

GRAND CHUTE DETERMINATION

SECTION 1(a) CHARACTERISTICS OF THE TERRITORY

STANDARD TO BE APPLIED BY THE DEPARTMENT

The entire territory of the proposed village or city shall be reasonably homogenous and compact, taking into consideration natural boundaries, natural drainage basin, soil conditions, present and potential transportation facilities, previous political boundaries, boundaries of school districts, shopping and social customs.

ANALYSIS

Location of the Proposed Village

The territory proposed for incorporation contains 10.2 square miles with an estimated 1984 population of 7,694 persons. The proposed village is located in the southwestern portion of the Town of Grand Chute. The proposed village boundaries (shown in Figure 1) are coterminous with the City of Appleton in sections 14, 15, 21, 22, 23, 28 and 33. The north boundary of the proposed village is north of Evergreen Drive (extended) from North Meade Street to North Gillett Street, thence south to and along U.S.H. 41, thence westerly north of and parallel to West Capital Drive, thence south, west of and parallel to Casaloma Drive to a point north of West College Avenue, thence west to the town line (Mayflower Drive), thence south to the south line of the Town of Grand Chute (West Prospect Avenue), thence east to Appleton city limits.

Natural Boundaries

The proposed village does not contain any natural characteristics, e.g., lakes or other topographical features, that would impose a physical boundary to urban development.

Natural Drainage Basin

The proposed village lies almost entirely within the northeast-southwest alignment of the Mud Creek drainage basin. The gradient is gentle with some local surface drainage problems following periods of heavy precipitation. Mud Creek joins the Fox River in Section 3 of the Town of Menasha.

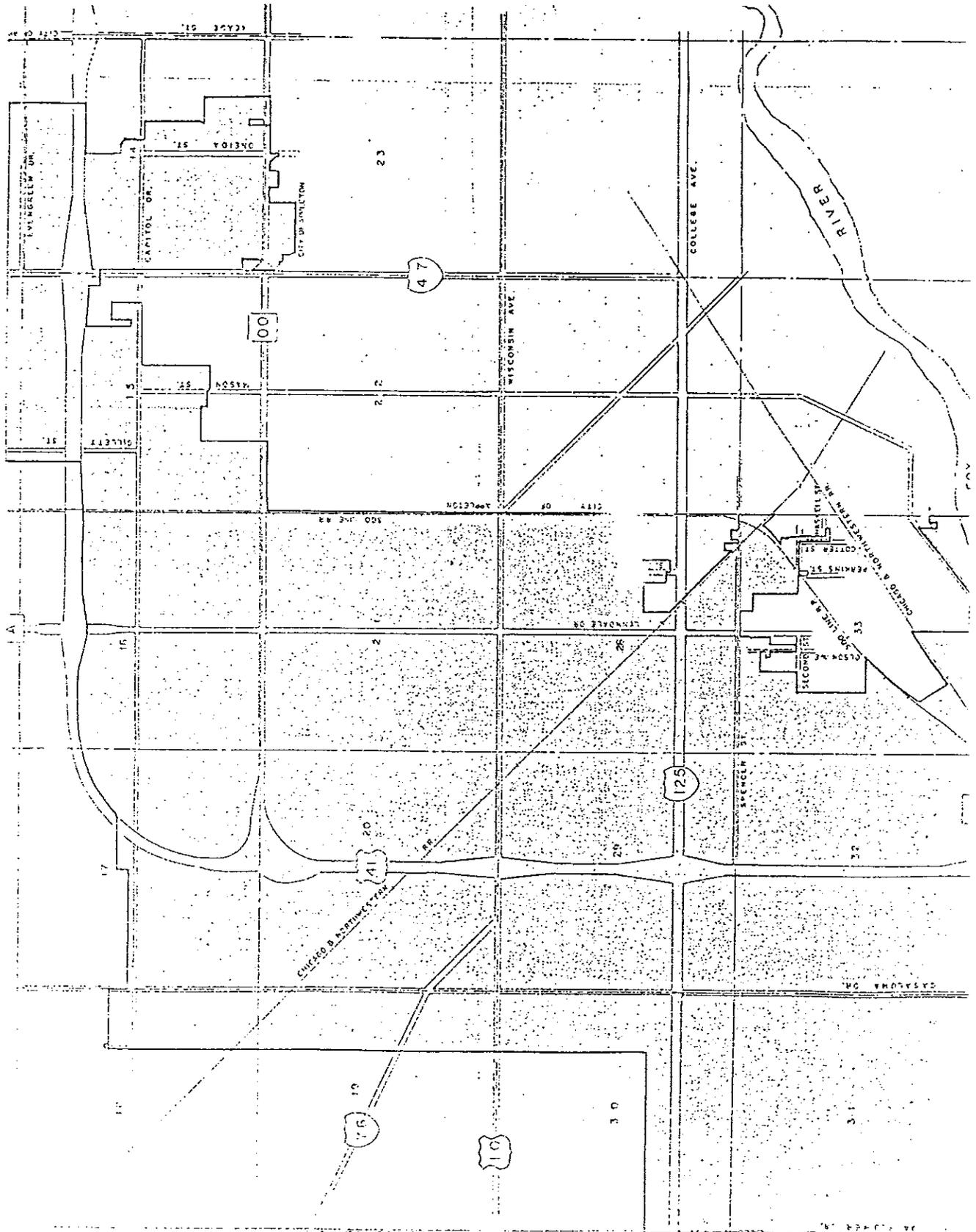
That portion of the proposed village east of S.T.H. 47 (North Richmond Street) and south of U.S.H. 41 drain southerly to the City of Appleton. Proposed village lands north of U.S.H. 41 and east of S.T.H. 47 drain easterly to Appleton.

Soil Conditions

Soils in the territory consist primarily of four general classifications, none of which impose limitation on sewered urban development. These soils are: Hortonville-Symco association (HnB, HnC₂, etc., SyA and SzA); Winneconnie-Manawa association (WnA, WnB, WnC₂ and McA); Schiocton-Nichols association (ShA, SkH and SnB); and the Menominee-Grays-Rousseau (MsB, MsC₂, GrA, GrB and RoB).

Figure 1

Boundary of the Proposed
Village of Grand Chute



The exceptions are: soils along streams and drainageways, and the large wetland in Section 31 are considered to be not suitable for development. The following maps (Figure 2) as reproduced from the Soil Survey of Outagamie County, Wisconsin, November 1978, prepared by the Soil Conservation Services, U.S. Department of Agriculture. The cross hatching shows the location of soils that present special problems for building and road development and should be best retained as open space. For example, soil designation SU (Suamico Muck) found near the center of Section 31 is a wetland soil with high organic content. The SU soil is surrounded by a large area of Po (Poygan Silty Clay Loam), a soil with a high organic content, very wet and unsuited for building development. Soils associated with drainageways are FU (Fluvaquents) along stream bottoms; Uf (Udifuvents), soils subject to frequent flooding; Po, very wet soils; and KKE3 (Kewaunee) soils very steep and easily eroded.

With the exceptions noted above, soils with the proposed village do not impose a limitation on urban development served by sanitary sewers.

Present and Potential Transportation Facilities

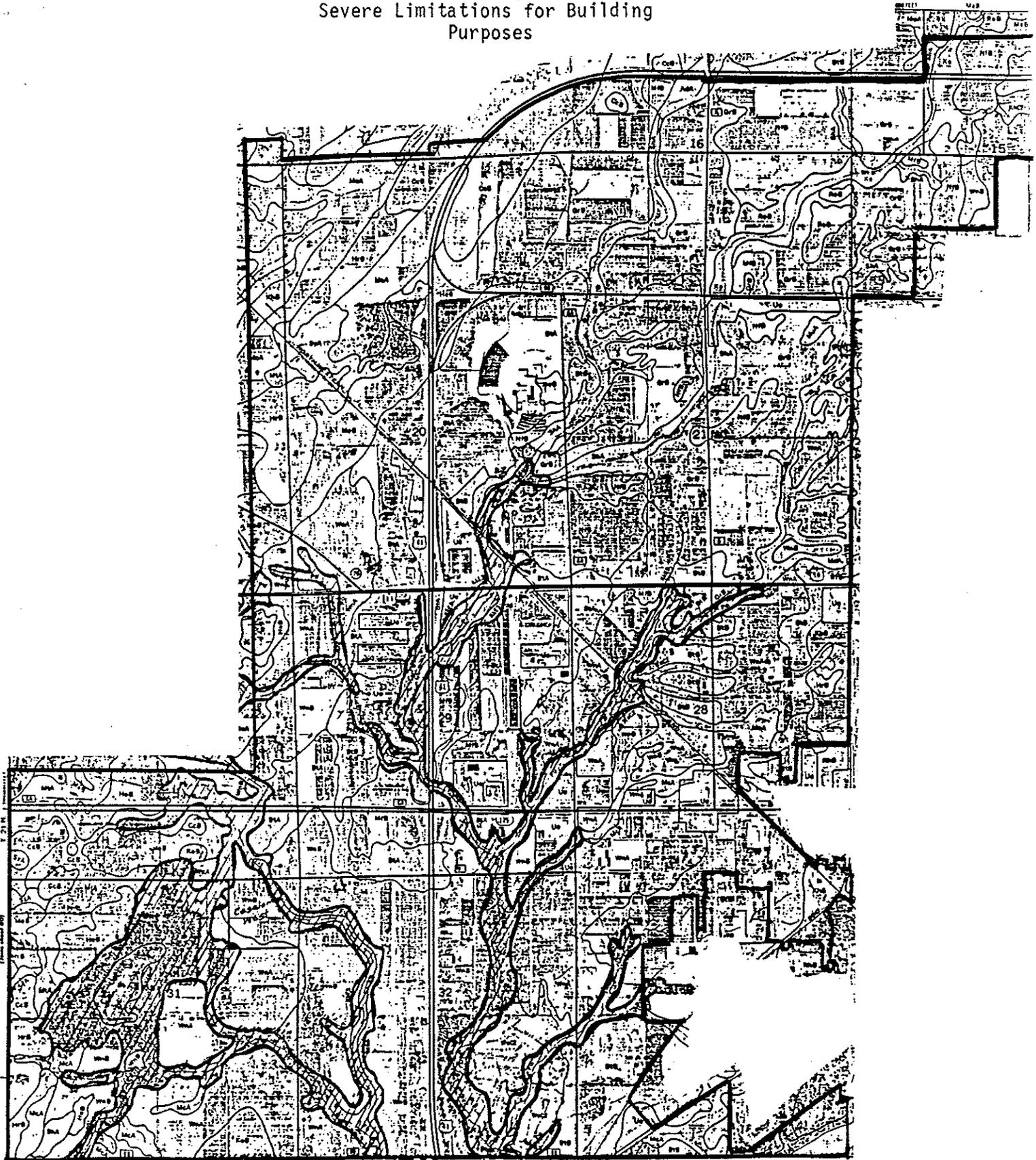
Transportation facilities within the proposed village consist of state trunk highways (U.S.H. 10, U.S.H. 41, S.T.H. 47, S.T.H. 76, S.T.H. 96, and S.T.H. 125); county trunk highways ("A", "AA", "CA", "BB" and "OO"); local streets and railroads. These streets and highways provide access to all areas of the proposed village although U.S.H. 41 is constructed to "freeway" standards and therefore has a limited number of points where it is crossed by other highways. Intersections with U.S.H. 41 are provided at C.T.H. "BB", S.T.H. 125 (College Avenue), U.S.H. 10 (Wisconsin Avenue), C.T.H. "OO" (Northland Avenue) and S.T.H. 47 (North Richmond Street). Spencer Street, Bluemound (C.T.H. "A") and North Gillette Street cross U.S.H. 41 without traffic connection. Although not a barrier for transportation purposes, the highway does act as a barrier in the sense that it separates lands along either side.

Of the classified road network present within the proposed village, fully 55 percent of the nearly 26 miles of roadway in the proposed village is controlled by other jurisdictions (including U.S., state and county trunk highways). In the near term, functional responsibility, regardless of whether or not the incorporation is approved, is expected to be maintained by each jurisdiction currently exercising control. Following incorporation, local streets (other than U.S., state and county trunk highways) would transfer from town to village control.

Major arterials and collectors within the proposed village, including roads controlled by the state or county, such as east-west streets (Wisconsin Avenue, Prospect Avenue, College Avenue, Northland Avenue and Capital Drive) and north-south streets (Bluemound and Lynndale, along with sections of U.S. Highway 41 south of Northland Avenue), were either close to or at capacity in 1978. While vehicular traffic has increased since then, mitigating measures such as parking removal, left turn prohibitions, and altered speed limits could serve to relieve some peak-load congestion. The latest Transportation Improvement Program for the Appleton and Oshkosh Urbanized Areas (1984), prepared by ECWRPC, lists only one proposed transportation improvement within the proposed village: the reconstruction of Prospect Avenue from Bluemound

Figure 2

Areas Containing Soils With
Severe Limitations for Building
Purposes



Drive eastward to Oneida Street (within the City of Appleton)--this is also known as County Trunk Highway "BB". No local engineering study has been performed by the town to identify specific street improvements which it should immediately undertake.

