

2010: A Planning Odyssey

32nd Annual Wisconsin Lakes Convention

March 31, 2010

Eric Olson



Center for Land Use Education

Overview...

- **How we got here**
- **Where we are (2010)**
- **Where we might be going**

IT happens almost invariably that when we attempt to cure an ill, we find ourselves grappling with the net result of earlier ills which, though fundamental, are not clearly enough recognized at the outset to direct our efforts to causes instead of effects.

Efforts in zoning have proved to be no exception to this general rule.

By C. B. WHITNALL

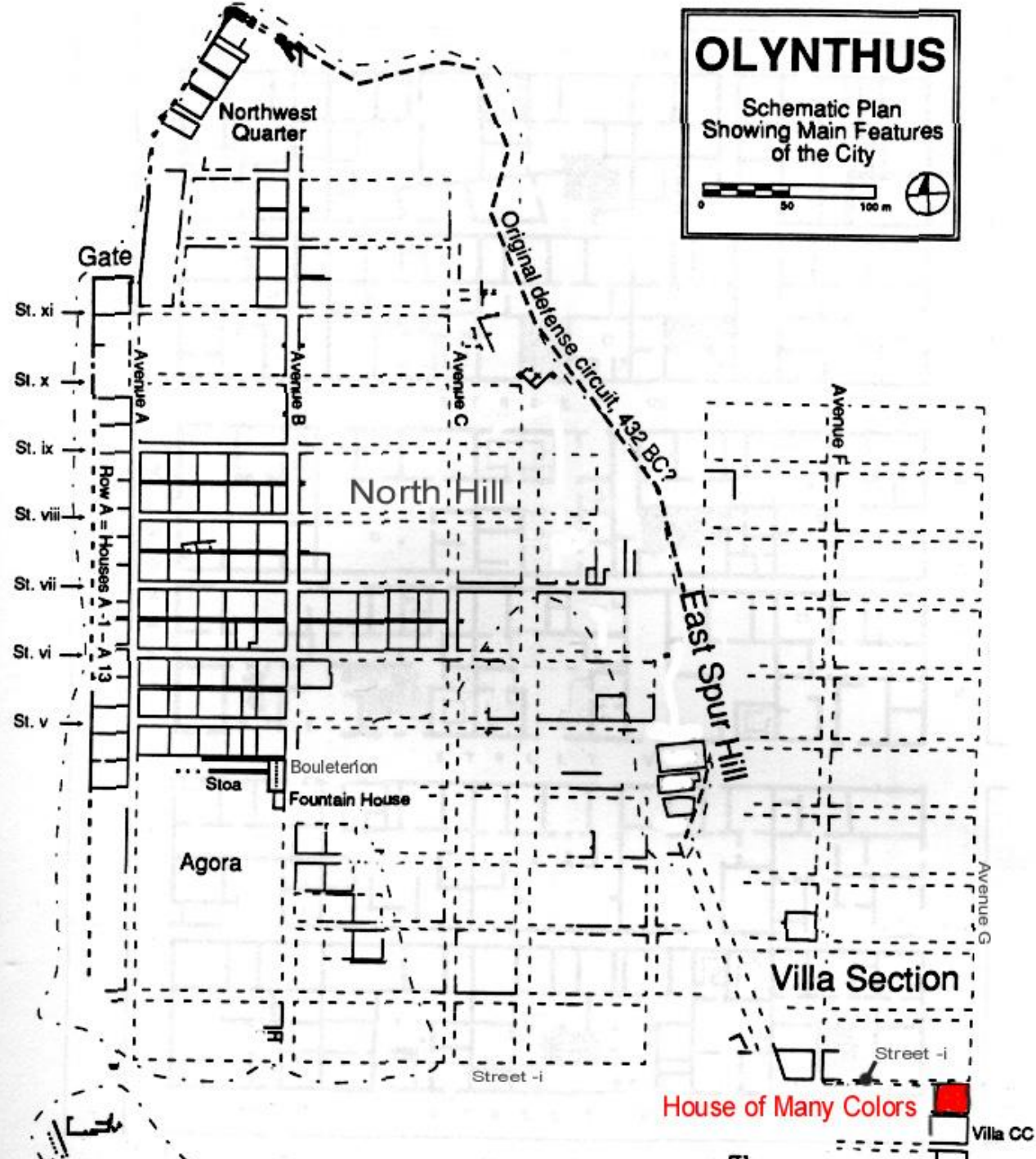
Pioneer in City Planning; Secretary, Public Land Commission; Member of County Park Board of Milwaukee County, Milwaukee, Wisconsin

