounding areas or existing businesses.

There is a strong desire to keep College Avenue open. League members suggested some alternatives which may be preferable to a large, central downtown mall, such as skyways or development behind stores using side streets or alleys.

The League is also concerned that future development reflect a strong commitment to energy conservation as exemplified by public transportation and a good parking system. The public transportation system and parking system should be structured to reinforce each other in an energy efficient manner.

The League, ~~while recognizing the~~ inevitability of change, <sup>and</sup> is committed to approaching all proposals for the future of the downtown with flexibility.

Consensus: Downtown Appleton

The League supports downtown development taking into account:

- 1) Retaining the diversity of retailing services;
- 2) Retaining the traditional character of the downtown as much as possible;
- 3) Relating new development to existing structure and businesses; and
- 4) A preference for development that will not close College Avenue, but would be focused behind existing structures or would tie them together with skyways.



*The League of Women Voters of Appleton*

APPLETON, WISCONSIN 54911

56 Bellaire Court  
Appleton WI 54911  
January 21, 1980

Orren J. Bradley  
Chairman of the Board  
Boston Store  
331 W. Wisconsin Avenue  
Milwaukee WI 52303

Dear Mr. Bradley,

A short while ago I was informed that the Boston Store is seriously considering participation in a large Grand Chute shopping mall proposed by the General Growth Development Company of Des Moines.

It is with some hesitancy that I write to you but I thought that you should get some information from sources other than the customary commercial interests. I am enclosing a statement which I read at a Savings and Loan Commission hearing and I also enclose a statement presented by Dr. Robert Swanson, an Appleton alderman and co-chair of the Save Downtown Committee, a grass roots organization of over 5000 people. State assemblyman, David Prosser, also attended the hearing and his statement is included as well.

I hope that you will take time to read these statements which elaborate on the following points: 1) Appleton's downtown is thriving -- a unique situation. 2) The proposed suburban mall's target area is exactly that which the downtown now serves and depends on. 3) An outside mall will therefore seriously affect Appleton's downtown and remove a large part of its tax base. 4) There has been no instance of a large suburban shopping mall built in a community of under 300,000 with a downtown commercial center that has been able to support both centers.

Now, of course, the above summary will come as no surprise to you but what you might be less aware of is the widespread opposition in Appleton and even, oddly enough, though to a lesser degree, in the outlying areas, to an outside mall. This opposition is not just composed of people like members of the League of Women Voters who sometimes seem to take an inordinate interest in municipal affairs, but is truly a cross section of citizens.

There are two more aspects to this situation which have recently arisen. The first is that the National Redevelopment Company of Minneapolis, at the City's request, has just presented

# DOWNTOWN

At our January Board meeting last week, we had a long, complicated discussion about the downtown and where we should best concentrate our efforts. We all agreed that the best deterrent to the Grand Chute mall was rapid downtown redevelopment which would compete for profits and which therefore might make the developers reduce the size of the suburban mall. The Board, however, felt that it could not come out with an endorsement of the present downtown mall plans until traffic patterns and costs are projected. We will then decide whether or not to support an April referendum keeping the momentum going or to lobby for a later special referendum in order to have more time to think about all the implications of the enclosed mall plans. We hope that our February unit meetings will clarify your wishes, although we still won't have answers to some crucial questions.

Our dilemma, however, does not mean that we have been idling. Jan Nordell, Sue Kinde, Ginny Swanson and I have visited DNR officials in Green Bay and Oshkosh, the Army Corps of Engineers in Kaukauna, the Department of Transportation, Grand Chute sewage meetings and county zoning meetings. I have written letters with many copies to state government officials to show our concern about the proposed Grand Chute Mall. When General Growth Development applies for the necessary permits to build, we will request a public hearing. The Save Downtown Committee is organizing a public meeting

on February 28 (7:30 p.m. at the Appleton Police Station) to bring its members up to date on what the executive committee has been doing; it will present cost and traffic projections for the downtown plans and will have short presentations by the mayoral candidates on their opinions about downtown. PLAN TO GO TO THIS MEETING ON FEBRUARY 28.

Probably about 500 letters went to Sears from Appleton thanks to your efforts and the Save Downtown Committee. The League Board would like to see letter writing efforts continued, but perhaps directed at other "anchor stores" which are considering going into the suburban mall. A copy follows of a letter I sent to the Chairman of the Board of the Boston Store and a similar one went to the Chairman of the Dayton-Hudson Corp. in Minneapolis. We have not yet organized a letter writing campaign to these stores because we think we should know first what's going to happen with the downtown proposals. But you might wish to write anyway...

Orren J. Bradley  
Chairman of the Board  
Boston Store  
331 W. Wisconsin Avenue  
Milwaukee WI 52303

William A. Andres  
Chairman of the Board  
Dayton-Hudson Corporation  
777 Nicollet Mall  
Minneapolis, Minn. 55402

BB.

## C O U N C I L   V I S I T

We promised flexibility in the calendar...so true to our word, here is a change for February. The second set of Urban Crisis units (scheduled for the 12, 13th and 14th) have been dropped due to the elimination of consensus by the National Board. But -- in true League style -- here is an exciting alternative!

The Common Council meets Wednesday, February 6th at 7:30 P.M. This is a grand opportunity for us to appear en masse and to emphasize our year of study of the Council. Give yourself a chance to see the Council in action and to look at the brand new chambers. Coffee will follow at Karras' Restaurant.

JOIN US FOR THIS EVENING OF OBSERVATION, INFORMATION AND CONVERSATION!

Ellen Needham

plans for a downtown mall. Their plans project a certain amount of originality in the combination of old and new, and enclosures and skyways. Despite my personal misgivings about enclosed malls, I am excited about the potential of these plans. No decisions will be made until February but the initial public response has been enthusiastic. Ground would be broken in September.

In addition to downtown redevelopment, I'm sure you are aware of the revamping of the Valley Fair Shopping Center in the Town of Menasha bordering Appleton, which, when finished, would certainly take away from the potential of an outside mall.

The second aspect is that the League, both nationally and locally, has taken a strong stand on energy conservation and we feel that building a new mall is an affront to government requests for conservation of energy and shows a great misunderstanding of the seriousness of the nation's energy crisis. We are informed that the downtown mall will actually conserve more energy than the present arrangement of separate structures each with multiple exits directly to the outdoors. Building a new enclosed mall in the corn fields, however, is a different matter since it means an additional 1,000,000 square feet to build, heat and air condition.

The price of gas will probably go up to \$2.00 a gallon by the end of 1980. Although most people are not as concerned about energy conservation and gas consumption as the League is, I should think that the price of gas and the recent astonishing decline in car sales would be less than heartening to a suburban mall which is not served by a city bus line. The downtown also has the energy saving advantage of combining different elements of "errand running" such as visiting city and county offices, using the new YMCA facilities, going to the new library and visiting a variety of stores.

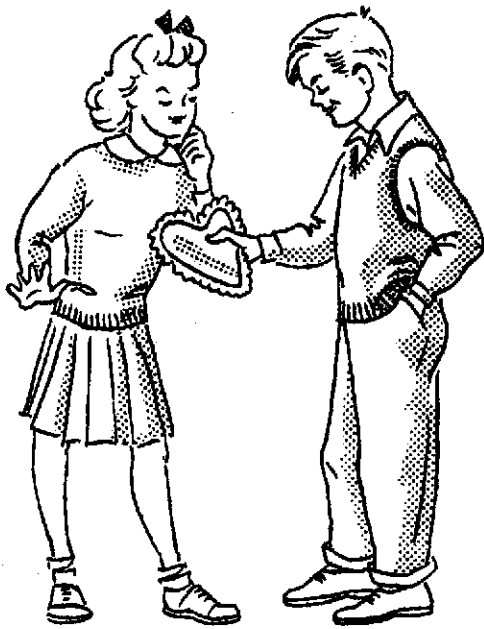
I assume you have seen the White House directive that just came out providing implementation of President Carter's urban and energy policies. It states:

"...this memorandum should be understood in the context of the many actions which have been taken to carry out the President's numerous policy commitments to reduce or eliminate federal actions which contribute to unplanned urban sprawl; to conserve energy; to target limited funds; and to encourage federal actions which help strengthen urban area economies and their downtown area."