The majority of local streets are internal to residential subdivisions which, because of their scattered locations, do not result in a cohesive street pattern. The remaining local streets provide access to commercial and industrial developments lacking direct access to an arterial highway.

Three railroads currently provide freight service to the Fox Cities Region: the Chicago and Northwestern, the Soo Line, and the Milwaukee Road. Of the three, the Chicago and Northwestern has both main-line and branch-line tracks within the proposed village. A Soo Line branch line divides the proposed village from the City of Appleton, but more importantly serves an active trailer/long-flatcar loading facility located just east of the branch line immediately north of College Avenue.

Valley Transit is a publicly-owned bus system serving Appleton; the cities of Neenah, Menasha, and Kaukauna; the villages of Little Chute, Kimberly, and Combined Locks; and the Fox Valley Technical Institute. The transit system was acquired by the City of Appleton in 1978, and is governed by the Parking and Transit Commission. The five members of the Commission are appointed by the Mayor and confirmed by the City Council.

Each participating municipality pays its prorated share of the local subsidy (an operating subsidy of which approximately 50 percent federal support, 41 percent state support, and 9 percent local support is required) based upon fare box receipts generated within its jurisdiction. Bus service existed within the Town of Grand Chute up to 1976. When the town refused to pay an annual subsidy of about \$7,000 (of which between 50 to 75 percent would have been returned to the town based on fare box receipts), the scheduled bus service on College Avenue was terminated. Currently, the only bus service in Grand Chute is provided to the Fox Valley Technical Institute, although bus drivers do apparently stop and pick up passengers on a random basis along Wisconsin Avenue. In March of 1984, the town requested a feasibility study on the cost of restoring bus service within the town. Likely routes for such service include Spencer Street, West Wisconsin and West College avenues, as well as a route to the Fox River Mall.

Constructed in 1964, the Outagamie County airport is a regional facility located in sections 25, 26, 35 and 36 of the Town of Greenville, directly west of the Town of Grand Chute. A county facility, it is sited on 1,302 acres of county-owned land. In 1979, the airport handled 74,526 passengers and 619 tons of air freight. Airport activity is expected to double by the year 2000. In anticipation of future airport expansion and to discourage encroachment of new land uses that might affect or be affected by the airport operations, the Outagamie County Board adopted airport overlay zoning on surrounding lands where approaching or departing aircraft may be cause for concern. This overlay zone controls the use, density and height of structures in the approach zones. This zoning covers approximately lower two-thirds of Section 31.

The transportation facilities of the proposed village are an extension of those in the metropolitan community and as such are considered adequate and not a factor affecting the incorporation action. However, the pattern of local streets is fragmented and scattered rather than compact and homogeneous. The pattern of local streets is a significant factor leading to the conclusion that transportation facilities within the proposed village are neither compact nor homogeneous.

Previous Political Boundaries

Prior to filing the petition for incorporation the boundary between the town and Appleton was subject to change with annexation. Incorporation of the village would freeze the shared portion of that boundary. The southern boundary of the proposed village is presently the boundary between the Town of Grand Chute, Outagamie County and the Town of Menasha, Winnebago County. Mayflower Drive is the boundary between the Town of Grand Chute and the Town of Greenville. The remaining boundary of the proposed village would be a new line separating the village from the remainder of the town.

As shown in Figure 1, incorporation of the proposed village would result in a highly irregular boundary shared with Appleton, leading to the conclusion the territory would not be compact.

Boundaries of School District

All of the territory of the proposed village is included in the Appleton Area School District which would remain unaffected by the incorporation of the village. The boundary of the school district is neutral within respect to the incorporation criteria.

Shopping and Social Customs

Shopping Customs. The territory contains a general shopping center in the southwest quadrant of the intersection of U.S.H. 41 and Wisconsin Avenue; numerous retail and service businesses along College Avenue; and additional businesses along Wisconsin Avenue east of U.S.H. 41. The amount and diversity of businesses and services located within the proposed village is geared to the needs of the metropolitan area. It is evident that residents of the proposed village could satisfy all of their shopping and service needs within the village. Any dependence on other shopping areas, except as noted below, results from personal choice or the desire to take advantage of comparative shopping opportunities.

Exhibit 62 supports the contention that residents of the Oneida Park area of the proposed village likely do their convenience shopping at the shopping mall and stores located along Northland Avenue within the City of Appleton because it is closer to them than other businesses in the proposed village. Considering the location of other residential areas and the large array of shopping and service facilities located within the proposed village, it has been determined that, with the exception of the Oneida Park neighborhood, residents of the proposed village could do the majority of their convenience shopping within the village. Exhibit 62 indicates that most supermarkets have City of Appleton locations and are the dominant choice of those surveyed.

Social Customs. Several churches and two public elementary schools are located within the proposed village and as such contribute to the social identity of the community. Social organizations that are located in Grand Chute include the American Legion Auxiliary; American Legion Post 38; Lions Clubs of Grand Chute; 4-H Woodland; Twin Willows School Scouting Cubs, Tigers and Boy Scout Troops; PTAs for Twin Willows and Badger schools. Opportunities for social interaction associated with outdoor recreation include the private golf course, Carters Woods Park and playgrounds at the two elementary schools. Being bordered by Appleton on three sides, it is likely that the Oneida Park neighborhood utilizes outdoor recreation found within the city. There are no town recreation facilities near the southwest neighborhood.

The proposed village may be compared to other incorporated and developed unincorporated places adjacent to metropolitan communities which are generally overwhelmed by the identity of the central city. Both Milwaukee and Madison are examples of multi-jurisdictional urban areas where the smaller jurisdictions are frequently included in a general reference using only the name of the central city. Such generalizations do not imply a lack of community identity in the less populous jurisdictions. However, in most instances the smaller incorporated municipalities had been in existence for many years having a history of starting as an original settlement. As these cities and villages grew, the distances between them were reduced to zero and their identities became mingled with that of the central cities.

From the standpoint of shopping and social customs, those of Grand Chute cannot be distinguished from those of the metropolitan community and cannot support a conclusion of compactness. In addition, the relatively few social organizations identified as being focused in Grand Chute lead to the conclusion that social customs are metropolitan in nature and lack homogeneity.

Population Density

Population density is another factor bearing on homogeneity. An analysis of population density utilizes the estimates of population by traffic analysis zones by ECWRPC. The TAZs shown on the following map vary in size; therefore, acreage for each zone is estimated.

The estimates of persons per acre in traffic analysis zones (shown in Figure 3) where the dominant land use is residential are: TAZ 81, 2.71; 82, 2.05; 156, 1.97; 90, 1.46; 91, 1.50; 92, 1.54; 93, 1.49; 134, 2.46 and 135, 2.50. Since 1980, most new housing constructed in the proposed village has located in the above listed zones adding further to the population density per acre in those areas.

Population density within the proposed village varies by a significant degree resulting in part from the nature of development (large tracts of commercial/industrial development containing few dwellings), but also from large vacant areas of potential residential land. For example, TAZ 92, containing an estimated 600 acres, is approximately 75 percent vacant. Considering population density and the location of residential neighborhoods (discussed later in the land use section) the Department finds that from the perspective of population density the proposed village is neither compact nor homogeneous.

Figure 3

Traffic Analysis Zones (TAZs)

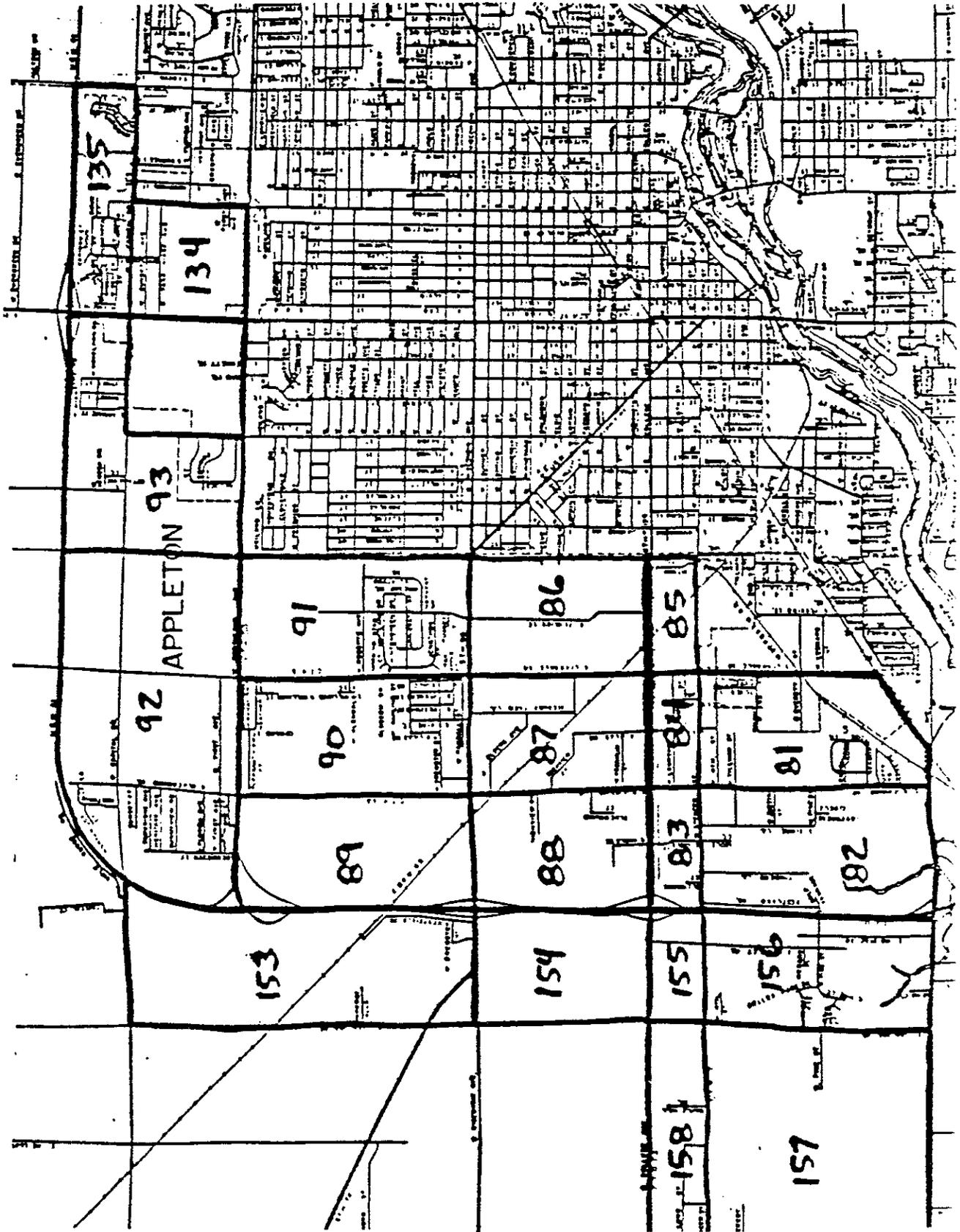


Table 1

| <u>Traffic Analysis Zone</u> | <u>Estimated Acreage</u> | <u>1980 Population</u> | <u>Average Acres Per Person</u> | <u>Person Per Acre</u> |
|----------------------------------|------------------------------|----------------------------|-------------------------------------|----------------------------|
| 81 | 300 | 814 | .36 | 2.70 |
| 82 | 320 | 658 | .48 | 2.05 |
| 83* | 80 | 50 | 1.60 | .62 |
| 84 | 80 | 473 | .16 | 5.90 |
| 85* | 80 | 4 | 20.00 | .05 |
| 86* | 320 | 13 | 24.60 | .04 |
| 87* | 320 | 23 | 13.90 | .07 |
| 88* | 320 | 123 | 2.60 | .38 |
| 89* | 320 | 224 | 1.42 | .70 |
| 90 | 320 | 470 | .68 | 1.47 |
| 91 | 320 | 480 | .66 | 1.50 |
| 92 | 600 | 925 | .64 | 1.50 |
| 93 | 340 | 509 | .66 | 1.50 |
| 134 | 160 | 394 | .40 | 2.46 |
| 135 | 160 | 400 | .40 | 2.50 |
| 153 | 480 | 112 | 4.28 | .23 |
| 154* | 320 | 18 | 17.10 | .05 |
| 155* | 80 | 3 | 26.60 | .04 |
| 156 | 320 | 633 | .50 | 1.98 |
| 157 | 640 | 134 | 4.77 | .21 |
| 158 | 160 | <u>225</u> | .71 | 1.40 |
| Total | | 6,685 | | |

* Note: These zones contain large acreages of commercial, industrial, vacant or institutional land uses.