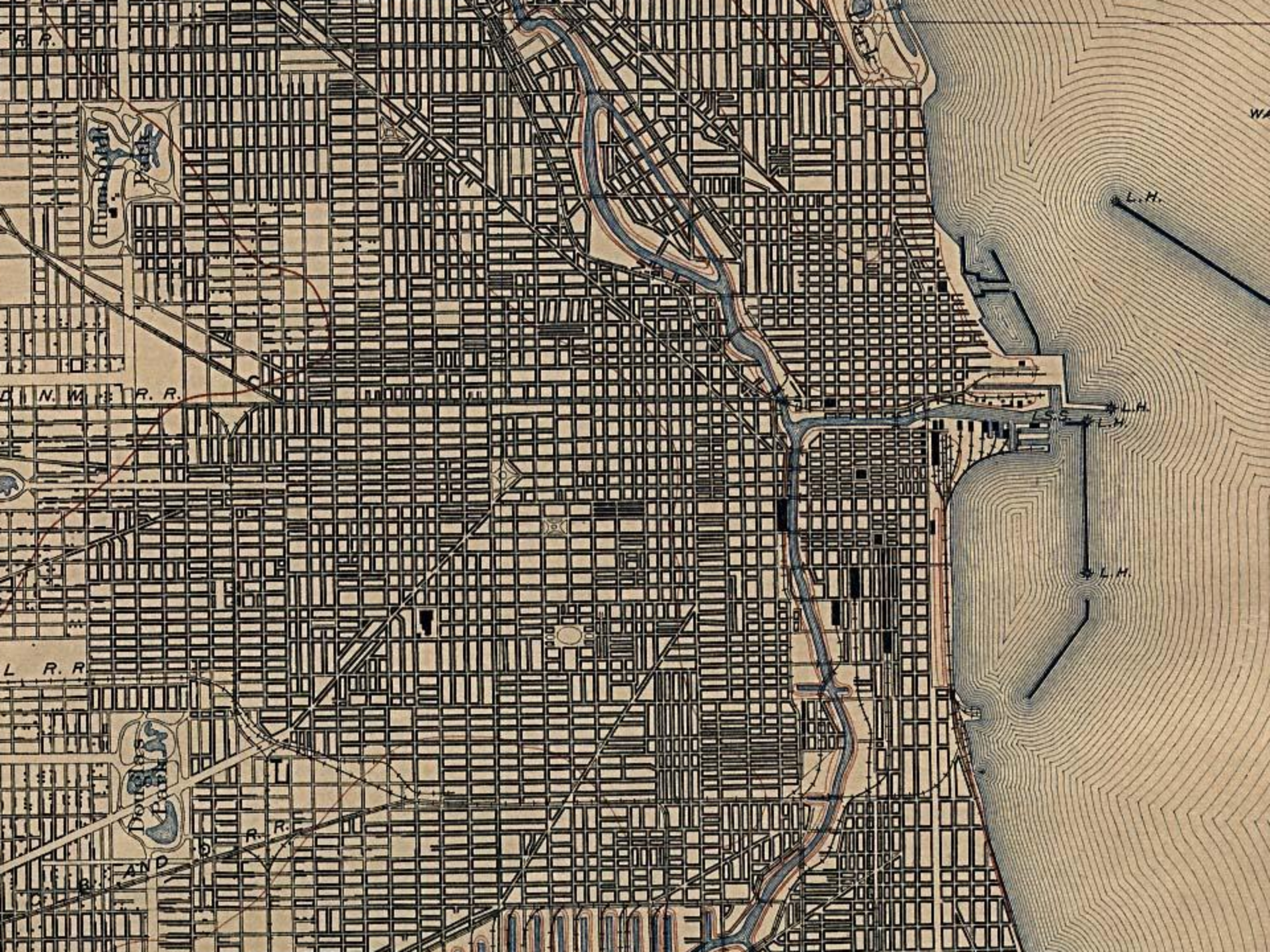
Old School Planning (circa 10,000 bc – 1950)

- **Focused on new cities and their layout**
- **Was “orthogonal” – emphasis on clean geometry, looked good on paper...**

OLYNTHUS

Schematic Plan
Showing Main Features
of the City





Old School Planning

- **Focused on new cities and their layout**
- **Was “orthogonal” – emphasis on clean geometry, looked good on paper...**
- **...but such plans required a lot of power to be made into reality**
- **Zoning came about as a means to implement plans for civic improvement and new land development**

Some basic points about zoning...