I hope that you will seriously consider any decision about the proposed Grand Chute mall in the light of public interest and energy conservation, not just profit. As a matter of fact, the League is convinced that there is a strong swing in public sentiment to downtown development which shortly will completely reverse the trend of the past 20 years and put the profits into the downtowns. Perhaps we can convince you to join our downtown mall...

Sincerely yours,

BB



# Bio Briefs

Featuring our new LWV-Appleton members!

**ELIZABETH FORTER**  
119 S. Meade St.  
734-6798

Elizabeth is a professor of English at Lawrence University; she is rejoining us upon returning from sabbatical.

**DIANE FREEHILL**  
1131 E. Florida  
731-5105

Diane is a former member, who is a family therapist at Lutheran Social Services. She enjoys sports, especially jogging, and reading.

**MARYBETH LINN**  
1102 W. Lorian  
735-0906

Marybeth has recently moved to Appleton from York, PA, and is a project writing administrator for AAL.

**NANCY POURCIAU**  
514 N. Union St.  
734-6296

Nancy is a graduate of Wellesley College, MA, with a B.A. in economics. Her interests include tennis and swimming.

## membership

Total Membership: 123

## COFFEES

Tuesday evening, February 12, we will have a NEW MEMBER COFFEE for our 17 members who joined since September. We will welcome them at Betty Breunig's, 56 Bellaire Ct., at 7:30 p.m. (Reminder cards will be mailed to the new members.)

Also, we are having a POTENTIAL MEMBER COFFEE on February 5th, at 7:30 p.m., at Jan Nordell's, 98 Estherbrook Ct. If you know of anyone who might be interested in LWV-Appleton, please call me (739-0528).

The best recruiting method still is "word-of-mouth." If you have a chance, talk up our League and what we've done this year and in the past. It really works!!

Kathy Zavisca

## dues due

FEBRUARY

Kris Begun

Kris Davis

Lynn Debbink

Marie Desens

Roma Felible

Pat Filzen

Liz Hoover

Sally Mielke

## membership dues

APPLETON LEAGUE DUES.....	\$14.50
ANNUAL PUBLICATION FEE.....	\$ 2.50
	<u>\$17.00</u>

MEMBER CONTRIBUTION.....	\$
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TOTAL ENCLOSED.....	\$
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Send LWV-APPLETON Dues to:

Jan Besta  
2601 N. Kesting Ct.  
Appleton WI 54911

NAME \_\_\_\_\_

## APPLETON'S DOWNTOWN PROBLEM

Appleton is a city of approximately 62,000, located on the Fox River in northeastern Wisconsin. It is the largest city and retailing center in a metropolitan area of approximately 150,000, known locally as "The Fox Cities." Appleton and its neighboring municipalities have experienced considerable growth in population since World War II; otherwise, it is, and has been, a very stable community with few families of great affluence and few poverty-stricken people. The Fox Valley is a center for the manufacture of paper, but it also has a diversified industrial base ranging all the way from knitting mills to a custom-maker of fire engines. It is an area that has good schools, many churches, excellent parks, good and improving public transportation, cultural facilities, medical facilities, and both public and private institutions of higher education. Its problems with crime, pollution, and solid waste disposal are so small that they would be laughable in most urban communities. There is more than a kernel of seriousness when local people jokingly speak of the Appleton area as "The Happy Valley."

Appleton's downtown has been exceptionally strong and healthy in an era when downtown retail centers have been deteriorating. It contains four major department stores -- Gimbels, H.C. Prange, J.C. Penney, and Sears Roebuck -- and one smaller department store, McCains's. It has a wide variety of specialty shops and service providers. It is a center for financial and governmental activity. It contains a small art gallery, a local repertory theater, the public library (soon to be replaced by a larger, finer library building), and, located on its eastern edge, Lawrence University.

The main street of Appleton's downtown, College Avenue, is broad and tree-lined. It is the "scene" of two of our three major civic celebrations -- the Flag Day Parade, which is a grand event and one that we believe to be unique in the nation, and the Santa Claus Parade. (The third event is a Fourth of July carnival held in one of the larger parks.) It has, at the moment, almost no vacant store fronts.

Not too surprisingly, a developer of suburban malls, seeing this prosperous community and market, decided to buy land and to tap into its commercial activity. Indeed, it is surprising that it did not happen sooner. The vitality of the downtown probably lulled the community into a false sense of security although the City government and a group of community leaders (known as Project 76) have for several years been making quiet efforts to "put together a package"



to allow for the needed expansion or replacement of the store facilities of Sears and Penneys.

On August 30, an announcement was made that General Growth Development Corporation is going to build a suburban shopping mall of "nearly one million square feet of enclosed space" on a site about three miles west of downtown Appleton in the Town of Grand Chute. A "town" in Wisconsin is a governmental unit; the term has no implications of urban development or services, and Grand Chute has very little of either. It is largely rural with a bedroom community adjacent to Appleton, and its commercial area is almost entirely made up of a strip development of automobile-oriented discount houses, automobile dealerships, and fast food restaurants along the extension of College Avenue. Grand Chute was forcibly included in the Appleton School District by the State of Wisconsin about fifteen years ago. It purchases its water from Appleton and only set up a sewerage district when forced to do so because raw sewage was found to be polluting the water supply of certain restaurants. Its police protection is provided by a largely part-time force. It has refused to participate in the regional public transportation system operated by the City of Appleton.

The initial announcement of the mall was accompanied by an announcement that three of Appleton's major retailers would be going into the mall. It was later revealed that these commitments were either tentative, murky, or unreal. In any case, the reactions within the Fox Valley community were varied. The Mayor of Appleton, James P. Sutherland, immediately spoke out in opposition to the mall and called on local citizens and merchants to join him in an effort to fight the mall and to persuade the major retailers not to move into it. The local newspaper, THE POST-CRESCENT, the executive vice-president of the Chamber of Commerce, and most small merchants took the "stiff upper lip" position that the mall is an accomplished fact and we should therefore make what we can of what is left, but a group of citizens responded to the Mayor's call for citizen action with a "Save Downtown Committee."

The Save Downtown Committee began on the Saturday morning of Labor Day weekend with five citizens around a kitchen table. This group believed that the people of the area -- the shoppers and taxpayers -- did not want a suburban mall that would cannibalize Appleton's downtown and drain its vitality. They decided to provide a vehicle through which average people could make their feelings known. The group adopted the following purpose: "To save

downtown by mobilizing citizens and shoppers to persuade Sears to locate its new regional store in downtown Appleton." The effort was directed at Sears because the group felt that, as the leading national retailer, its decision would influence those of the other stores.

The five initial members gathered helpers and by Labor Day night the Save Downtown Committee numbered 472. It bought advertising in the local newspaper and in a weekly shopper; it issued press releases; it got sign-up sheets out into the community; and its membership snowballed. Three weeks after the first five people had gotten together, the Save Downtown Committee had 2500 members and was still growing. Financial contributions were also coming in to aid the committee in its fight.

The Save Downtown Committee hopes to defeat the mall by force of numbers. It believes that the major retailers can turn a deaf ear to committees of community leaders but that they cannot fail to listen to the people who spend the dollars and buy the merchandise. The committee knows that an aroused public is a mighty force and one to be reckoned with.

The Save Downtown Committee is urging its members to use persuasion in the initial stages of the campaign. It has asked its members to write letters to the Chairman of the Board of Sears. It is asking them also to write "Letters to the Editor." Further, it is asking them to sign up more members. The committee knows that it has economic weapons in its arsenal -- closing accounts, sending back credit cards, boycotting -- but it hopes that it will not have to use these weapons. The committee has tried to make it clear that Sears and the other stores are not the enemy, that the mall is the enemy.

Some small merchants lent support to the Save Downtown Committee immediately and put the sign-up sheets at their cash desks. In the intervening weeks, other merchants have decided to cooperate. Three weeks after the initial announcement of the mall, the Appleton Downtown Retail Association set up a "Downtown Appleton Tomorrow Committee" which has broader but similar aims to those of the Save Downtown Committee; the two groups will work in tandem.