Employment

Petitioner's Exhibit 15 included an August 1984 survey of employers located within the proposed village which identified 6,882 jobs of which only 566 (approximately 8 percent) were held by residents of the proposed village. The remaining 6,316 jobs were occupied by persons from other areas including 3,352 persons working in the proposed village who live in Appleton. The petitioners estimate that the proposed village's labor force was 3,993 (in 1984) which means only one in seven of those in the labor force work within the village and 3,400 are employed elsewhere or are unemployed. (Statewide unemployment was estimated to be 8 percent in 1984.)

These facts point out two things: the territory is a provider of jobs in the metropolitan area; and the focus of employment for residents of the proposed village is also metropolitan since only one in twelve work in the territory. This leads to a finding of lack of internal orientation for the territory. From a perspective of employment the territory is neither homogeneous nor compact.

Land Use Patterns

The nature and distribution of commercial and industrial land uses have a significant bearing on the homogeneity of the territory. Industrial and commercial development is shown in Figure 4. Large variety stores, supermarkets, car dealerships, motels and restaurants line both sides of College Avenue from U.S.H. 41 to Appleton. A regional shopping mall is located in the southwest quadrant of intersection of U.S.H. 41 and Wisconsin Avenue. Commercial and retail businesses line the frontage roads paralleling Wisconsin Avenue between U.S.H. 41 and Appleton. The lands north of the business area along College Avenue and extending to Wisconsin Avenue are being developed for industrial and heavy commercial uses. Lands north of Wisconsin Avenue and east of U.S.H. 41 contain the Outagamie County Hospital and the Fox Valley Technical Institute and residential development. A town park and a private golf course are located in the area east of U.S.H. 41 and south of Spencer Street.

The proposed village is developing four non-contiguous residential neighborhoods (shown in Figure 4) separated by the freeway, large commercial/industrial lands and by the City of Appleton. The most populous square mile, containing nearly 2,000 persons, is the residential area bounded by C.T.H. "BB", U.S.H. 41, Spencer Street and the City of Appleton. A second large cluster of residential developments is west of U.S.H. 41 to Casaloma Drive and continuing west along Spencer Street. A third cluster of residential development extends from the Applegate subdivision north of Wisconsin Avenue, northward along Lynndale Drive to Northland Drive and northward along the west side of Bluemound Drive. The fourth large cluster of residences is called Oneida Park and is located east of Richmond Street. Smaller residential clusters are located north of Capitol Drive east of Gillett; along Capital west of U.S.H. 41; along Lynndale north of College; and west of Bluemound north to College.

The separation of the two southern neighborhoods by U.S.H. 41 is understandable, as is the separation of the southern neighborhood from that developing north of Wisconsin Avenue. However, the location of the Oneida Park neighborhood indicates that the residential development in the proposed village is not homogeneous and compact.

PROPOSED VILLAGE OF GRAND

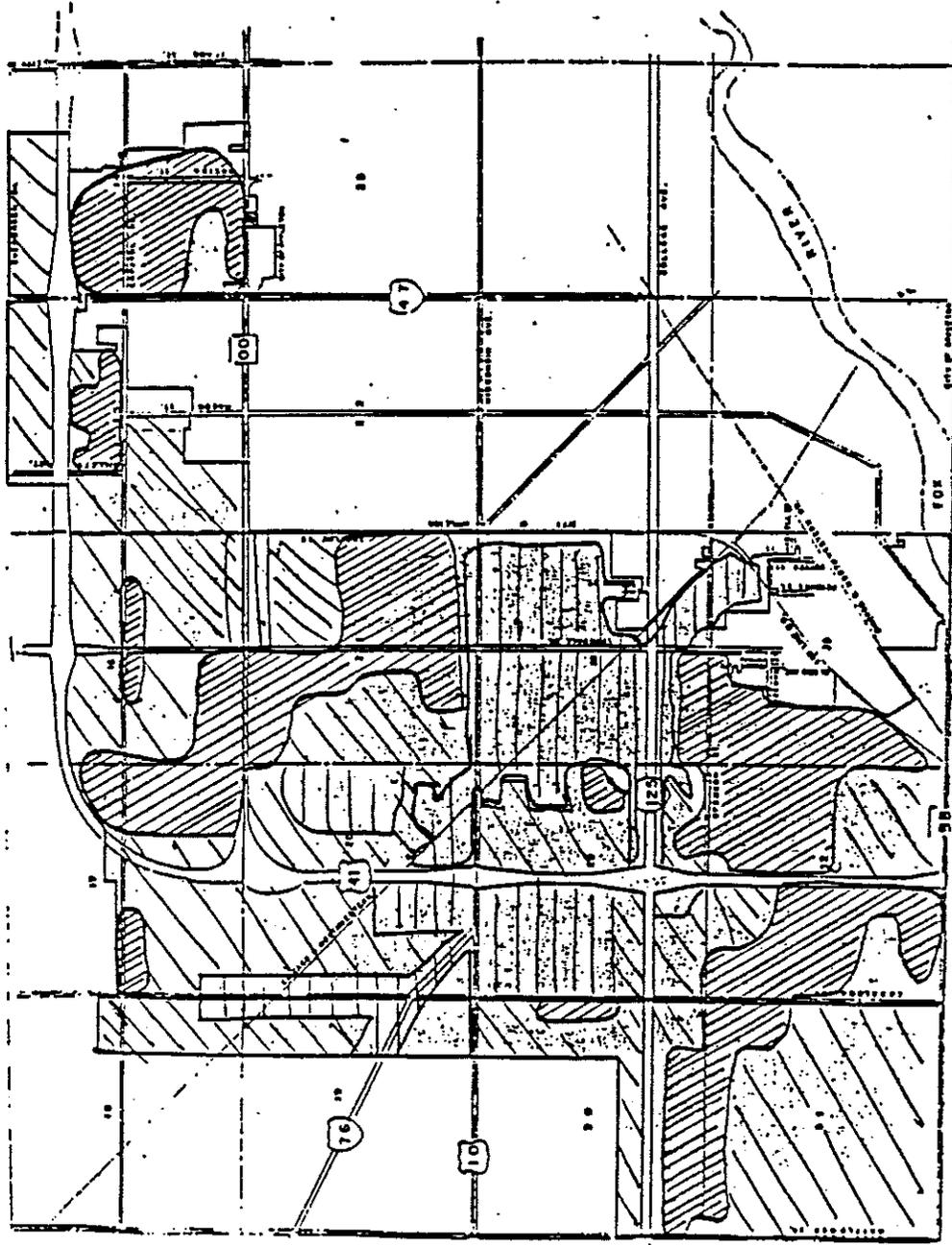
CHUTE

Generalized Land Use

Undeveloped lands or
Open Space

Commercial & Industrial
Uses

Residential Development



Vacant land and farm land are scattered throughout the northern and western portions of the proposed village. A large vacant area in Section 31 is not suited for urban development due to the moderate to severe soil limitations previously mentioned. The land north of U.S.H. 41 within the proposed village contains only a few homes along Evergreen Drive; this area is largely undeveloped. Between 500 and 600 acres of vacant undeveloped land or farm land lie in the northwest portion of the proposed village west of U.S.H. 41. In addition there are large tracts of undeveloped land totaling several hundred acres in sections 15 and 16 (south of U.S.H. 41) and in the west half of Section 21. Lands not used for urban purposes amount to 3,301.5 acres, or approximately 51 percent of the land area within the proposed village.

Land use within the Town of Grand Chute is subject to the zoning regulations of Outagamie County. Developable zoned and sewerred residential, commercial and industrial sites and lots are found throughout the proposed village. Recent platting activity is contributing to the supply and dispersed location of new residential and commercial lots. In addition, many existing commercial and industrial businesses have sites large enough to accommodate future expansion of their facilities.

In October 1979 the Outagamie County Board authorized the City of Appleton to plan for urban development within the city's extraterritorial jurisdiction. Consequently the city developed the Comprehensive Plan 2000, City of Appleton and Environs adopted in December 1979.

This plan identifies residential, commercial, industrial and open space lands anticipated to be developed by the year 2000. Appleton did not plan for any development west or north of U.S.H. 41 except for a large area of residential land bordering the city territory north of U.S.H. 41 from S.T.H. 47 eastward. However, town lands lying west and north of U.S.H. 41 were already within the service areas of Sanitary Districts 1 and 2. Therefore, development was occurring, diminishing the effect of the City of Appleton Plan which appeared to prioritize development on the city's side of U.S.H. 41.

Since 1979, when the Town of Grand Chute Town Plan Commission became inactive, the town's elected officials have not had the benefit of advisory recommendations from its own planning body in making land use decisions. In recent years, there have been numerous rezonings that permit nonfarm development in outlying areas within the town. The resulting pattern of land uses in the outlying areas of the town, but including that area of the proposed village west of U.S.H. 41, appears to be less thoughtfully planned. Exhibit One, including overlays, "Development Map for the Proposed Village of Grand Chute," indicates the extent and nature of development existing as of the date of the petition for incorporation, and the additional lands that are expected to be developed in the near future.

In summary, it is found that land use patterns for the area between U.S.H. 41 and the City of Appleton are more identifiable and predictable compared to land use patterns west and north of U.S.H. 41. Land uses within the proposed village are not homogeneous and compact.

DETERMINATION

From the standpoint of characteristics of the territory, the Department finds the following:

The territory is not compact in that it includes lands of unusual configuration east of the Soo Line railroad in Section 33; and it includes lands north of U.S.H. 41 in Section 15 and lands in sections 14 and 23 that defy a finding of compactness.

Natural boundaries, natural drainage basins, and soil conditions are homogeneous.

Boundaries of school districts are unaffected and therefore neutral with respect to incorporation of the proposed village.

In the context of land use patterns, residential development within the proposed village is not compact but is scattered; commercial and industrial development within the frame of U.S.H. 41 is homogeneous but considering large areas of vacant land is not compact. The land use pattern west of U.S.H. 41 and north of Spencer Street is best described as scattered, not compact even considering the large regional shopping mall; lands north of U.S.H. 41 having little residential development are considered primarily vacant. These land use patterns lead to a finding of lack of homogeneity and compactness in the proposed village.

Present and potential transportation facilities, previous political boundaries, shopping and social customs, and land use patterns, are neither compact nor homogeneous considering the above finding that the territory is not compact.

Based on the finding and conclusions relative to homogeneity and compactness, the Department determines that this standard has not been met.

SECTION 1(b) TERRITORY BEYOND THE CORE SQUARE MILE

STANDARD TO BE APPLIED BY THE DEPARTMENT

The territory beyond the most densely populated square mile as specified in s. 66.015 (3) or (4) shall have the potential for residential or other urban land use development on a substantial scale within the next three years. The department may waive these requirements to the extent that water, terrain or geography prevents such development.

ANALYSIS

Lands which in the department's judgment are undevelopable because of severe soil conditions, surface water and high ground water conditions, are found in Section 31 in the southwest area of the proposed village and consist of approximately 300 acres.

In addition, the analysis of soil conditions pointed out that certain soils along streams and drainageways are unsuited for development. The drainageways could be used for urban greenways and open space. Therefore, the drainageways are not significant barriers to development in the same manner as Center Lake and its surrounding area in Section 31.

The boundary of the proposed village does not conform to that of the town nor to U.S. Census enumeration districts; however, recent population data is available for the Sanitary Sewer District. Information prepared by ECWRPC for the Grant Chute portion of the fourth plant regional sewer district indicates the 1980 population was 5,671 and projected to reach 10,733 by 2005. Based on dwelling unit count taken from aerial photographs (dated April 5, 1980) it is estimated that in 1980, 300 to 400 persons lived outside of the sewer district but within the boundaries of the proposed village. Therefore, the 1980 population of the proposed village is estimated at 6,071 persons. The petitioners have estimated that the 1984 population of the proposed village was 7,694 persons. Based on this, it can be estimated population growth for the period 1980 to 1984 was 1,623 persons or an annual average increase of 406 persons.

ECWRPC estimated that in 1980 that there were 1,051 acres available for residential development and 1,213 acres available for industrial and commercial development within the boundaries of the sewer district. In addition, it is estimated that 1,150 acres were available for development outside of the sewer service acres. This figure was arrived at by the utilization of aerial photographs and by adjusting the undeveloped acreage for lands which cannot be developed in Section 31. Combining these figures results in an estimate of developable acres of 3,414.

Between 1980 and March 1984, it is estimated that between 103.2 acres and 105.75 acres were consumed for residential development. These figures were arrived at through the following methods.

During the 1980-84 period, the population of the proposed village increased by 1,623 persons. Utilizing ECWRPC's estimate that the projected sewer district population increase of 5,062 would result in 549 acres being consumed for residential development, it is estimated that one acre will be consumed for each 9.22 persons. Thus, a population increase of 1,623 would require 176.03 acres.