Mayor Sutherland applauded the efforts of the Save Downtown Committee from its inception. His public remarks following the announcement of the mall had sparked the group, and he recognized it as a potent ally.

In the face of the defeatists and the people with stiff upper lips, the Save Downtown Committee is taking the position that the fight has just begun.

It is gearing up for a battle that may be long, and it will not recognize defeat until the bulldozers move in to clear the land. Its cry has been "Nothing is concrete until concrete is poured."

Appleton is going to defeat the mall. Appleton is going to keep its strong downtown. Appleton is not going to become an area of urban sprawl without a focus. "Community" is a warm concept -- like "family" and "friends." Appleton is going to preserve the heart and focus of its community.

IT'S OUR DOWNTOWN!

## NARRATIVE II

This sketch takes up approximately where "Appleton's Downtown Problem" leaves off. However, because of the time span and because the events overlapped, occurred simultaneously, or developed spasmodically, the task of imposing an order on the efforts to save Appleton's downtown has been almost impossible. There are, however, four threads that run through the tangle of details -- (1) the efforts to change Sears' decision to relocate in the suburban mall, (2) the efforts to defeat or delay the mall itself, (3) the efforts to promote the development of the downtown, and (4) the perception of the situation by the community-at-large and the consequences of these perceptions.

### EFFORTS TO CHANGE SEARS' DECISION

The Save Downtown Committee had as its original purpose the changing of Sears' decision to relocate in the suburban mall. By mid-October, the committee had more than 5500 members and a determined effort was made to get these people to write individual letters to the Chairman of Sears' Board of Directors. With the help of the local League of Women Voters, several hundred letters were generated; very few -- probably less than five -- brought forth a response. None of the letters from the committee itself, including an invitation to the Chairman to visit the area, received a response. In late November, letter-writing as a major effort was allowed to taper off; but, in April, when a new Sears president with experience in the neighboring city, Oshkosh, was named, a letter was written to him. Like the Chairman of the Board, he did not reply.

In December, the Save Downtown Committee decided to try to have a stockholder's question put before the Sears annual meeting. This question concerned the relocation of existing Sears stores and the company's responsibility for the effect on the urban environment. Initially, this effort concentrated on finding current holders of Sears stock to propose the question, but this proved to be unproductive. However, two members of the Save Downtown Committee's executive board had bought stock, and they proposed the question. The question was denied, but it is being re-worked with the intention of submitting it for the annual meeting in 1981.

### EFFORTS TO DEFEAT THE MALL

In late October, the committee responded to a notice that Community Savings and Loan of Fond du Lac (Wisconsin) had petitioned for permission to locate a branch in the Fox River Mall. (From the first announcement, General Growth had

used this name for its proposed shopping center.) The committee requested a public hearing on the application, and, further, it asked that the hearing be held in Appleton rather than in the usual location, the state capital, Madison. In early December, the hearing was held -- begun in Madison and continued the next day in Appleton. Appleton's Mayor, the League of Women Voters, and Appleton's Assemblyman joined the committee in giving testimony in opposition to the petition. In February, the petition of Community Savings and Loan was denied.

Other efforts of the committee to defeat the mall concentrated on environmental issues. These efforts centered primarily on Mud Creek, a stream which runs through the site of the proposed mall and which drains about twenty-five square miles of Appleton and southeastern Outagamie County. The League of Women Voters was the committee's strong ally in the Mud Creek campaign; it assisted in the reasearch, the correspondence and interviews with state agencies (particularly the state Department of Natural Resources), and a media event -- a canoe trip on Mud Creek through the mall property. This canoe trip for state and local officials was staged to establish the navigability of Mud Creek and thus to bring into play certain requirements for state building permits. In the course of investigating the use of Mud Creek to prevent the building of the mall, the League and the committee uncovered a number of serious environmental issues -- non-point pollution, drainage problems, and the possible destruction of the spawning place of northern pike. A further problem concerned allowing the mall to pour its wastes into an already overloaded sewage treatment plant and the manner in which the permit for this was issued.

Also, in connection with the environmental issues, the committee requested the assistance of the Public Intervenor, an official of the state Attorney General's office. The Public Intervenor's advisory board granted this request, and he has been working with and advising the committee since March. It was on his advice that the committee retained an environmental attorney and requested the Appleton City Council to retain the same attorney. The Council has taken the initial steps in this matter, and only the appropriation of funds remains to be passed to make the City a full participant in fighting the mall on environmental issues.

Following the issuance of the Community Conservation Guidance by the federal Intergovernmental Council, the committee urged the City Planning Department and the Mayor to request HUD to make an urban impact study of the proposed mall. The request was made and granted, and the study should be in process now.

In the late fall, Assemblyman David Prosser, Jr., who had become a member of

the executive board of the Save Downtown Committee, discovered that, although General Growth had reserved the name "Fox River Mall," which it had been using, it had let the reservation lapse. Mr. Prosser put his own reservation on the name; and, in March, the executive board plus four other local citizens formally incorporated under the name "Fox River Mall, Inc." In effect, the committee had "stolen" the name. The corporation has had one organizational meeting, and its plans are still being formed.

#### EFFORTS TO PROMOTE DOWNTOWN APPLETON

One of the earliest activities of the Save Downtown Committee was a festival -- "Celebrate Downtown Saturday" -- which combined serious educational efforts with pure entertainment. Ten cent fares on the city buses, underwritten by the committee, brought crowds to the downtown, but their participation in the outdoor activities was reduced by a blustery mid-October cold snap.

Of much more importance, in October, the City of Appleton was approached by National Redevelopment Company with an offer to develop a plan for downtown at no cost to the City. The agreement that was eventually signed stipulated that the City would not have dealings with any other developer while the contract was in effect and that, if the plan were adopted, NRC would be the developer. The first plans were presented in January. Essentially, these plans would enclose the existing buildings of the two major shopping blocks of the main street, College Avenue. The feeling of enclosure would be minimized by using "glass" walls and skylights and by "tapering" the street as it approaches the mall. This downtown mall would have connections to new and existing parking facilities and to a proposed transit center.

Although some people in the community were extremely enthusiastic about NRC's plans, the general reaction ranged from undecided to hostile. Acceptance seemed to be coming when the local newspaper ran a series of articles that revealed that one of the chief officers of NRC had a less than savoury past. The developing acceptance faded, and it became obvious that a referendum on the plan that had been expected at the spring elections on April 1 would be a mistake.

In February, the Save Downtown Committee had held a public meeting which was attended by approximately two hundred people. The NRC models and plans were on display, but the centerpiece of the meeting was speeches by and a question-and-answer session with the two mayoral candidates.

#### PUBLIC PERCEPTIONS AND THEIR CONSEQUENCES

Although neither candidate endorsed either NRC or the plan, NRC was definitely a factor in the defeat of the incumbent Mayor. In a press conference during his "lame duck" period, the Mayor advised that the City should sever its connection with NRC, but he did not speak against the plan. The Appleton Redevelopment Authority lost no time in acting on this advice, and the City is now awaiting the expiration of the contract on June 15.

As the year has moved along, the downtown merchants have become more amenable to the idea of development in the central business district. Further, the initial friction -- only thinly veiled by assurances of working in tandem -- between their group, Downtown Appleton Tomorrow, and the Save Downtown Committee has diminished. A third group, which includes individuals from both, has sprung up. This third group, "Yes for Downtown," was initially formed to promote an affirmative vote in the anticipated referendum on the NRC plan. When no referendum was set, Yes for Downtown turned its attention to education of the community on the merits of the NRC concept as divorced from the NRC organization. This group's main efforts so far have centered on participation in a series of ward meetings which are being held by the recently-elected Mayor.

It is probably fitting that this tangled story of the struggle to defeat the suburban mall and to promote the current downtown has no neat ending. The efforts continue; the struggle goes on. A continuing problem for the various committees has been financing. An even larger problem is the fact that the largest part of the community still does not believe that it can really lose its prosperous downtown. There have been some successes, but the progress is very slow. The people working to save downtown Appleton can use all the help they can get.

May 10, 1980



The State of Wisconsin  
Department of Justice

Kathleen M. Falk  
Public Intervenor

608/266-1350

123 West Washington Avenue  
Mailing Address: P.O. Box 7857  
Madison, Wisconsin 53707-7857

Bronson C. La Follette  
Attorney General

July 15, 1983

Charles Q. Kamps, Attorney  
Quarles and Brady  
780 North Water Street  
Milwaukee, Wisconsin 53202

Dear Mr. Kamps:

This letter is written to you in your capacity as attorney for developer General Growth Development Corporation of Des Moines, Iowa. The purpose of this letter is twofold.

First, we ask that General Growth Development Corporation immediately cease its current site preparation and construction activities at the site of its proposed "Grand Chute Mall." We ask this for the following important reasons.

As you are no doubt aware, your client is currently conducting site preparation, grading, bulldozing, and other earth moving and construction activities at the site of its proposed shopping mall. Indeed, we have observed over a dozen high earth moving vehicles action at the site in recent weeks. You are also eminently aware that there are a number of important pending lawsuits in the Wisconsin Supreme Court all centered around whether or not the Department of Natural Resources lawfully issued permits necessary for the construction of this proposed shopping mall. While we are aware that the supreme court declined to issue an injunction against the air permit challenged in one of the lawsuits, the court of appeals had issued an injunction against the effectiveness of the water permits necessary for construction of this project. Moreover, the court of appeals certified the mall case to the supreme court because of the "importance of the environmental, social, socioeconomic and jurisdictional questions" presented in the Appleton mall litigation. In addition, we bring to your attention the widespread public objection to construction of the proposed shopping mall until the supreme court rules on the merits of the



Charles Q. Kamps, Attorney  
July 14, 1983  
Page 2

litigation pending before it. Summarizing the concerns best is the Appleton Post Crescent:

The Wisconsin Supreme Court has said it won't block immediate construction of Fox River Mall in the Town of Grand Chute, no matter that the outcome of litigation already in the works might result in a tremendous upheaval and expense for the developers, no matter that the other litigants in the case -- the plaintiffs -- are left to wonder whether there's any point in pressing their case.

That's too bad.

- It's too bad for General Growth Development Corp., the developer of the \$70 million mall, which now must proceed at its own risk, not knowing how the court will eventually rule, not having an inkling as to how the justices feel.

- It's too bad for the plaintiffs, including the state public intervenor and downtown Appleton interests and individuals. They believe they have a good case for blocking the mall -- and so does the Supreme Court, or it wouldn't have accepted the case in the first place -- but now must watch as construction west of U.S. 41 gets under way and the walls get higher and higher. They know that even if they eventually win their case on the merits, it could be too late to stop the mall. The Manhattan Indians may have been gypped out of their island for \$24 worth of wares, but no court in the land would return it to them later.

- It's too bad for the rest of us in the Fox Cities area. We, too, are left to wonder, not only for the eventual outcome and its possible impact on downtown Appleton, but why the court decided as it did. "The motion for relief is denied" was all the court would say. No reasons. No hints as to whether it even is aware of the pressing need for a decision sooner rather than later. There is still a chance the court will accept the plaintiffs' request to accelerate the case, but an informed bystander can be forgiven for assuming that just maybe the justices already have their minds made up, just maybe they know the mall will eventually be built, so let's get on with it.

Well, we don't know that the mall will eventually be built. But we think the definitive court decision we have been promised on the case ought to be just that -- definitive. It ought to say something that matters. It ought to let one party know it won and the

other that it lost. It ought to tell us we're going to have the mall or we're not going to have the mall.

The maxim "justice delayed is justice denied" is a propos in this case. We need to know whether the mall should be built before it is built, not after.

See Exhibit 1. For other examples, see copies of recent editorials from the state's major newspapers that are attached here for your convenience. Exhibits 2-5.

General Growth Development Corporation has been participating in agency proceedings for several years in order to obtain the necessary state permits for this project. Citizens have raised legitimate concerns and legal questions which are now before the highest state court in Wisconsin and are expected to be finally resolved in the next months. At the same time, however, newspaper reports indicate General Growth intends to continue its construction activities so that the mall buildings are constructed this fall, possibly prior to the time the lawsuits are resolved.

We believe it is premature and unwise for General Growth to construct a project, the legality of which is imminently close to being resolved once and for all by the court system. Consequently, we request that your client, General Growth Development Corporation, cease its site preparation and construction activities immediately and until such time as the high court has resolved the important litigation before it. Should the company deny our request and proceed precipitously with its construction activities, it must be aware that it is proceeding, in the cautionary words of the Appleton Post Crescent, "at its own risk" and jeopardizing the monies and resources it has spent, given that the ultimate resolution of the court cases may be adverse to the company's position. See June 23, 1983, Editorial attached as Exhibit 5.

Second, this letter is to resolve a disturbing rumor that it is the intention of General Growth Development Corporation to argue at some future date in the pending Wisconsin Supreme Court Grand Chute mall cases that the cases are, or will be at some future date before being decided by the high court, "moot" because of the construction activities that have occurred by that time. Needless to say, we are very disturbed by that rumor and hope that it is groundless. After all of the years that the company and citizens have been involved in this proposed shopping mall project, it would be extremely unfair for the company at the eleventh hour to try to defeat the efforts of citizens to have their "day in court" by arguing mootness based on the developer's own construction activities. While we do not think that a "mootness" argument is convincing, we ask that you inform us whether or not your client will take that position in the future in this matter.

Charles Q. Kamps, Attorney  
July 14, 1983  
Page 4

Thank you for your attention to these overriding concerns that our office has on behalf of the citizens of Wisconsin. We would very much appreciate your prompt reply to this matter.

Sincerely,

*Kathleen M. Falk*  
Kathleen M. Falk  
Wisconsin Public Intervenor

KMF:hmb

Enclosures

cc: Steve Wickland, Atty. for DNR

# Supreme Court issues a non-decision

JUL 7 1983

July 3, 1983 Post-Crescent

The Wisconsin Supreme Court has said it won't block immediate construction of Fox River Mall in the Town of Grand Chute, no matter that the outcome of litigation already in the works might result in a tremendous upheaval and expense for the developers, no matter that the other litigants in the case — the plaintiffs — are left to wonder whether there's any point in pressing their case.

That's too bad.

• It's too bad for General Growth Development Corp., the developer of the \$70 million mall, which now must proceed at its own risk, not knowing how the court will eventually rule, not having an inkling as to how the justices feel.

• It's too bad for the plaintiffs, including the state public intervenor and downtown Appleton interests and individuals. They believe they have a good case for blocking the mall — and so does the Supreme Court, or it wouldn't have accepted the case in the first place — but now must watch as construction west of U.S. 41 gets under way and the walls get higher and higher. They know that even if they eventually win their case on the merits, it could be too late to stop the mall. The Manhattan Indians may have been gypped out of their island for \$24 worth of wares, but no court in the land would return it to them

later.

• It's too bad for the rest of us in the Fox Cities area. We, too, are left to wonder, not only for the eventual outcome and its possible impact on downtown Appleton, but why the court decided as it did. "The motion for relief is denied" was all the court would say. No reasons. No hints as to whether it even is aware of the pressing need for a decision sooner rather than later. There is still a chance the court will accept the plaintiffs' request to accelerate the case, but an informed bystander can be forgiven for assuming that just maybe the justices already have their minds made up, just maybe they know the mall will eventually be built, so let's get on with it.

Well, we don't know that the mall will eventually be built. But we think the definitive court decision we have been promised on the case ought to be just that — definitive. It ought to say something that matters. It ought to let one party know it won and the other that it lost. It ought to tell us we're going to have the mall or we're not going to have the mall.

The maxim "justice delayed is justice denied" is a propos in this case. We need to know whether the mall should be built before it is built, not after.

New role for minority in AA - di

## Weep for the fate of WEPA

AS ITS name suggests, the Department of Natural Resources is the agency assigned to protect the state's air, water and land from degradation.

One of DNR's key duties, under the Wisconsin Environmental Policy Act, is to assess the implications of projects that are likely to have a major impact on the human environment.