Another method of estimating the acreage consumed for residential development utilizes recent experience in building permits for single family, duplex and multifamily developments. There were 265 single family, 49 duplex and 10 multifamily permits issued from 1980 through April 1984. (Note: the multifamily permits did not specify the number of dwelling units within the structures.) Petitioners have stated that single family development occurs at the rate of 2.3 to 2.4 units per (gross) acre, six units per acre for duplex development and nine units per acre for multifamily development. Based on this, single family development would have consumed 115.2 acres; duplex development, 16.3 acres; and multifamily development 20 acres for a total of 151.5 acres consumed. This averages 34.4 acres per year.

For the period beginning with 1980 and through October 1984, the Town of Grand Chute issued 170 commercial/industrial building permits. No land area information was provided; however, permits were issued for Fox River Mall which occupied an estimated 90 acres for its first stage development. It is estimated that this development consumed a total of 170 acres or 42 acres per year.

Another method of calculating the amount of land consumed for commercial/industrial uses is based on employment projection. Utilizing an average 10.3 jobs per acres (1980 average) and ECWRPC's projections employment (assuming 58.6 percent would occur in the first seven years of 1980 to 2005) industrial and commercial development would have consumed 60.5 acres per year or 260.15 acres between 1980 and April 1984.

Adjusting the 1980 figure of land available for development by the largest projected amount of land that was consumed between 1980 and April 1984, the total land available for development is estimated at 3,001.5 acres.

Assuming that the population will continue to increase during the three year period following the date of the petition at the same level as occurred between 1980 to 1984 (406 persons per year), the population of the village would increase by 1,218 persons requiring the use of 132 acres. Utilizing the past 22 months' residential building permit data and assuming that this trend would continue, an estimated 156 acres would be used for residential development. Therefore, residential development will require an estimated 132 to 156 acres during the three-year period.

Utilizing the average annual rate of 42 acres per year for commercial and industrial land use development, an estimated 126 acres would be consumed over the next three years. An alternate method of calculating commercial/industrial land use consumption is based on employment projections. Utilizing an average of 10.3 jobs per acre (the 1980 average) and the predicted gain in employment (assuming 58.6 percent would occur in the first seven years of the 1980 to 2005 period) industrial/commercial development would consume an estimated 60.5 acres of land per year or 181.5 acres over the three-year period.

Based on the above, it is estimated that during the three-year period following the date of the petition, an estimated 258 to 338 acres will be used for urban development out of 3,002 acres available. Thus, 8.6 to 11.3 percent of

the available land will be used. If the 90 acres consumed for the Mall were added to these estimates, only 11.6 to 14.3 percent of the available land would be consumed.

DETERMINATION

Upon review of the information submitted, and after careful analysis of the potential for urban development in the forms of new residential, commercial and industrial projects within the proposed Village of Grand Chute within three years, the Department finds that the potential for development is not substantial and, therefore, determines this standard has not been met.

SECTION 2(a) TAX REVENUE

STANDARD TO BE APPLIED BY THE DEPARTMENT

Section 66.016 (2)(a) requires that the proposed incorporation must be in the public interest as determined by the Department after considering whether "the present and potential sources of tax revenue appear sufficient to defray the anticipated cost of governmental services at a local tax rate which compares favorably with the tax rate in a similar area for the same level of services."

ANALYSIS

The following components will be used to evaluate the financial capacity of the proposed village: trends in equalized values, per capita equalized values, local levy component comparisons, and debt capacity.

Changes in equalized full values from 1980-1984 (for real estate and personal property) for the proposed village and neighboring municipalities are shown in Table 2. The following Table 3 shows only the percentage change from 1980-84, which is consistently above the statewide average change, even though two of the municipalities involved were subject to annexations which would have reduced their equalized value for the towns of Grand Chute and Menasha for the period shown. Table 4, illustrating changes in equalized value per capita, shows the growth in tax base in even more graphic terms, with only the Town of Menasha falling below the statewide increase in equalized value per capita due to annexations.

Taken together, these three tables suggest that, allowing for municipalities in different stages of urbanization, not only does sufficient tax base exist, but that it is continuing to grow at a rate above the state-wide average. Because the proposed village encompasses the most urbanized part of the Town of Grand Chute, it is highly likely that per capita equalized values will continue to grow at a rate comparable to that experienced by the other neighboring jurisdictions used for comparison.

Table 4, the "Preliminary Village Budget," provides a brief review of major expenditure categories for the entire Town of Grand Chute. The proponents of the proposed village took approximately 80 percent of the town expenditures (in 1983) to develop a budget estimate for "general administration." Other categories of expenditure are based on per capita norms for either villages of comparable size, or in some cases, city-level expenditures. The village is planning to start its own library, hence the increased figure for conservation and leisure. The \$200,000 included in the proposed village budget is intended to meet the annual cost of the existing prorated debt and anticipated debt of approximately two million dollars, which would leave the proposed village with a remaining debt limit ceiling of \$13,790,044.

The proposed village plans to spend approximately \$245.26 per person ($\$1,887,000 \div 7,694$), which is significantly less than the amount spent by cities and villages of comparable size. The average is \$441.14 per person for 22 cities and \$436.40 per person for 3 villages, based upon an analysis introduced by the City of Appleton. The proposed village may not have been aware that it will have to hire a weights and measures inspector, appoint and pay a police and fire commission, and create a zoning board of appeals. The

Table 2

Equalized Values

| | <u>1980</u> | <u>1981</u> | <u>1982</u> | <u>1983</u> | <u>1984</u> |
|--------------------------------------|----------------|----------------|----------------|----------------|----------------|
| Town of Grand Chute | \$ 302,757,550 | \$ 323,642,700 | \$ 356,022,400 | \$ 366,187,500 | \$ 389,736,600 |
| City of Appleton | 1,124,834,510 | 1,182,655,500 | 1,246,514,700 | 1,275,875,400 | 1,379,259,800 |
| Town of Menasha | 334,803,700 | 350,715,500 | 389,730,400 | 399,355,200 | 396,628,100 |
| Village of Kimberly | 100,036,760 | 105,057,700 | 114,285,900 | 119,014,800 | 123,133,600 |
| Proposed Village of Grand Chute | | | | | 315,800,879 |
| Remainder of the Town of Grand Chute | | | | | 73,303,583 |

Percent Change in Equalized Values

| | <u>1980-81</u> | <u>1981-82</u> | <u>1982-83</u> | <u>1983-84</u> |
|---------------------|----------------|----------------|----------------|----------------|
| Town of Grand Chute | 7% | 10% | 3% | 6% |
| City of Appleton | 5% | 5% | 2% | 8% |
| Town of Menasha | 5% | 11% | 2% | (1%) |
| Village of Kimberly | 5% | 9% | 4% | 3% |
| Statewide Average | 4% | 5% | 1% | 2% |

Source: Wisconsin Department of Revenue

Table 3

Equalized Value Per Capita

| | <u>1980</u> | <u>1984</u> | <u>Percent Change</u> |
|---|-------------|-------------|-----------------------|
| Town of Grand Chute | \$ 31,772 | \$ 35,841 | 13% |
| City of Appleton | 19,094 | 22,612 | 18% |
| Village of Kimberly | 17,010 | 20,427 | 20% |
| Town of Menasha | 27,204 | 28,940 | 6% |
| Proposed Village of Grand Chute | | 41,553 | - |
| Remainder of the Town of Grand Chute | | 22,417 | - |
| Statewide Average | 23,052 | 25,547 | 11% |

Source: Wisconsin Department of Revenue

Table 4

Preliminary Village Budget

| | <u>Town, 1981¹</u> | <u>Town, 1982¹</u> | <u>Town, 1983¹</u> | <u>Town, 1984¹</u> | <u>Proposed Village²</u> |
|-----------------------------|-----------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|---|
| General administration | 111,184 | 134,836 | 125,592 | 166,810 | 100,000 |
| Public Safety | | | | | |
| Fire | | | | | |
| Police | 222,143 | 209,054 | 230,855 | 222,000 | 471,816 |
| Health & Social Services | 9,038 | 9,438 | 16,708 | 4,700 | 30,000 |
| Transportation | | | | | |
| Streets | 256,934 | 300,622 | 347,759 | 381,000 | 547,028 |
| Mass Transit | | | | | 15,000 |
| Sanitation | | | | | |
| Refuse | 112,346 | 113,415 | 118,718 | 123,100 | 125,000 |
| Conservation/Leisure | 7,747 | 12,252 | 7,948 | 5,041 | 80,000 |
| Principal & Interest | 80,100 | 86,975 | 75,032 | 42,000 | 200,000 |
| Other | <u>230,916</u> | <u>79,137</u> | <u>50,825</u> | <u>70,125</u> | <u>218,156</u> |
| Total General Operations | 1,030,408 | 945,729 | 973,437 | 1,014,776 | 1,787,000 |
| Capital Projects | <u>-0-</u> | <u>-0-</u> | <u>204,000</u> | <u>255,080</u> | <u>100,000</u> |
| Total | 1,030,408 | 945,729 | 1,177,437 | 1,269,855 | 1,887,000 |
| Sanitary District 1 | | | | | 491,000 |
| Sanitary District 2 | | | | | <u>922,000</u> |
| | | | | | <u>1,413,000</u> |
| | | | | | 3,300,000 |

¹ From annual "Financial Report Forms,"
filed with the Wisconsin Department of Revenue

² Petitioners exhibit

creation of a plan commission is optional; however, it may desire to have one if it expects to enact its own zoning ordinance, official zoning map, and a wetland protection ordinance under Chapter NR117, Wis. Admin. Code, to fully control its own land development.

Many of the proponents' letters in support of incorporation mention the desire for more as well as a higher level of "village" services. If the proposed village were to provide a higher level of existing services and add new services such as storm water runoff structural control, it is likely that the tax levy may have to be increased.

Table 5 shows sources of estimated revenue. State shared aids, including road aids, are expected to be stable, and are not expected to increase dramatically over the next few years. For example, the proposed village will be on a "hold harmless" road aid formula allocation. To receive more than the estimated \$101,240 (based on a prorated six-year average of \$218,558 per year of allowable transportation expenditures), the proposed village will have to spend at a rate equal to \$552,475 in eligible expenses for each of the next six years in order to receive more than the minimum "hold harmless" amount (which is what the budget proposes). But, as will be discussed later, the entire town (including the territory of the proposed village) plans to spend only \$184,000 for highway related expenditures for fiscal 1985.

The estimated tax rate, along with local tax rate comparisons for the years 1980-1983, are shown in Table 5. Because each dollar of equalized value is taxed equally for state, county, and school district purposes (although not all of the municipalities shown are in the same school district), the most variability will be found in tax levies for local purposes. While local tax levies represent the local government response to statutory service mandates, they also represent local demands for types and quality levels for many governmental activities, as well as the local government's response to the amount of revenue received from other sources.

Information contained on Table 6 suggests a slight decrease in all municipal tax levies for local purposes, particularly since 1981. The proposed initial village levy for local purposes would fall well within the range of local levies shown in Table 5. Thus if the proposed village were to have understated its expenditures by a significant factor, it could still levy at the local tax rate of Kimberly or Appleton, and raise almost double the amount of the needed projected revenue (\$1,218,300). Thus there is no reason to believe that tax burdens within the proposed village will exceed those of its neighbors, but instead the local tax burden, because of the tax base represented by high per capita equalized value, will be substantially less than that of its neighbors.

DETERMINATION

From the above data and comparison, the Department finds that the present and potential tax revenues are sufficient to defray the anticipated cost of governmental services. The Department therefore determines that this criterion is met.

Table 5

Sources of Revenue¹

Intergovernmental Revenue

| | |
|-------------------------|----------------------|
| State Shared Revenue | \$232,000 |
| State Highway Aid | 101,240 ² |
| Federal Revenue Sharing | <u>32,800</u> |
| Total | \$366,040 |

General Operations Revenues

| | |
|--|----------------|
| Use of Money and Property | |
| Sanitary Districts Levy | \$1,413,000 |
| Cash On Hand | 100,000 |
| Other (interest, etc.) | <u>87,000</u> |
| | 1,600,000 |
| Regulation and Compliance, and Misc. Revenues | <u>145,660</u> |
| Total Revenues | \$2,111,700 |
| Less Total Expenditures | (\$3,300,000) |

(a) Estimated property tax levy \$1,188,300

(b) (Petitioner estimates levy of \$1,218,300)

Estimated Mill Rate

(a) Tax Levy Estimated Equalized Value $\frac{\$ 1,188,300}{\$315,800,879} = .00376$

(b) Tax Levy Estimated Equalized Value $\frac{\$ 1,218,300}{\$315,800,879} = .00386$

¹ From Petitioner

² Actually state highway aid will be closer to \$50,000 during the first calendar year because full "village" aids will only be available for the fiscal year following the first certification of eligible mileage for the proposed village (e.g., mileage is certified on January 1 for the aids to be paid the following year). This would result in an increase of 16 cents per \$1,000 in the levy shown in (a), making it .00392.