**BUT THE DNR** has chosen to interpret the landmark WEPA law so narrowly that, since early 1979, it has prepared no environmental impact statements on projects in the private sector, according to a review of the agency's records by the state's public intervenor, Peter Peshek, and Kathleen Falk, an attorney for Wisconsin's Environmental Decade.

The omission that has Peshek and Falk particularly concerned is a giant shopping mall planned for the Appleton area. By any reasonable measure, the \$50 million project, one of the largest in the state, will have a significant impact on land use patterns and energy consumption. If past experience is a guide, this Fox River Valley region will be beset by urban sprawl.

**AND ACCORDING** to some estimates, the mall could sap the economic vitality of downtown Appleton, leading to the loss of at least 1,500 jobs.

Yet incredibly, none of these effects was judged significant enough for further study by the DNR.

**LIMITING** its definition of

"environmental impact" to the mall's effect on a nearby creek and drainage ditch, the DNR was satisfied that legal requirements were being met and it issued the appropriate permits.

Peshek and Falk have rightly concluded that more is at stake here than a shopping mall. If a project of this magnitude warrants no environmental assessment, what of a dump for nuclear wastes or toxic chemicals? A freeway? Conversion of a marsh to a parking lot?

**THE WEPA** law was designed to assess the likely fallout from such projects before the damage was irreversible, and to let the public weigh the pluses and minuses so that intelligent decisions can be made. The DNR, by its cavalier treatment of cases like the Appleton mall, is eroding the state's single most important legal tool for protecting the environment.

Unfortunately, the courts have thus far sided with the DNR in this dispute. Peshek and Falk are now trying to persuade the Fourth District Court of Appeals to block the issuance of the DNR permits before construction starts this spring.

We hope the judges will do so and thus pave the way for a long overdue review of the merits of the larger issues in this case. If the state is permitted to look the other way as the landscape gets rearranged, Wisconsin will be one step closer to the environmental negligence taking place on a grander scale at the federal level.

6-25-87 mJ

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## On, Wisconsin

*An Editorial*

### Around the state

Important environmental and economic issues await a decision by the State Supreme Court in a case involving a proposed shopping mall just outside the City of Appleton. Strangely, however, construction work at the site continues because the developers found a way to proceed despite a court order to halt part of the project.

Opponents of the huge mall contend that it would have a major, adverse impact on the environmental and economic health of the region. And they note that their lawsuit could be rendered meaningless if construction goes too far before the case is decided on its merits.

Clearly, the Supreme Court should halt all work at the site. Otherwise, the justices would undermine the purpose of their own, wise decision to hear the case.

• • •

### Around the state

Wisconsin's dairy industry and some food processors are battling again over what kind of labels should be required on products that resemble, but are not, natural dairy foods. The dispute centers on the meaning of such words as "artificial," "imitation" and "substitute."

We doubt that most consumers understand the fine shades of difference — or care. What they deserve to know is whether a product really is what its manufacturers make it appear to be. If something is a "processed" dairy product or "not a dairy product," why not just say so? Bona fide foods should not be shut out of "America's Dairyland" by state label requirements designed to discourage purchase by consumers.

The state should promptly appeal the decision by a circuit judge who ruled that the Department of Natural Resources did not have to consider secondary impacts in an environmental study of the controversial Appleton-area shopping mall project.

There's no doubt that the \$50 million Fox River Mall will have detrimental social and economic effects on the region, especially on downtown Appleton. The State Appeals Court should give a prompt hearing to this matter before mall construction begins in the spring.

Gov. Earl and Minnesota's Gov. Rudy Perpich have agreed on a revision of tuition reciprocity between the two states, to reduce the dollar loss to Minnesota. Perpich had threatened to cancel the arrangement, under which students can attend public universities across the border, paying only resident tuition.

Under the revision, Minnesota students will pay more (and Wisconsin students less) than in the past, but that's better than curbing educational opportunity altogether.

2/12/83  
Milw. Journal

Exhibit 4

# Opinion

V. I. Minahan, *Publisher*  
John B. Torinus, *Editor*  
Donald Kampfer, *Executive Editor*  
Mary M. Walter, *Associate Editor*

Thursday, June 23, 1983 The Post-Crescent Appleton-Neenah-Menasha, Wis. A-4

## *Is the Grand Chute mall case moot?*

The legal concept of mootness — the prospect that the state Supreme Court will issue its ruling in the Grand Chute mall case after the brick, mortar and shopping carts are all in place — has poked its head into the fray.

A number of organizations and individuals have asked the court to do something about all the digging and preliminary construction work at the mall site. Before the court gets around to making a decision several months hence, they fear, the mall will be substantially built and the court just might decide that the matter is moot — that since the mall cannot be unbuilt nor the millions of dollars unspent, there is no point in even making a ruling.

That is not how things work at the Wisconsin Supreme Court.

Other courts — notably the U.S. Supreme Court — shy away from moot issues. But the top Wisconsin court does not. It recognizes the precedent-setting value such decisions can have, and is often eager to rule in what elsewhere may be viewed as abstract judicial exercises.

Further — and this is the real issue here — no one on the Supreme Court or elsewhere among the myriad of principals and bystanders in the case is equipped to predict with any degree of certainty that the court's ultimate ruling will not order the mall to be dismantled. General Growth Development Corp., which is in charge of the construction, surely knows that any money it spends now in the face of pending litigation is done at its own risk.





The State of Wisconsin  
Department of Justice

Kathleen M. Falk  
Public Intervenor

608/266-1350

123 West Washington Avenue  
Mailing Address: P. O. Box 7857  
Madison, Wisconsin 53707-7857

Branson C. La Follette  
Attorney General

July 15, 1983

Carroll D. Besadny, Secretary  
Wisconsin Department of Natural Resources  
101 South Webster Street--GEF II/DNR/5  
Post Office Box 7921  
Madison, Wisconsin 53707-7921

Re: Litigation concerning the proposed Grand Chute Shopping  
Mall

Dear Mr. Besadny:

By letter dated May 9, 1983, the developer of the proposed Town of Grand Chute shopping mall wrote to you complaining about various aspects of the proceedings that have occurred to date, both at the DNR and in the courts, on the planned Grand Chute shopping mall project. The letter does not appear on its face to request any action from your Department; rather, it appears to be more of a public statement intended to denigrate the important and legitimate citizen concerns that had been raised about the proposed mall since 1979.

Regardless of the intent of the developer's May 9 letter, this letter is intended to clarify numerous inaccuracies or misleading statements contained in that letter, and to update your Department further with the status of the important pending litigation about the mall project.

The complaints are basically threefold: 1) the developer complains that numerous lawsuits filed by citizens "stymie" government and stall projects proposed by developers; 2) the developer complains that the actions of the numerous citizens and organizations involved have done nothing but delay and, in fact, were intended to do nothing but delay construction of the proposed Grand Chute mall; and 3) the developer complains that the citizens have demonstrated their true lack of environmental concern by their failure to seek an injunction against the project.

Carroll D. Besadny, Secretary  
July 14, 1983  
Page 2

It will be readily apparent from a review of the facts, as they have actually occurred, that the developer's heated and bitter criticisms are merely an attempt to salvage its indefensible legal position.

We turn first to the question on the number of lawsuits that had been filed. The developer is well aware of the requirement in secs. 227.15 and 227.16, Stats., which require an aggrieved party to file a lawsuit challenging an agency decision not later than thirty days from the date of its issuance. As you know, during the course of the three-year proceedings at the DNR, numerous agency decisions and orders were issued which directly affect the interests of the many citizens involved in the permit process. Consequently, in order to protect and preserve their rights, those citizens were required, by statute, to have filed the lawsuits that were filed. Please note that only on rare occasion has an individual citizen filed a lawsuit on a DNR mall decision. Instead, almost all of the lawsuits join numerous petitioners (in one instance twenty-one citizen petitioners) so as to avoid redundancy in litigation. In short, the number of lawsuits is not related to the number of petitioners, but rather to the number of DNR orders that were issued during the three-year proceedings.

On this point, the developer also states a concern that the citizens have not litigated the issue which they state publicly they are most concerned about. That is DNR's refusal to do an environmental impact statement (EIS) on this mall project. Quite frankly, we have no idea how the developer arrived at this conclusion when all the facts demonstrate exactly the opposite.