Table 6

Local Tax Rate Comparison*

| | <u>1980</u> | <u>1981</u> | <u>1982</u> | <u>1983</u> | <u>1984**</u> |
|---|-------------|-------------|-------------|-------------|---------------|
| Town of Grand Chute | | | .00106 | .00179 | .00025° |
| City of Appleton | .00688 | .00722 | .00685 | .00686 | |
| Town of Menasha | .00529 | .00490 | .00128 | .00275 | |
| Village of Kimberly | .00661 | .00705 | .00746 | .00685 | |
| Proposed Village of Grand Chute | | | | | .00385° |
| Remainder of the Town of Grand Chute | | | | | .00025 |

* Composite levy rates including sewer levies

° Without sanitary district levies which would add approximately .00135 for sewer and water assessments, for a total levy of .00520 in the proposed village.

** Projected 1984 levy based on 1984 equalized values if incorporation had occurred (from petitioner).

Source: "Statement of Taxes," Wisconsin Department of Revenue

SECTION 2(b) LEVEL OF SERVICES

STANDARDS TO BE APPLIED BY THE DEPARTMENT

The incorporation must be in the public interest upon consideration of the level of governmental services desired or needed by the residents of the territory compared to the level of services offered by the proposed village or city and the level available from a contiguous municipality which files a certified copy of a resolution as provided in s. 66.014 (6). In considering the level of services available in the proposed Village of Grand Chute the Department, pursuant to s. 66.014 (9)(2), uses the definition of public interest contained in s. 66.021 (22)(c).

Whether the governmental services, including zoning, to be supplied to the territory could clearly be better supplied by the town or by some other village or city whose boundaries are contiguous to the territory proposed for annexation which files with the circuit court a certified copy of a resolution adopted by a two-thirds vote of the elected members of the governing body indicating a willingness to annex the territory upon receiving an otherwise valid petition for the annexation of the territory.

The Department must apply the above standard since the City of Appleton has filed a resolution of willingness to annex the territory proposed for incorporation.

ANALYSIS

Fire Protection and Emergency Medical Service

These two categories are combined because the provision of both fire protection and emergency medical service are currently integrated functions provided both by the Town of Grand Chute and the City of Appleton.

EMS

Gold Cross Ambulance of the Fox Cities, Inc., provides metropolitan ambulance service to the Fox Cities including both the City of Appleton and the Town of Grand Chute. The firm has three ambulances (with a fourth available) staffed at all times by 21 full-time paramedics and a pool of part-time paramedics and emergency medical technicians.

In addition to the primary service provided by Gold Cross, the Town of Grand Chute Fire Department has 23 first responders, 2 emergency medical technicians and 1 light duty rescue van equipped with a full complement of tools for rescue purposes. Periodic emergency medical training is provided to the Department by the Fox Valley Technical Institute. No average ambulance response time was provided by the petitioners. All fire and emergency medical assistance calls are handled by the County Sheriff Department Communications Center.

The City of Appleton has 12 fire fighters trained as paramedics, and in addition, each of the 4 engine crews located at the 4 city fire stations are trained as first responders. The Fire Department maintains a fully-equipped ambulance which responds to all emergency medical requests and two pumper fire alarms within the City of Appleton. Monthly emergency medical training is provided to the Fire Department by St. Elizabeth's Hospital personnel. Requests for both fire and emergency medical service are handled by the city's "911" telephone system. Under normal circumstances (except when a patient's functions are being monitored while in route to a hospital) if the city's ambulance has arrived first, the patient will be transferred to Gold Cross for transport. The average response time for Rescue Squad No. 91 is 3.4 minutes.

Emergency medical service provided directly by the City of Appleton is at a higher level (by virtue of the presence of the 12 paramedics and 1 ambulance) than that provided by the Town of Grand Chute Volunteer Fire Department. This is in part to be expected because the city is providing emergency medical service to approximately six times the population contained within a portion of three counties in addition to providing necessary protection for its own fire-fighting personnel. With the exception of the Oneida Park area, which is adjacent to the paramedics located at the fire station on 726 East Greenfield, the emergency medical service provided both by the Volunteer Fire Department and by Gold Cross Ambulance, is adequate to serve the needs of the lesser population and population density of the territory of the proposed village.

Emergency medical service could be adequately provided by either jurisdiction and is therefore neutral with respect to incorporation.

Fire Protection

At the time when the incorporation petition was filed, both the portion of the Town of Grand Chute served by Sanitary District 1 and the City of Appleton were rated as Class 4 municipalities (Appleton is now a Class 3) by the state's Insurance Services Organization. This rating takes into account the ability of a department to respond and deliver a minimum quantity of water, in addition to such programs as equipment maintenance, training of personnel, etc. The City of Appleton operates four fire stations, staffed by 94 full-time personnel, of whom 86 could be considered as fire-fighting personnel (the others perform training, inspection and maintenance functions). The Town of Grand Chute operates two fire stations with 45 personnel, of whom 1 is full-time, 10 are part-time, 44 are volunteers and 9 are cadets. Fire-fighting equipment provided by the two municipalities is somewhat comparable, with the significant difference being an additional ladder truck and a 75 foot snorkel both belonging to Appleton.

From testimony provided to the Department, along with independent questioning of I.S.O., it is apparent that the fire protection provided by the Town of Grand Chute is considered adequate to its current needs, as well as satisfying a community need at a cost lower than through the service provided by Appleton. On the other hand, it is evident that the City of Appleton, because of the number of fire runs per month (which is greater than Grand Chute's by a factor of at least 14), requires paid full-time staff, and a more advanced fire prevention and inspection component. As the proposed village experiences

further increases in population, equalized value and building density, it may find that as the number of fire runs increases, it will be less able to depend on a purely volunteer department.

At the time the petition for incorporation was filed, it was apparent that fire protection services could be provided by the proposed village at an equivalent level and at a lower cost than could be provided by Appleton.

Therefore, the Department finds that fire protection service could better be provided by the proposed village.

Police Protection

The Town of Grand Chute has an existing full-time law enforcement staff of three persons. Additional evidence was presented during the Departmental hearings suggesting that 11 part-time officers are authorized resulting in an estimated full-time equivalent staff of 4.65, or one officer for every 2,236 persons. The town currently spends about \$14.21 per capita (totaling \$147,870 for 1983). The County Sheriff's Department provides backup for all functions, including the assignment of one officer to the town and responds to a high proportion (25-60 percent) of criminal calls. The County backup entails an expenditure of approximately 25 percent of its budget or about \$600,000 (1983) in addition to the \$147,870 (1983) spent by the town. This averages out to \$71.91 per capita based on a total expenditure of more than \$747,000. None of the town exhibits account for this subsidy.

Proposals presented to the Department indicate that police protection could be provided at a cost of \$260,000-\$400,000 or approximately \$33.77 to \$55.18 per capita. The proposed village expects to add five full-time police officers under one of the proposals presented to the Department. The proposal favored by the village appears to lack budgeted amounts for training of officers, and operation and maintenance costs.

The City of Appleton has 86 full-time police officers, or one full-time police officer for every 697 citizens. From evidence presented to the Department, the Appleton Police Department is a highly professional department, devoting a large amount of staff time and resources to training and education of its personnel. Many of its special operational units cooperate with and complement available county resources. The annual budget for its officers and additional support personnel is \$3,396,783 (1983), or \$56.61 per capita.

The Appleton Police Department responded to 26,302 calls for service in 1983, which is four times as many calls as were handled by Grand Chute.

Since the residents of the City of Appleton currently contribute 40 percent of the County sheriff's budget through the general county tax levy, they are subsidizing police service in the Town of Grand Chute. The proposed village has not proposed to fully internalize the cost of providing police service at a level that could be provided by the City of Appleton. Evidence has been supplied the Department by the City of Appleton that it can provide police service to the village at a significantly lower per capita cost than under any of the plans considered by the village. Therefore, the Department finds that police service to the proposed village could best be provided by the City of Appleton.

Sanitary Sewer Service

The boundaries of Sanitary District 2 and the proposed village are not coterminous. The village includes lands in Section 31 and lands north of U.S.H. 41, both of which are outside the sanitary district. In addition, the sewer service area does not include all lands in the sanitary district; notable exceptions are lands west of Casaloma Drive (north of College Avenue) and lands north of Capitol Drive.

The sewer area of the district includes the Oneida Park neighborhood on the north side of Appleton. Because the Oneida Park area lies in a different watershed, a lift station and 9,000 feet of force main were required to serve that area even though it could have been served with gravity sewer if it had been annexed to Appleton.

In addition to hookup fees, all property owners within Sanitary District 2 are paying \$.0.75 per \$1,000 of assessed valuation (for the 1984 tax year) for capital expenditures of the sewer system. A user fee is also charged.

Following incorporation, the village will replace the Commission for administration and operation of the system. Generally, municipalities include some of the cost for utility capital expenditures in the general assessment of the entire municipality. It is uncertain how the proposed village will budget for capital expenditures since it includes substantially more land (estimated to be approximately 1,700+ acres) than the Sanitary District. The Sanitary District includes land beyond the service area which is subject to the \$0.75 assessment but is not likely to be provided sewer service in the near future. Changes in the service area require the approval of ECWRPC. Approval is based on projections for growth within the region, not just the proposed village.

Annexation by the City of Appleton must be considered as an alternative to village incorporation. In the event the City of Appleton annexed the Oneida Park area, the territory could be hooked into the gravity flow system of the city, eliminating the need for operation of the District's lift station and 9,000 feet of force main, resulting in a direct cost of operations savings to utility users.

Water Utility

Sanitary District 1 (the water district) whose boundaries are located entirely within the proposed village, except for a small area in Appleton, serves an area substantially smaller than the proposed village or even the sewer district. Lands within the district are assessed \$0.60 per \$1,000 valuation (1984 levy) and there is also a user charge. As with sewer service, the water utility would become the responsibility of the village following incorporation. Improvements added to the system and general operations costs would be a general obligation of the village if user fees are insufficient.

The water system includes an elevated storage tank located west of Casaloma Drive and south of College Avenue, augmented with two water booster pumping stations to assure adequate pressure and rate of fire flow. The District purchases water from the City of Appleton which charges a 25 percent surcharge to the cost of the water.

The water utility district includes a portion of the Oneida Park area north of Appleton. The water service area only includes properties along Seneca Drive, Capitol Drive, Sunset Avenue and Park Ridge Avenue between Richmond Street and Division Street, or approximately only 30 percent of the developed portion of Oneida Park.

With the possible exception of a change from the District's special assessment to general village assessment, there would be no significant change affecting the water utility service following incorporation of the proposed village.

If annexation to Appleton were to occur, there would likely be a savings to utility users because water usage would not be subject to the 25 percent surcharge.

If the northeast area of the proposed village were annexed to Appleton, the city would realize greater efficiency in operation of the water storage tower it intends to build on its northeast side. If the Oneida Park area were in Appleton, the city could provide service to the unserved area and could construct a looped system insuring consistent water pressure, fire flow and less chance of service interruption in the event of problems with water mains.

For the purpose of providing water service, the proposed village could best be served by Appleton.

Education

The proposed village falls entirely within the Appleton Area School district and the VTAE District of the Fox Valley Technical Institute. Neither incorporation of the village or annexation by Appleton will affect either district. Therefore, the provision of educational opportunities is considered neutral with respect to incorporation.

Solid Waste Disposal

Proponents of the incorporation intend to rely on this service being provided by a private hauling firm. In contrast, residential waste pickup is a function of city crews in Appleton. Disposal is at a county-operated site in either situation. Testimony provided to the Department was inconclusive regarding whether the village system or Appleton system of waste pickup resulted in significant savings to residents. Therefore, the provision of solid waste disposal service is considered neutral with respect to the incorporation.

Land Use Planning and Development

Currently the town, despite exercising village powers, has no planning commission, nor was evidence provided the Department to indicate that the town is actively participating in land use planning issues generally (rezoning decisions, plat reviews, or other activities affecting either the natural or fiscal environment of the town). The town has relied solely on assistance which is available from the county planner (primarily for zoning and subdivision review). Although the town currently has the authority to adopt an official map, it has not done so; therefore, the City of Appleton has played the primary role in determining where street stubs should be sited, and is doing

the necessary research to determine generally where parks should be located, within the area bounded by U.S.H. 41 and the City of Appleton.

Funds have not been specifically budgeted for land use planning in the proposed village. No evidence has been provided to the Department by the petitioners (other than by saying that the "other" component of the proposed village budget may include funding for land use planning), that the proposed village has a particular strategy to deal with the environmental problems confronting it, or that it had a particular strategy by which to deal with the issues identified in the Environmental Assessment.

The City of Appleton has five professional staff and a half-time technician responsible for staff efforts in land use, economic, neighborhood planning, housing, environmental, and urban design functions throughout the city. The staff budget is approximately \$200,000, or about \$3.00 per capita. Information supplied to the Department indicates that, within the incorporated boundary of the city, Appleton had demonstrated that it is fully capable of exercising its statutory planning and development functions.

If incorporated, the proposed village would exercise the same planning and mapping authority it now has as a town with adopted village powers. Through extraterritorial powers, it would have plat review and official mapping authority for 1 1/2 miles into the remainder of the Town of Menasha (which has adopted a comprehensive development plan), and the Town of Greenville, including the airport. It could, by adopting extraterritorial zoning, affect the rezoning of land in the remainder of the town, as well as in portions of the jurisdictions mentioned above.

The Department finds that, based on the information presented at the public hearing and developed by the Environmental Assessment, planning and development services would best be provided by the City of Appleton to the area proposed for incorporation.

Public Works

The proposed village will have approximately 26 miles of arterials, collectors and local streets to maintain, for which it is proposing to spend \$547,000 for all transportation-related expenditures. In contrast the town budgeted \$150,000 for maintenance of 76 miles of road in 1985 (projected 1984 expenditures were \$302,000). The town public works department currently consists of two full-time and eight part-time employees. Virtually all of the most heavily traveled roadways within the proposed village will remain the functional responsibility of the county and state for maintenance purposes. Currently the town is budgeting from between \$2,000 (1985 budget) to \$4,000 (1984 actual) per mile for road related purposes.

The proposed village intends to rely primarily on the county or private contractors for road construction and specialized maintenance, while continuing the basic functions currently performed by the town (snow plowing, weed cutting, maintenance of ditches, signing, etc.).

The City of Appleton currently spends about \$5,800 per mile to maintain a street system which is almost entirely its own responsibility (96 percent local responsibility). The city has a capital improvement program for street

repair and upgrading storm water system installation (required) and maintenance, etc. The town in contrast currently has none, nor has it made an assessment of the long-term damage to its roadways caused by lack of an adequate storm water drainage system. Failure by the town to control storm water has affected the city in several instances. The city maintains a full-time engineer and staff of 26 (11 part time), a traffic engineering staff of 2 (3 part time), and a public works maintenance staff of 113, which operate a fleet of 303 pieces of equipment.

Despite the evident higher standard of roadway design and maintenance performed by the City of Appleton, the proposed village through its budget has indicated that it recognizes the existing deficiencies in its roadway network and proposes to address them. As was found in Section 2(a), the proposed village will have an adequate tax base to support this function.

Therefore, the Department finds that public works service could be better provided by the proposed village.

Parks and Recreation

The Town of Grand Chute has a number of recreational resources (described in the Environmental Assessment) which with one exception are supported by either private subscription, donations, or by the county tax levy. The exception is Carters Woods Park, a 16.8 acre active and passive recreational facility located within the boundary of the proposed village, for which the town has budgeted \$3,000 (or about \$.45 per capita) for 1985. The town does not require either the dedication of park land or the payment of in-lieu fees as a condition of residential or commercial subdivision approval.

The City of Appleton has 25 different park and recreational sites located throughout the city totaling 476 acres, including several neighborhood parks adjacent to, and utilized by, town residents. The city's operation and maintenance budget for parks and recreation was \$1,159,703, for 1983, or about \$23 per capita. The city provides a number of specialized recreational programs which one would expect to find in an urban setting. Of the 27 individual recreation programs, 10 have a non-resident surcharge which only accounts for the operational costs of that program, but not for allocated administrative burden. Ten other programs have participation fees which do not apparently discriminate on the basis of residence. Testimony provided the Department indicates that existing residents of the town (and of the proposed village) utilize City of Appleton recreation facilities for which support is borne, except as noted above, by City of Appleton taxpayers.

Park and recreation plans (examined in the Environmental Assessment) have indicated the need for active neighborhood park and play areas within the town. Although the issue of cross subsidization of Town of Grand Chute recreational users by City of Appleton residents could be addressed through a different fee structure, the issue remains as to which government unit could best provide for park and recreation services within the area of the proposed village. Despite recommendations made in various plans, the town has yet to address the park and recreation issue. Testimony provided the Department suggests that the proposed village will only consider the issue, not that it will act affirmatively to budget sufficient funds to provide either for recreational opportunities for its own residents, or to alleviate the financial cross subsidy borne by Appleton taxpayers.

The Department finds that the City of Appleton is better able to provide for park and recreation facilities than is the proposed village.

DETERMINATION

Based on the requirement that the incorporation must be in the public interest upon consideration of the level of governmental services desired or needed, compared to that available from a contiguous municipality which has filed a resolution as provided in s. 66.014 (6), the Department finds as follows:

- Provision of emergency medical services, education and solid waste disposal are considered neutral with respect to incorporation.
- Fire protection and public works could be provided at lower cost by the proposed village.
- Sanitary sewer service to the Oneida Park area could be better provided by Appleton.
- Police protection, water service, land use planning, and parks and recreation could be better provided by Appleton.

The Department further determines that based on the above, the City of Appleton could better provide the full array of governmental services than the proposed village. The Department therefore finds and determines that the standards of s. 66.016 (2)(b) have not been met.

SECTION 2(c) IMPACT ON THE REMAINDER OF THE TOWN

STANDARD TO BE APPLIED BY THE DEPARTMENT

The impact, financial and otherwise, upon the remainder of the town from which the territory is to be incorporated.

DESCRIPTION

Reducing the size of the Town of Grand Chute by deleting the territory of the proposed village would result in an estimated 1984 population of 3,270 people, an approximate land area of 18.4 square miles, having an estimated equalized valuation of \$73 million. The estimated population of the remaining town would place it 50th in size (based on 1980 Census statistics) of the 1,259 towns in Wisconsin. Although the remainder of the town is essentially rural in character, there are numerous expanding pockets of residential and industrial/commercial development scattered throughout.

Natural Environment

As is characteristic of the Fox Valley region, the glacial topography and soils (lake silt, clays, sands and organic materials) are responsible for a variety of natural attributes within the town. The remainder of the town would encompass four localized drainage basins: the head waters of Mud Creek, Center Swamp (a 2,100-acre ditched, tree-covered [predominantly white cedar] wet swamp) which is the source of Bear Creek, the head waters of Apple Creek, and a small area which drains into the Fox River on the eastern edge of Appleton.

Classified as prime soils for agricultural use, the glacial soils present moderate to severe limitations for septic fields, building foundations, and highway roadbeds throughout the town (including the proposed village). Areas subject to natural flooding include Center Swamp and areas north of County Trunk JJ on either side of the Soo Line Railroad tracks, as well as an area adjacent to Apple Creek at the intersection of County Trunk E and Broadway Drive.

Figure 5 illustrates that few areas within the remainder of the town will pass appropriate soil suitability tests for in-ground septic systems, necessitating the use of either mound systems or holding tanks (between 1981 and 1983, Outagamie County issued 170 permits for on-site sewage holding tanks) for any type of land use. Figure 6 shows those areas which are important ground water recharge areas and where the risk for ground water contamination is moderate to severe.

There are no designated DNR wildlife management or significant natural areas (proposed by DNR's Scientific Areas Preservation Council) within the remainder of the town. However, both the Bubolz Nature Center (a private-nonprofit corporation) and Plamann Park (a county park) offer habitat preservation and management opportunities by the continued acquisition of private lands (in the absence of a specific county ordinance). As additional farm land and open space is consumed by urban uses, the amount and extent of diversity of wildlife will continue to decline.

Figure 5:

SOIL SUITABILITY FOR SEPTIC SYSTEMS

LEGEND

Soil associations with severe limitations for septic system use because of poor drainage, high water table, or high clay content

SOURCE: Colwell, Fred & Lee, Green Leaf, University, Oregon, Drainage Counties - USDA/SCS County Soil Survey, Bismarck, Missouri, University, Missouri County, Soil Association, Soil Association, Missouri (1971), and 1977.

Scale: 1 inch = 10 miles



Town of Grand Chute

EAST CENTRAL WISCONSIN REGIONAL PLANNING COMMISSION

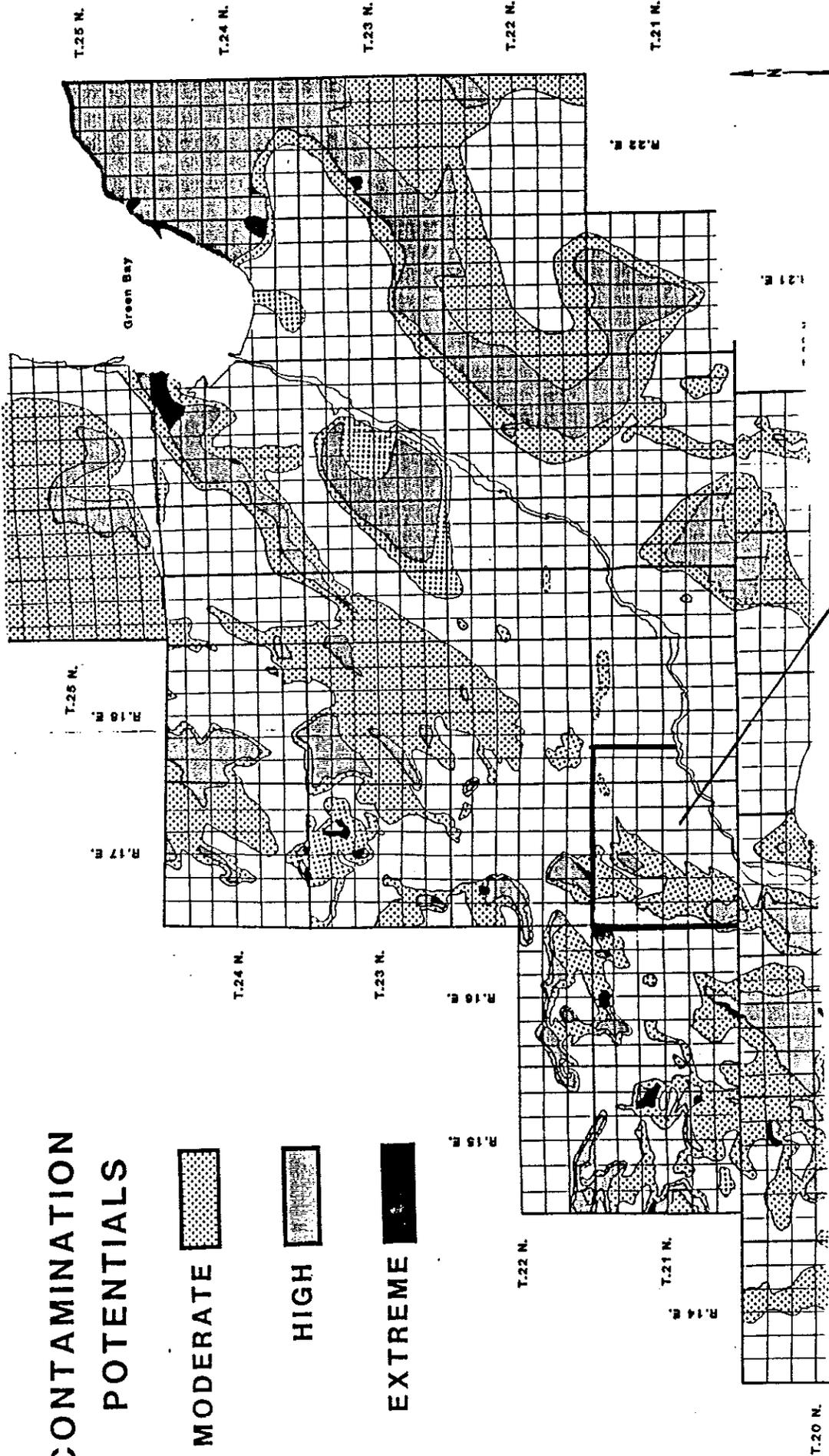
Figure 6

CONTAMINATION POTENTIALS

MODERATE

HIGH

EXTREME



The preparation of this map was made possible through a grant from the U.S. Environmental Protection Agency pursuant to section 208 of P.L. 92-600, funds from Brown Calumet, Fond du Lac, Outagamie, and Winnebago Counties and the State of Wisconsin.

Center Swamp is an area surrounded by both abandoned and functioning gravel pits, dump sites, and scattered residential development. It contains isolated pure stands of white cedar and upland hardwoods which form the habitat for a winter white-tailed deer-yard (another small deer-yard exists in the white cedar swamp in Section 31 within the proposed village). Red-shouldered hawks, yellow-breasted chats, logger-headed shrikes, in addition to migrating neotropical thrushes and warblers, have been sited in the swamp.

A WDNR licensed landfill is located in the NE 1/4 of the SW 1/4 of Section 3 (adjacent to Center Swamp). It is eligible to receive household refuse garbage, demolition materials and wood matter. Currently the landfill does not have an open burning permit. Operators are therefore required to cover the refuse at the end of each operational day. The town has not signed a closure agreement, indicating that the town expects the landfill to be in operation past 1999. The town pays an annual tippage fee of \$100 plus a \$1,600 biannual license fee. The town is not eligible to participate in the waste management fund unless it is willing to relicense the landfill under existing manual code standards. Thus the town will be responsible for closing the landfill and perpetual monitoring and maintenance of the site. Neither the town nor the proposed village has made allowance for these expenses in the proposed budgets.