The two primary areas of litigation that have been conducted by the citizen petitioners relate to the chapter 30 water permits that were issued on September 15, 1982, by DNR and the March 11, 1982, air permit that was issued by the DNR for the mall. By necessity, those lawsuits challenge not only the air and water permits themselves, but also interlocutory DNR decisions, such as the issuance of the environmental assessments (EA's) and the decisions not to prepare an EIS. We find it incredulous for the developer to contend, at this point in time, that the "no-EIS decision" has not been prosecuted by the citizen petitioners, when this office alone has filed more than several hundred pages of briefs in court on the sole question of whether DNR unlawfully failed to prepare an EIS on this project.

We turn now to the second complaint made by the developer and that is the delay that citizens have caused to the project by their involvement in this decisionmaking process. Several points must be made on this question.

First, it troubles us that an Iowa developer is unhappy with the fact that Wisconsin law insures the public the right to participate in the state's decisionmaking process on whether air

and water permits ought to be granted to private industry. There is little as fundamental in Wisconsin's environmental law than the opportunity for citizens to participate in the important decisionmaking processes. In other words, participation here by the hundreds of citizens who have chosen to participate is a right guaranteed by Wisconsin statute and should not be interpreted as or labeled by a developer as a delay tactic. Moreover, there are few private sector projects in Wisconsin that will be proposed in this decade that will have as severe an effect on Wisconsin's environment as this mall.

If ever there was a case warranting substantial citizen participation in the permitting process, clearly this is the one. The unusual public significance of this project has been observed by the recent editorials of the state's major newspapers, some of which are attached here for your perusal.

By any reasonable measure, the \$50 million project, one of the largest in the state, will have a significant impact on land use patterns and energy consumption. If past experience is a guide, this Fox River Valley region will be beset by urban sprawl.

**AND ACCORDING** to some estimates, the mall could sap the economic vitality of downtown Appleton, leading to the loss of at least 1,500 jobs.

Yet incredibly, none of these effects was judged significant enough for further study by the DNR.

**LIMITING** its definition of "environmental impact" to the mall's effect on a nearby creek and drainage ditch, the DNR was satisfied that legal requirements were being met and it issued the appropriate permits.

... If a project of this magnitude warrants no environmental assessment, what of a dump for nuclear wastes or toxic chemicals? A freeway? Conversion of a marsh to a parking lot?

**THE WEPA** law was designed to assess the likely fallout from such projects **before** the damage was irreversible, and to let the public weigh the pluses and minuses so that intelligent decisions can be made. The DNR, by its cavalier treatment of cases like the Appleton mall, is eroding the state's single most important legal tool for protecting the environment.

Capital Times editorial "Weep for the Fate of WEPA," February 25, 1983.

Turning next to litigation in the courts on the mall projects, again the record does not substantiate the developer's

complaint that citizens have delayed the permit process. Repeatedly, before both the trial and the appellate courts, citizens have acted promptly at every step of the way, both in filing lawsuits and filing the various other motions and papers required to be filed. Frequently, the citizens have filed their papers prior to statutory deadlines. There has been no foot-dragging on the part of the citizens. The May 9 letter of the developer is not able to substantiate any claims of foot dragging on the part of the citizens.

On the contrary, it has been the developer who has chosen a litigation strategy of delaying the case for as long as possible. For example, at no time has the developer moved the appellate courts to accelerate any of the cases. In contrast, the citizen-petitioners had filed motions in both the court of appeals and in the supreme court asking the cases be expedited. The court of appeals granted the motion; the motion before the supreme court is still pending. In fact, the developer itself has delayed the appeals considerably by filing over a half a dozen motions in the past five months alone (most of which were unsuccessful). Among the motions filed by General Growth recently were two motions to change the record being reviewed by the supreme court. Those motions alone, filed two weeks apart, delayed the briefing schedule by about one month.

Finally, we turn to the third point of the developer that, had the citizens' concerns been legitimate, they would have sought an injunction against construction activities. This complaint is absolutely erroneous and the developer knows better.

The last permit for the mall was issued by your Department on September 15, 1982. Only days later, the citizens filed a lawsuit challenging the water permits for the project. On the very same day, they filed in the Dane County Circuit Court a request for an injunction against the water permit-related activities of the developer. An injunction was, in fact, issued by the Dane County Circuit Court but was later lifted, when the case was transferred to Outagamie County Circuit Court to be decided along with the cases already pending there that challenged the air permit for the project. At that point in time, citizens requested the Outagamie County Circuit Court to resolve all of the air permit/water permit cases as expeditiously as possible, and the court there indicated to the parties it would proceed expeditiously on the lawsuits. Because of the then-cold winter months no construction activity, to our knowledge, was occurring by the developer.

On February 3, 1983, the circuit court issued its decision in the air and water permit cases affirming the DNR orders. Immediately upon issuance of the circuit court decision, the citizen petitioners asked the circuit court to stay its decision pending appeal. The circuit court denied that request.

The citizens then filed their notices of appeal of the decisions in the air and water cases. The air cases were appealed to District III of the court of appeals by virtue of their venue in Outagamie County, and the water permit cases were appealed to District IV court of appeals by virtue of their venue in Dane County. The developer began construction activities on the water permits related to the project. The citizen petitioners in the water cases promptly filed with the court of appeals a request for a stay of the DNR order and an injunction requesting a halt to construction activities while the case was pending. On March 18, 1983, the court of appeals issued a stay of the water permits.

Instead of appealing that decision to the supreme court or requesting rehearing from the court of appeals, the developer not long ago simply shifted its construction activities from those related to the water permits to that related to the air permits. On May 23, 1983, the Wisconsin Supreme Court accepted jurisdiction over all of the District III and District IV court of appeals cases pertaining to DNR's decisions on the Appleton shopping mall. Because of the recent stepped-up construction activities by the developer with respect to the air permit, on June 20, 1983, the citizen-petitioners filed motion papers with the Wisconsin Supreme Court requesting an injunction against any further construction activities associated with the air permit. On June 29, 1983, the high court denied our motion.

For the developer to complain citizens "have never sought to enjoin construction of the mall" is plainly false.

It appears now that the cases are just months away from being decided by the high court. However, it also appears that General Growth intends to continue as much construction activity as possible. Consequently, our office has just requested the developer to halt site preparation and construction activities until the high court rules on the pending cases. We are hopeful that General Growth will recognize the common-sense need and compelling reasons for staying construction until the cases are decided.

Please let us know if any further information would be useful to you.

Sincerely yours,



Kathleen M. Falk  
Wisconsin Public Intervenor

KMF:hmb

cc: Steven B. Wickland, attorney for DNR  
Charles Kamps, attorney for developer  
Senators Fred Risser, Joseph Strohl and Mordecaci Lee  
Representatives Thomas A. Loftus and Jeffrey Neubauer



The State of Wisconsin  
Department of Justice

Kathleen M. Falk  
Public Intervenor  
(608) 266-1350

Bronson C. La Follette  
Attorney General

November 30, 1983

123 West Washington Avenue  
Mailing Address: P.O. Box 7857  
Madison, Wisconsin 53707-7857

Ed Garvey  
Deputy Attorney General

Save Downtown Committee  
League of Women Voters of Appleton  
Representative David Prosser  
Aid Association for Lutherans, Inc.  
President Richard Warch, Lawrence University  
Downtown Businesspeople

Dear Friends:

Some of you asked that I check into whether or not the proposed mall size for the General Growth Development Corporation project has significantly decreased in size, suggesting that all of our joint efforts to date have been immensely successful if, for no other reason, the mall size has decreased.

My records indicate that the original Sears proposal was for a 150,000 square foot retail store and that the General Growth mall proposal was originally estimated to be 994,700 square feet, with a first phase of 515,000 square feet which included the Sears store. I telephoned the Department of Industry, Labor and Human Relations (DILHR) staff person responsible for reviewing, and who did, in fact, approve, the building plan proposals of the Sears, Roebuck and Company and General Growth Development Corporation. The DILHR staff person informed me that the final plans approved for the Sears building is 97,500 square feet and that the final approved plans for the General Growth mall is 230,150 square feet.