Land Use, Zoning, and Development

The Town of Grand Chute has adopted the Outagamie County Zoning Ordinance. Land in the remainder of the town is predominantly zoned for agricultural use as shown in Figure 7; however, residential development is a permitted use in the agricultural zone. Although land in the southeast corner of the town has been zoned for residential use, as has land for a few scattered subdivisions, residential dwellings appear on quarter, half and section roads throughout the town. A substantial number of scattered rezonings have occurred throughout the town since the late 1970s, resulting in approximately 210 acres of light industrial, 70 acres of heavy industrial, and 110 acres of commercial zoning districts.

Specific agricultural land parcels within the remainder of the town have been identified for long-term protection in the Outagamie County Farmland Preservation Plan (1982); but, as an urban county (a county having a population density of 100 persons or more per square mile), either Outagamie County or the Town Board must first adopt an exclusive agricultural zoning ordinance before any farmers will be eligible to participate in the program. Therefore, agricultural lands in the town do not appear, based on current rezonings, to be protected in any way.

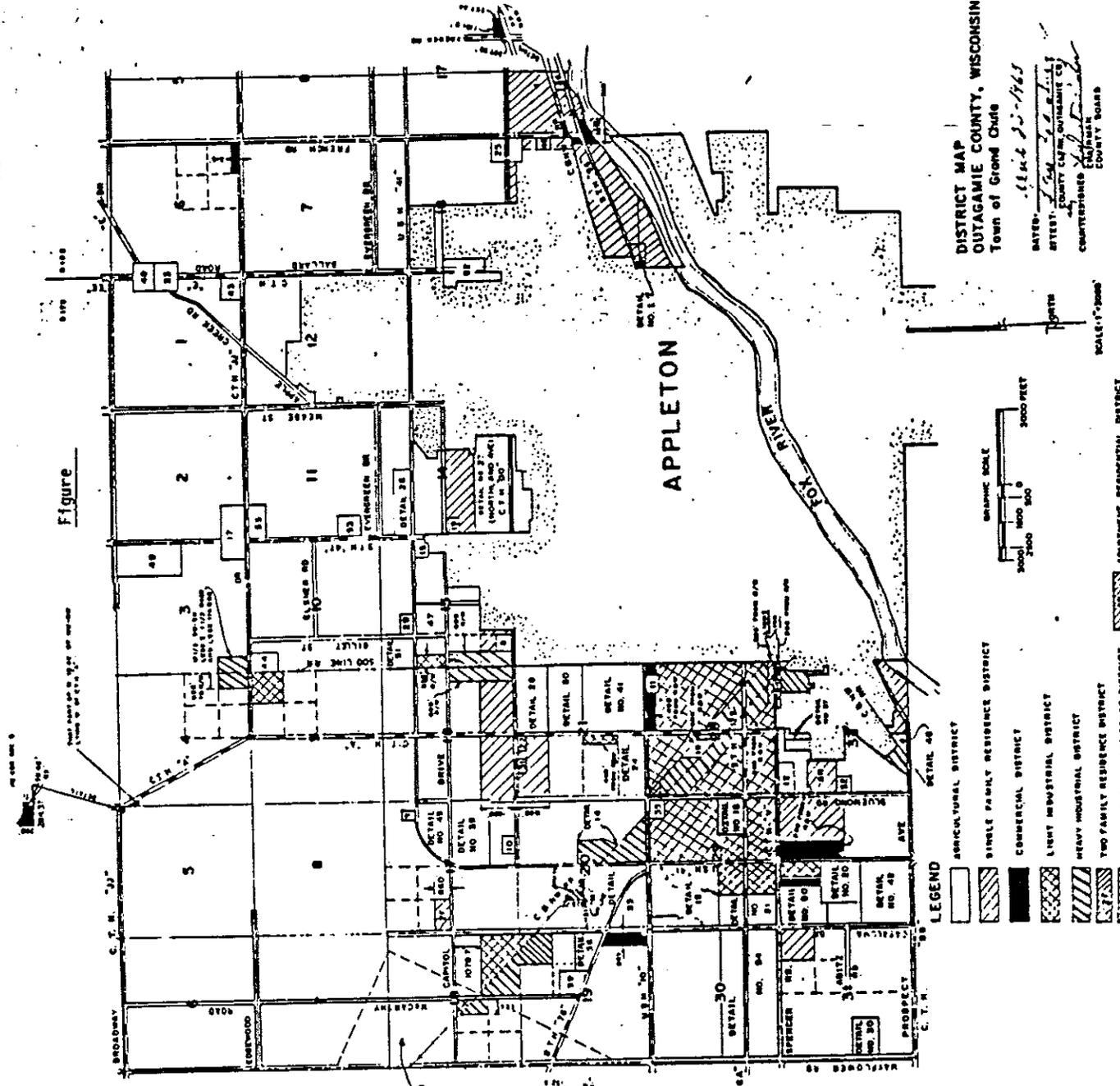
The town's sanitary district, with two exceptions, is located within the proposed village. Those exceptions are the extension of the Fourth Plant urban service area boundary along State Trunk Highway 76 northwest to Greenville, and lands in the eastern portion of Section 19 (range 18 East) are covered by Appleton's urban service area. All residential, commercial, and industrial development in the remainder of the town is occurring outside the urban service area boundary.

DISTRICT MAP
OUTAGAMIE COUNTY, WISCONSIN
Town of Grand Chute

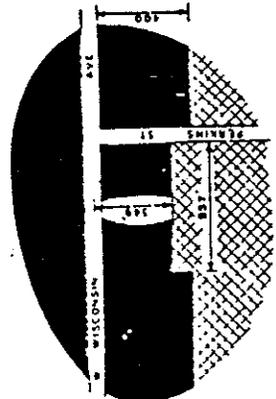
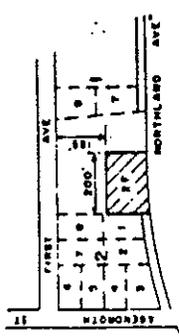
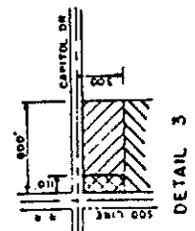
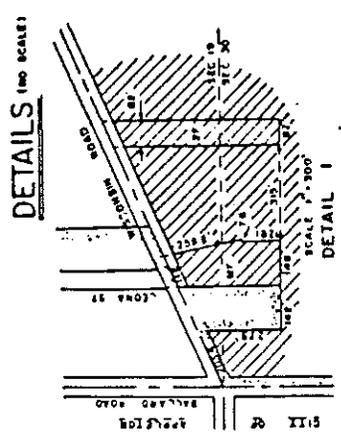
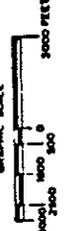
DATED: 11-26-1965
BY: J. W. ...
COUNTY CLERK, OUTAGAMIE CO.
CONTRIBUTED BY: ...
COUNTY BOARD

SHEET 7 OF 20 SHEETS

Figure



- LEGEND**
- AGRICULTURAL DISTRICT
 - SINGLE FAMILY RESIDENCE DISTRICT
 - COMMERCIAL DISTRICT
 - LIGHT INDUSTRIAL DISTRICT
 - HEAVY INDUSTRIAL DISTRICT
 - TWO FAMILY RESIDENCE DISTRICT
 - MULTIPLE FAMILY RESIDENCE DISTRICT
 - APARTMENT RESIDENTIAL DISTRICT



The remainder of the town contains no school or other public institutional structures, except for Plamann Park, a county facility in Section 1 of the town. The State Historical Society has identified an archaeological site in the southwest quarter of Section 19.

Services

The remainder of the town proposes to continue providing the same services which currently exist. Fire protection assets and costs would be prorated between the proposed village and the remainder of the town, with the town continuing to own a share of the capital assets in addition to contributing an annual amount toward operating costs. The remaining town would rely exclusively on the County Sheriff's Department for police services. Road maintenance, tree and brush removal, weed control, snow plowing, and other town functional responsibilities would be provided for by a division of assets and liabilities (including Town Hall space, and town vehicles and equipment). Refuse service in both the village and town is proposed to continue under the existing contract with a private waste hauler. The remaining town proposes to retain an interest in the existing Town Hall for meetings and office space as well as storage and maintenance of the town equipment. The division of assets would be administered by the Circuit Court if the area proposed for incorporation meets the statutory criteria and if the resulting referendum is approved.

ANALYSIS

Population in the remainder of the town will be reduced by approximately 70 percent, along with a concomitant reduction in land area of 36 percent, and in equalized value of 81 percent. The reduction in town road mileage of 66 percent will not serve to impede access to widely separated areas of the town because the remainder of the town will continue to be served by a primary road network of county trunk highways "A," "JJ," "E," and "00."

The remainder of the town will be outside the boundary of both sanitary districts eliminating the need for town board oversight and town fiscal support for either district. Continued rezonings of agricultural land to commercial, industrial and residential uses may, because of poor soil conditions, necessitate the formation of new town utility district (formation of such a district is currently independent of a decision by ECWRPC to include such a district within a revised urban service area boundary).

Environmental policy issues in which the town could affect the outcome, such as the protection of mapped wetlands and known archaeological sites, development on prime farmland and sensitive groundwater recharge areas, the definition of storm water runoff corridors, and development within the airport zone, will continue to confront the town board as they have in the past. Incorporation of the most urbanized portion of the town may provide a reconstituted town board with sufficient political support to enable them to effectively confront these policy issues in the absence of county action.

Eventual closing and subsequent monitoring and perpetual care costs for the town landfill represent an unfunded liability which should be shared proportionately by the proposed village and the remainder of the town. It is not accounted for in the budgets of either the proposed village, or the remainder of the town.

Five towns currently experiencing urbanization (having high residential, merchantile and manufacturing assessed values in comparison to agricultural values) and having approximately equivalent populations have been selected for the purpose of comparison of the prospective budget for the remainder of the town. These are portrayed in Table 7, along with the remainder of the Town of Grand Chute. Table 8 shows the proposed budget for the remainder of the town in the state chart of accounts format so as to allow comparison with actual income and expenditure figures of the other five towns for 1983.

As can be seen from the table, Fond du Lac and Janesville were able to avoid levying any local tax in 1983, despite the fact that Fond du Lac, for example, had the highest equalized value of all the municipalities. It is possible that the remainder of the Town of Grand Chute could also reduce its levy in subsequent years' budgets as both shared revenue and transportation aid formulas change (for example, transportation aid will double in year two to \$48,000 because the transportation formula continues to be driven by a historical six-year average of transportation expenditures, which will subsequently decline to a payment of \$550 per mile--which is increasing at about 5 percent per year). It is also entirely possible for eventual revenue from public and intergovernmental charges for services to balance what appear to be low expenditure estimates for "General Government," "Transportation," and "Sanitation (landfill)."

The services proposed to be provided by the remainder of the town are consistent with the type and level of services provided by comparable jurisdictions, at an adjusted local levy rate (petitioner claimed a levy rate of .00025) which falls in the lower range of those municipalities used for comparison. The estimated levy rate is less (unless the landfill closing issue becomes a financial problem) than the current rate of .00092 levied for 1984 taxes collected in 1985.

DETERMINATION

With respect to the above data and municipal comparisons, the Department finds that the standard of 66.016 (2)(c) has been met. Incorporation of the proposed village would have a neutral impact on the remainder of the town.