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\* At the same time, the DILHR staff person expects that General Growth will be bringing in plans in the future for a small second story store, adding about 24,000 square feet to their project. This staff person concurred that the original plans of General Growth had called for a complete two-store mall. She does not have any indication that the developer plans to construct a complete two-story design. In fact, she stated that if they were going to design a two-store mall, they probably would have done it differently although it would not be impossible, she said, to alter the present structure to facilitate a two-store building.

Save Downtown Committee  
League of Women Voters of Appleton  
Representative David Prosser  
Aid Association for Lutherans, Inc.  
President Richard Warch, Lawrence University  
Downtown Businesspeople  
November 30, 1983  
Page 2

Clearly, the proposed mall size is now approximately a little over one-third of what was originally proposed. This is no minor distinction given that the environmental and socioeconomic consequences of a 300,000 square foot mall will be substantially less than from a million square foot mall.

Sincerely,

*Kathleen M. Falk*

Kathleen M. Falk  
Wisconsin Public Intervenor

KMF:hmb

# The Save Downtown Committee Reports

Post Office Box 2321 Appleton, Wisconsin 54913

December 1981

The Save Downtown Committee is alive and well and continuing its fight to prevent the detrimental effects that the building of the General Growth in Grand Chute would have on downtown Appleton. Attorney Donald Zeidmulder is our legal counsel, and we are working hand-in-hand with the Appleton League of Women Voters, the State Public Intervenor, with Attorney Susan Steingass representing the City of Appleton, and with a sizeable group of downtown business people. We and our allies are continuing to press our environmental concerns, with emphasis on the importance of the social and economic aspects of the human environment.

The effort to save our downtown has become essentially a number of legal battles being fought in state and county regulatory agencies and in the courts. The "front line" battlers are the legal people, but this does not diminish the need for broad-based support from the general community. Vocal and financial support from the community is one of the most vital elements in the fight.

## UP-COMING ACTIONS

The following is a brief guide for downtown supporters. It endeavors to outline the broad front of the battles and to indicate what is being sought, from whom, and, where possible, the estimated time.

1. An appeal from the Outagamie County Circuit Court is pending in the Court of Appeals on the refusal of the County Zoning Board to apply the Municipal Procedures Act.
2. A case against the County Zoning Board on the merits of the approval of the conditional use permits is currently pending in the Outagamie Circuit Court.
3. A case against the State Department of Industry, Labor and Human Relations for its refusal to apply the Wisconsin Environmental Protection Act guidelines to shopping mall decisions is in the Dane County Circuit Court.
4. A case against DILHR for its refusal to apply the WEPA guidelines in the Door County test case on the building of condominiums is in the Wisconsin Supreme Court.

In this case, the Save Downtown Committee, the League of Women Voters, several downtown merchants, and the Public Intervenor are "friends of the court."

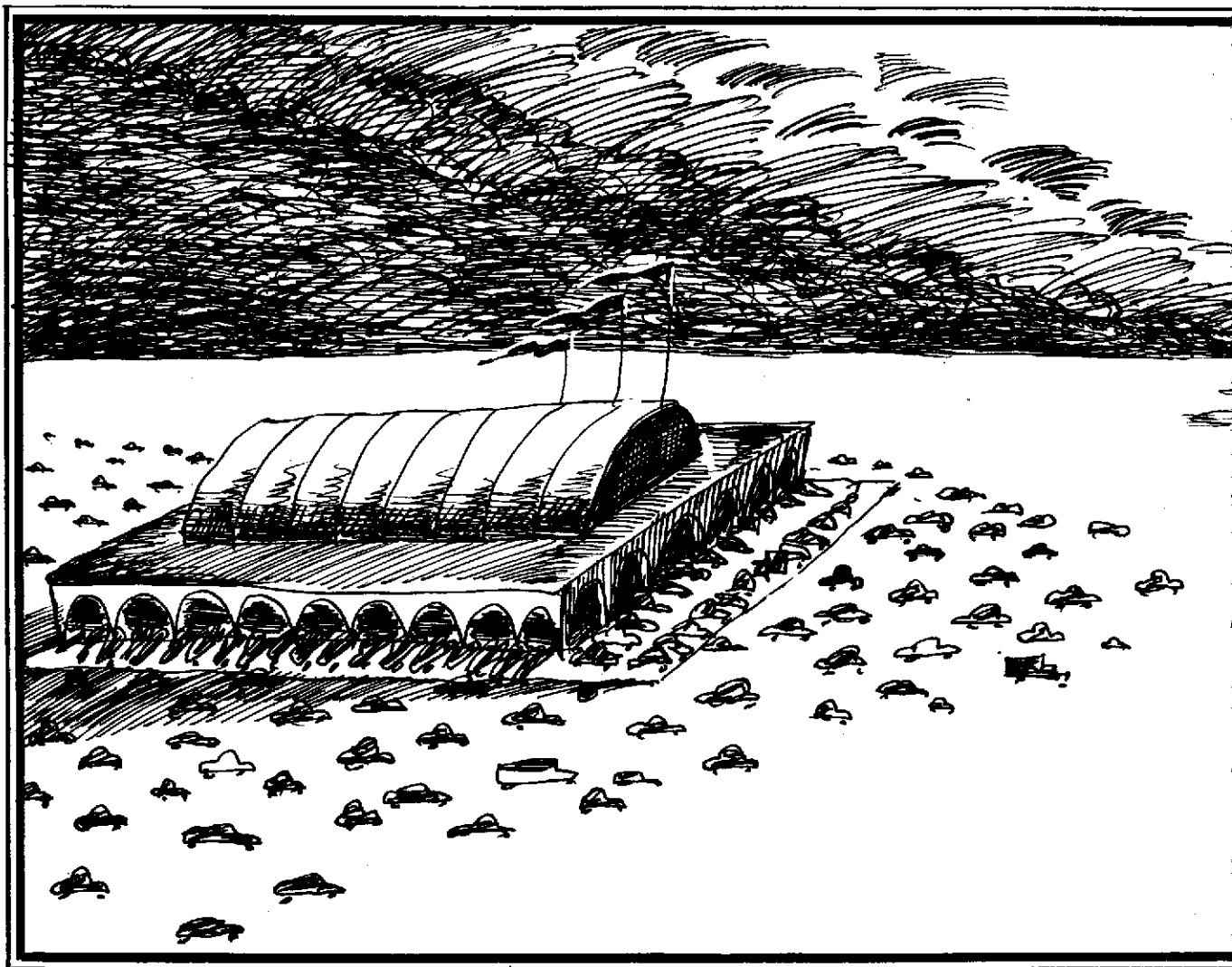
5. The Department of Natural Resources has been requested to require an Environmental Impact Statement before issuing water permits for the building of the mall. A major factor in this decision should be the recently completed economic study funded by the Governor. (A discussion of the economic study follows.) Whatever the decision of the DNR, it is anticipated that the matter will be appealed to the Outagamie County Circuit Court in late 1981 or early 1982 -- by one side or the other.
6. The DNR has been asked for declaratory rulings on standards for the grants of permits.
7. The DNR will also be requested to require an Environmental Impact Statement before issuing air quality permits. The sequence of events on the air permits will be similar to that of the water permits, but it may also involve a legislative hearing with the major issue being the standards for the decision. This matter will likely be appealed to the Outagamie County Circuit Court by March 1982.

The three major areas that the DNR will be asked to consider in Items 5, 6, and 7 are the scope of discovery, the standards for decisions, and the merits of the issue (stream pollution, air pollution, etc.)

## FINANCIAL HELP NEEDED

As the "brief guide" outlined above indicates, the fight against the mall is reaching a crucial stage. The processes for major decisions are being set in motion. Professional services -- lawyers and expert witnesses -- are absolutely essential if the Save Downtown Committee and its allies are to present a cogent case against the issuing of the permits and for an Environmental Impact Statement. These services are expensive. **FINANCIAL ASSISTANCE FROM DOWNTOWN SUPPORTERS IS NEEDED NOW!**





The citizens groups opposing the mall estimate that our minimum costs through this spring will be \$15,000. While this seems like a great deal of money for volunteers to try to raise, it is "peanuts" when compared to the financial resources of the mall developer. The \$15,000 can be raised and a proper fight can be carried on if all of the people who believe in downtown Appleton make a substantial effort. Please contribute now.

Checks should be made payable to THE FOX VALLEY ENVIRONMENTAL FUND and mailed to P.O. Box 2321, Appleton, WI 54913. (Note: Contributions to the Fox Valley Environmental Fund are tax deductible.)

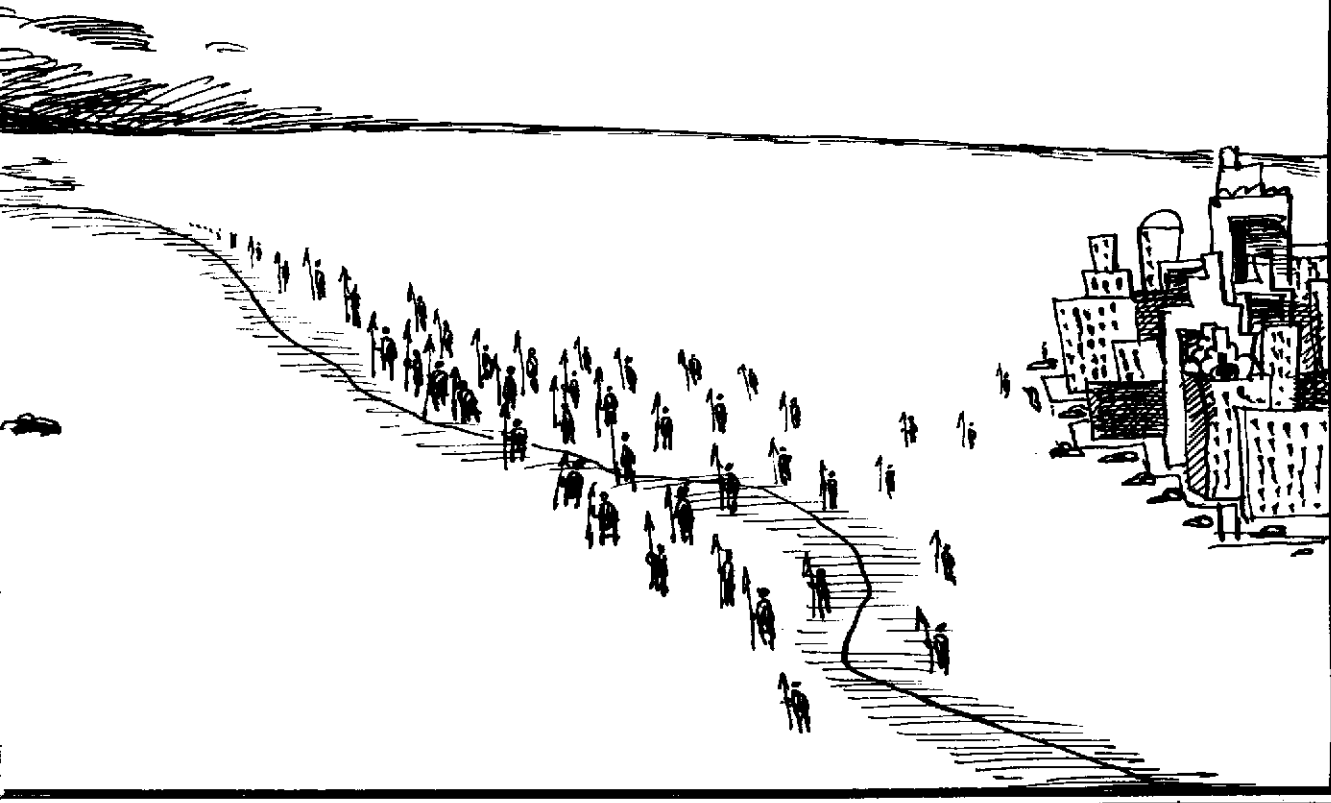
#### THE MALL IMPACT STUDY

The long-awaited impact study, commissioned by the DNR and performed by Hammer, Siler, George Associates, was released in early November. Its contents have been widely and somewhat confusingly covered in the press. What does the report say? Now that it exists, how will it be used?

The report deals with the economic impact of the building of the proposed mall on four retailing districts in the Fox Cities: downtown Appleton, the West College Avenue "strip," Neenah's downtown and Fox Point, and the Kaukauna-Kimberly-Little Chute "District." It projects a decline in retail sales in downtown Appleton from 1980 to 1992 with or without the building of the mall, but the anticipated decline will be 21.1% greater if both phases of the mall are built. It projects continued growth of retail sales in the other three areas but at a much diminished rate. Sales on West College Avenue would be down 24.6% from those anticipated without the mall; in Neenah, down 14.6%; and in Kaukauna-Kimberly-Little chute, down 9.2%. The following statement appears on page 66 of the study: "If both phases of the mall are developed, the Fox Cities region will have an oversupply of shoppers good retailing space, a situation which will have some impact on all shoppers goods retailers in the region."

The report does not deal directly with the social impacts of the development of the mall. However, it does make the following statement

*Hayden*



(p. 70) in connection with the discussion of of the anticipated decline in property values: "The property value impacts, might, however, be more severe if the sales declines result in several vacant store-fronts. Vacant stores can create a blighting effect on neighboring stores and the retail district as a whole. If the facilities are allowed to deteriorate, they give an impression of decay and high potential for crime."

The report makes no recommendations. It is a compilation of data that the DNR will interpret and use in making its decisions on issuing or refusing to issue the required air and water permits to the developer. The WEPA guidelines specify that economic and social impacts are a part of the environmental effect. How the DNR will use the study, whether it will follow the WEPA guidelines, is anybody's guess -- but the law says that it has to!

#### STATE AND NATIONAL SIGNIFICANCE

The cartoon, which appears in this newsletter, has been reproduced with the permission of THE RECORD (Hackensack, N.J.) where it accompanied THE WASHINGTON POST's syndicated article on the Mud Creek Mall. The letter granting permission for its use congratulated us on our fight to save a healthy downtown from the depredation of a suburban mall and wished us luck. We have received other, similar messages from around the state.

We know that Appleton's problem is not unique, but we believe that the vigor with which we have fought back may be unique. We believe that we may be an influence for preserving the quality of urban life, not only in the Fox Valley, but also around the state and indeed the nation.

ACTIVITY IN DOWNTOWN APPLETON

The Save Downtown Committee is heartened by the construction and the plans for construction in downtown Appleton. The Paper Valley Hotel is going up and promises to be a great asset. The City's Midtown Parking Ramp is also growing daily. A beautiful new Close store has been built on the site of the old one. Conkey's has been renovated. The Wire Whisk, The Mole Hole, and Classics and Collectibles have all moved to bright, new locations. Plans are going forward for the Pfefferle development and for a new Integrity Mutual headquarters.

All of this activity tells us, without question, that we are not trying to save a dying downtown. Does this mean that it can survive the competition from a suburban mall with retail space equal to that in the downtown? The Save Downtown Committee still questions whether it can. We still do not think that there is enough retail trade in the area to support two "downtowns."

We applaud and support the builders and the renovators. We continue vigorously to oppose the regional mall proposed to be built in Grand Chute.

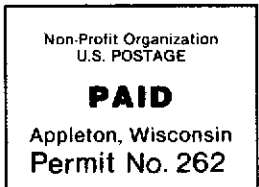
TUNE IN -- CALL IN

On Saturday, December 5, the subject of the State Radio Network's "State Issues Forum" will be suburban malls and downtowns. Assemblyman David Prosser will be one of the participants. The program, which has a call-in format, is on the air from 10:00 a.m. to noon. It will provide a splendid opportunity to present downtown Appleton's case to a lively and informed statewide audience.

THE SAVE DOWNTOWN COMMITTEE  
EXECUTIVE BOARD

- Jan Nordell, Co-chairman
- Robert Swanson, Cochairman
- Corinne Goldgar
- Peter Hensler
- Albert Johnson
- Cynthia Johnson
- Peter Nordell
- David Prosser
- Virginia Swanson

The Save Downtown Committee  
P.O. Box 2321  
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