Table 7

| <u>Identification Number</u> | <u>Town</u> | <u>County</u> | <u>1983 Population</u> | <u>Available Road Mileage</u> | <u>1983 Merged Equalized Values</u> |
|------------------------------|--------------------------------------|---------------|------------------------|-------------------------------|-------------------------------------|
| 13018 | Cottage Grove | Dane | 3,208 | 65.12 | 90,937,700 |
| 20018 | Fond du Lac | Fond du Lac | 3,029 | 26.91 | 115,396,300 |
| 53016 | Janesville | Rock | 3,069 | 40.49 | 91,007,000 |
| 53038 | Turtle | Rock | 2,750 | 45.44 | 79,087,100 |
| 66012 | Hartford | Washington | 3,289 | 49.21 | 105,443,600 |
| 45020 | Remainder of the Town of Grand Chute | Outagamie | 3,270 | 26.22 | 73,000,000 |

Table 8

Town Income, Expenditure and Local Levy Comparison

| <u>Income</u> | <u>Proposed Budget for Remainder of the Town*</u> | <u>Cottage Grove</u> | <u>Fond du Lac</u> | <u>Janesville</u> | <u>Turtle</u> | <u>Hartford</u> |
|--|---|----------------------|--------------------|-------------------|---------------|-----------------|
| Local Property Tax | 30,700 | 120,378 | 147 | 199 | 75,004 | 57,289 |
| Federal Revenue Sharing | (estimate) 8,200 | 16,361 | 12,520 | 12,799 | 11,276 | 13,169 |
| State Shared Revenue | 100,000 | 159,759 | 153,248 | 116,126 | 135,271 | 129,215 |
| Transportation Aid** | 24,000 | 46,487 | 26,113 | 19,485 | 32,489 | 29,359 |
| Local Highway Aid* | -0- | 5,292 | -0- | -0- | 3,000 | 2,000 |
| Regulation and Compliance Reviews | 5,870 | 13,310 | 7,161 | 7,723 | 20,941 | 6,375 |
| Public Charges for Services | -0- | 3,582 | 604 | 10,317 | 17,509 | 1,172 |
| Use of Money and Property Intergovernmental Charges for Services | 9,000 | 22,092 | 36,463 | 16,746 | 113,888 | 45,009 |
| | -0- | 23,185 | 1,812 | -0- | 10,125 | 1,293 |
| <u>Expenditures</u> | | | | | | |
| General Government | 26,500 | 41,425 | 32,711 | 29,926 | 32,158 | 27,228 |
| Public Safety | 18,000 | 118,503 | 16,200 | 76,033 | 95,377 | 57,949 |
| Health and Social Services | 10,000 | 6,458 | 3,453 | 287 | 533 | 7,645 |
| Transportation | 102,347 | 202,508 | 57,448 | 60,041 | 252,321 | 178,113 |
| Sanitation | 5,161 | 26,215 | 15 | 57,556 | 1,814 | -0- |
| Conservation and Leisure | -0- | 6,616 | -0- | 160 | -0- | -0- |
| Nondepartmental and General Other | 15,741 | 38,397 | 11,861 | 5,743 | 29,568 | 13,768 |
| | -0- | 2,822 | -0- | -0- | -0- | -0- |
| Local Levy Mill Rate | .00042 | .00132 | -0- | -0- | .00095 | .00054 |

**Prorated based on mileage, since 1986 aidable miles have already been certified.

* From petitioner--reformatted to conform with the state chart of accounts for municipalities.

SECTION 2(d) IMPACT UPON THE METROPOLITAN COMMUNITY

STANDARD TO BE APPLIED BY THE DEPARTMENT

The effect upon the future rendering of governmental services both inside the territory proposed for incorporation and elsewhere within the metropolitan community.

ANALYSIS

The metropolitan community includes the seven cities and villages from Neenah to Kaukauna and all contiguous land with a population density of at least 100 persons per square mile or which the Department determines will have a population density of 100 or more persons per square mile within three years. The 1980 Census of Population lists the population of the Appleton urbanized area as 142,151 of which 59,909 were in the central city; 64,831 were in the other Fox Cities and villages; and 17,411 were in the "other territory" adjacent to the incorporated places. In addition to the seven cities and villages, this metropolitan community includes all or parts of seven towns and parts of three counties for a total of 14 local and 3 county governments.

Proponents of the incorporation of the Village of Grand Chute emphasize the importance of the "Fox Cities Concept" as opposed to the "Appleton Concept" which they infer has a narrow focus by comparison. The "Fox Cities Concept" is a statement by the Board of Directors of the Fox Cities Chamber of Commerce supporting "local government and educational systems which deliver necessary services with the greatest efficiency and return on tax dollars invested." To achieve this goal, the Fox Cities Chamber pledged to undertake actions that would, "maximize cooperation, improve services and reduce costs of local government and education;" endorse and support efforts (by) "...officials to build a more cohesive and politically potent Fox Cities community;" and "...seek local adoption of a policy statement supporting efforts to eliminate duplication of functions, improve services and reduce costs..." The Fox Cities concept can best be described as an effort to find efficiencies in government in a highly fragmented metropolitan area.

In this metropolitan area land developers must contend with multiple jurisdictions and approving agencies and land development standards that vary to a significant degree depending on which local government has jurisdiction. Proponents of incorporation cite the complicated procedure for subdivision approval within the proposed village requiring approvals of other agencies such as Appleton's extraterritorial subdivision plat approval and ECWRPC approval of sanitary sewer extension. Incorporation of the village would allow the village to administer the sanitary districts, but lands still could not be added to the service area without the approval of ECWRPC. Although plat approval within the village would be simplified, the extraterritorial plat approval responsibility of the village would supercede that of Appleton and Menasha in portions of the remainder of the Town of Grand Chute and Town of Menasha, thereby adding one more local government approving authority to those already existing.

The City of Appleton has indicated that certain city services could be extended to the proposed village without an increase of service costs, and in some instances, such as water service and police protection, at reduced cost.

There is strong evidence to support the position that the population growth and urban development experienced in the proposed village will likely continue regardless of the success or failure of this incorporation attempt. Within the sanitary district developers are finding a variety of sites available for residential, commercial or industrial development, and a ready market for sale of new homes. A 1979 study by ECWRPC of development costs per residential lot found that in Appleton these costs were nearly \$6,400 compared to \$2,200 in the Town of Grand Chute. The average improvement and dedications cost per lot to the developer in Appleton was \$4,209 compared to \$1,848 in Grand Chute, the difference being borne by the community. Government cost per lot includes local government participation in items such as street pavement, storm water drainage, etc.

The lower development standards within the Town of Grand Chute translate into savings for developers of residential subdivisions. Any economic advantages provided by a local government are in the form of lower development standards work to the disadvantage of other jurisdictions requiring higher standards.

To some extent, Appleton's higher participation costs are based on storm water drainage which is paid for in part through general assessments. By comparison, surface and storm water drainage problems have not been addressed by the town and in reality represent a potential unfunded liability in excess of \$9.6 million in 1970 dollars (Source: Fox Valley C.O.G., Storm Water Drainage Study) to be charged back against "improved" lots, or borne by the proposed village as a whole. Appleton has an aggressive policy of dealing with storm water runoff. Incorporation precludes the option of annexation and impairs the ability of Appleton to effectively deal with storm water drainage at the time land is being developed. Corrective measures in the developed area will likely cost more than providing needed measures when the land is ready for development.

Planning is recognized as a useful tool in avoiding problems caused by untimely or misplaced development and in directing development in such a way that necessary governmental services can be provided in the most efficient and economical manner. The Town of Grand Chute discontinued its own planning commission in 1979. The town also stopped work on a comprehensive plan for the Southwest Planning Area following presentation of a preliminary draft by a private planning consultant firm. Since then the town has relied on County planning, regional planning and the extraterritorial plat review and approval by Appleton. These other two sources of planning services, except for the "208" Water Quality Planning by ECWRPC can best be described as providing a planning review of day-to-day land development issues such as rezoning reviews by the County and subdivision reviews by the City of Appleton. Appleton has adopted an extraterritorial plan which includes lands between the city and U.S.H. 41. There is no evidence that the town has adopted that land use plan nor developed a similar proposal for development beyond U.S.H. 41. Although all of these lands are subject to County

zoning, there have been rezonings which permitted changed use without the benefit of a town development plan as a guide. The net result is scattered land development not only within the proposed village, but elsewhere in the town.

There is little evidence to suggest that if so inclined a town government exercising village powers in Wisconsin cannot deal with growth and development pressures, much as can a municipal form of government. Nearly all of the basic regulatory tools common to Wisconsin municipal governments are available to town governments including zoning, subdivision regulations, building and housing codes and planning and plan implementation devices. While it can be concluded that a municipal form of government could facilitate the deployment of these tools, it is by no means essential. No evidence was provided to indicate the incorporation of the village will result in any different treatment of land development policies or in implementing new measures to alleviate existing problems such as storm water drainage, traffic problems, sprawl or protection of prime agricultural lands and wetlands.

Proponents of incorporation stated the basic reasons for incorporation were: (a) obtain home rule powers and thereby reduce the number of existing jurisdictional controls over the territory, (b) stop further annexations by the City of Appleton, (c) create special purpose assessment districts within the proposed village, (d) give formal recognition to a shared community of interests, and (e) perpetuate low municipal service costs. None of the stated reasons for incorporation address metropolitan concerns. On the contrary, reasons such as stopping annexations and perpetuating low municipal costs demonstrate the intent to avoid sharing costs in solutions to areawide problems. These problems are either left unresolved by the proposed village or left to the county to solve.

DETERMINATION

On the basis of the observations and findings, and the fact that the petitioners did not address issues of metropolitan concern, it cannot be concluded that the incorporation of the territory will not substantially hinder the solution of governmental and other problems affecting the metropolitan community. Therefore, the Department determines that this standard has not been met.

SUBMISSION OF REVISED PETITION

Three courses of action are provided for the Department pursuant to s. 66.014 (9)(e):

- "1. The petition as submitted shall be dismissed.
2. The petition as submitted shall be granted and an incorporation referendum held.
3. The petition as submitted shall be dismissed with a recommendation that a new petition be submitted to include more or less territory as specified in the department's findings and determination."

The Department has determined that the requirements of s. 66.016 (1)(a) and (b) the requirements of s. 66.016 (2)(b) and (d) are not met by the proposed incorporation as submitted, eliminating the second course of action. An attempt was made to define boundaries for a smaller area which would more nearly satisfy the requirements of the statute. The minimum size for a metropolitan village near a second class city is four square miles with a resident population of at least 2,500.

An effort was made to identify a more compact territory for incorporation and meet the standards of s. 66.016 (1)(a) and (b). Such a territory would have to have smooth boundaries (to the extent possible) and would include urban development lying west of Appleton. No satisfactory alignment could be identified without the undesirable effect of leaving developed lands in the unincorporated territory between the proposed village and the City of Appleton.

Although lacking a readily identifiable alternate territory for incorporation a reexamination of the level of services standard [s. 66.016 (2)(b)] leads to the conclusion that the provision of services by Appleton, previously identified, would still be in the public interest.

Finally, incorporation of a more compact territory within the Town of Grand Chute would still likely adversely affect the solution of metropolitan problems.

These conclusions lead the Department to determine that no smaller area could be defined which would meet the statutory requirements.

DETERMINATION

Having considered the facts and arguments submitted at and after the public hearing and testing them against the requirements of state statute, the Department determines as follows:

THAT THE PETITION AS SUBMITTED SHALL BE DISMISSED



Barry R. Wanner, Administrator
Division of Housing and Community Services

3/25/85

Date

BRW/DP:mdk
1-245

cc: The Honorable Dennis Luebke, Circuit Judge
Gerald Capelle, Designated Representative
Ronald Toshner, Alternate Representative
Roger Clark, Attorney for Petitioners
David Geenen, City Attorney, Appleton
Jadell Ferge, Clerk, City of Appleton
Leslie Woldt, Clerk, Town of Grand Chute
Dorothy Johnson, Mayor, City of Appleton
John L. Arft, Chairman, Town of Grand Chute
Clarence Wundrow, Clerk, Town of Buchanan
Joseph Rickert, Clerk, Town of Freedom
Gerald Bohl, Clerk, Town of Center
Gale Bohman, Town of Elington
James D. Hensel, Clerk Outagamie
John Woods, Clerk, Town of Greenville
Alice Weyers, Clerk, Town of Kaukauna
Sylvester Lenz, Clerk, Village of Kimberly
Lloyd Vanden Heuvel, Clerk, Village of Little Chute
Mark Van Thiel, Clerk, Village of Combined Locks
Joan Cleveland, Clerk, City of Kaukauna
Mary Romberg, Clerk, Town of Menasha
F. Thomas Creeron, III, Department of Justice
Lt. Governor James Flynn, Secretary/Department of Development

NOTICE OF APPEAL INFORMATION

NOTICE OF RIGHTS FOR REHEARING OR JUDICIAL REVIEW,
THE TIMES ALLOWED FOR EACH AND THE IDENTIFICATION
OF THE PARTY TO BE NAMED AS RESPONDENT

As required by s. 227.11(2), Wis. Stats., created by Chapter 378, Laws of 1981 (effective May 7, 1982), the following notice is served on you as part of the Department's decision:

Any party has a right to petition for a rehearing of this decision within 20 days of the service of this decision, as provided in section 227.12 of the Wisconsin Statutes, a copy of which is printed on the reverse side hereto. The 20-day period commences the day after personal service or mailing of this decision. (Decisions of the Department are mailed the day they are dated. In the case of an oral decision, personal service is the oral pronouncement of the decision at the hearing.) The requirements and procedures of section 227.12 should be followed in petitions for rehearings. The petition for rehearing should be filed with the Department of Development. Nevertheless, an appeal can be taken directly to circuit court through a petition for judicial review. It is not necessary to petition for a rehearing.

Any party has a right to petition for a judicial review of this decision as provided in section 227.16 of the Wisconsin Statutes, a copy of which is printed on the reverse side hereto. The requirements and procedures of section 227.16 should be followed in petitions of judicial review. The petition should be filed in circuit court and served upon the Department of Development within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing. The 30-day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of law of any petition for rehearing. (Decisions of the Department are mailed the day they are dated. In the case of an oral decision, personal service is the oral pronouncement of the decision at the hearing.) The petition for judicial review should name the Department of Development as respondent.

This notice is part of the decision and incorporated therein.

Note: Section 227.12 and 227.16, Wis. Stats., see reverse side.