- 1. Zoning was born out of the desire/need to isolate incompatible uses in urban environments.**
- 2. It has been widely adopted by American communities.**
- 3. Zoning in rural areas is somewhat novel and occasionally inappropriate**
- 4. The relations between planning and zoning are still being worked out**

History of Zoning: It's Wild Success

- The same authors of the NYC zoning ordinance drafted the U.S. Standard Zoning Enabling Act, published in 1926

DEPARTMENT OF COMMERCE
HERBERT HOOVER, SECRETARY


A STANDARD
STATE ZONING ENABLING ACT
UNDER WHICH MUNICIPALITIES MAY ADOPT ZONING
REGULATIONS

BY THE
ADVISORY COMMITTEE ON ZONING
APPOINTED BY SECRETARY HOOVER

CHARLES B. BALL	Sanitary Engineer.	Secretary-Treasurer, City Planning Division, American Society of Civil Engineers.
EDWARD M. BASSETT	Lawyer.	Counsel, Zoning Committee of New York.
ALFRED BETTMAN	Lawyer.	Director, National Conference on City Planning.
IRVING B. HIETT	Realtor.	Ex-President, National Association of Real Estate Boards.
JOHN IHLDER	Housing Consultant.	Manager, Civic Development Department of the Chamber of Commerce of the United States.
MORRIS KNOWLES	Consulting Engineer.	From the Chamber of Commerce of the United States; Chairman, City Planning Division, American Society of Civil Engineers.
NELSON P. LEWIS*	Municipal Engineer.	From the National Conference on City Planning and National Municipal League; Past Presi- dent, American City Planning Institute.
J. HORACE McFARLAND	Master Printer and Clerk Investigator.	Ex-President, The American Civic Association.
FREDERICK LAW OLMSTED	Landscape Architect.	Ex-President, The American Society of Land- scape Architects; Ex-President, American City Planning Institute.
LAWRENCE VEILLER	Housing Expert.	Secretary and Director, The National Housing Association.

* Deceased.

JOHN M. GRIES
Chief, Division of Building and Housing, Bureau of Standards
Department of Commerce



[Revised Edition, 1924]

History of Zoning: It's Wild Success

- **Zoning swept the nation; by the end of the 1920's most cities were zoned**
- **Milwaukee County sought legislative approval for county-wide zoning in 1925 to better manage “unregulated expansion of commerce and industry into the countryside, destroying nearby residential values.”**

History of Zoning: Zoning Moves to the Country

- **As the 1920's came to a close in Wisconsin, the UW Extension and others sought solutions to the problems of the cutover**

**Prize Winning Cabbage
Burnett County, 1895**



Farm Family with Copious Produce Marinette County, 1895







"Timber living and dead, inextricably intermingled . . ."

95-1080-0



95-1080-01 757



Abandoned.

Courtesy W. A. Rowlands

History of Zoning: Zoning Moves to the Country

- **As the 1920's came to a close in Wisconsin, the UW Extension and others sought solutions to the problems of the cutover**
- **1929, the Legislature amended the county zoning statutes to permit all counties to zone**
- **1931 Attorney General opinion on the constitutionality of county zoning...**

History of Zoning: Zoning Moves to the Country

“The county zoning ordinance is undoubtedly in the public welfare. The cut-over areas of northern Wisconsin speak as eloquently against haphazard development as any city condition...”

“...I believe the judicial tendency is going to be to recognize more and more the great social evil of uncorrelated and unrestrained individual and selfish enterprise, and hence to broaden its views of the power of government to plan the social and economic conditions of the present and the future.”

– Attorney General Fred W. Wylie

History of Zoning: Zoning Moves to the Country

- **Rural zoning was “smart growth” ahead of its time (fiscally motivated)**
- **Three zones were allowed: farming, forestry, and “recreation”**
- **Zoning was only one part of a suite of efforts meant to deal with scattered settlement**

History of Zoning: Where's the Plan?

- **When the SZEА was created in the 1920s, there was no clear understanding of what “in accordance with a comprehensive plan” meant**
- **The Standard City Planning Enabling Act was passed two years after SZEА**

DEPARTMENT OF COMMERCE

HERBERT HOOVER, SECRETARY

1204 c.2
1926 ed.

**A STANDARD
CITY PLANNING ENABLING ACT**

ASPO

BY THE

ADVISORY COMMITTEE ON CITY PLANNING AND ZONING
OF THE U. S. DEPARTMENT OF COMMERCE

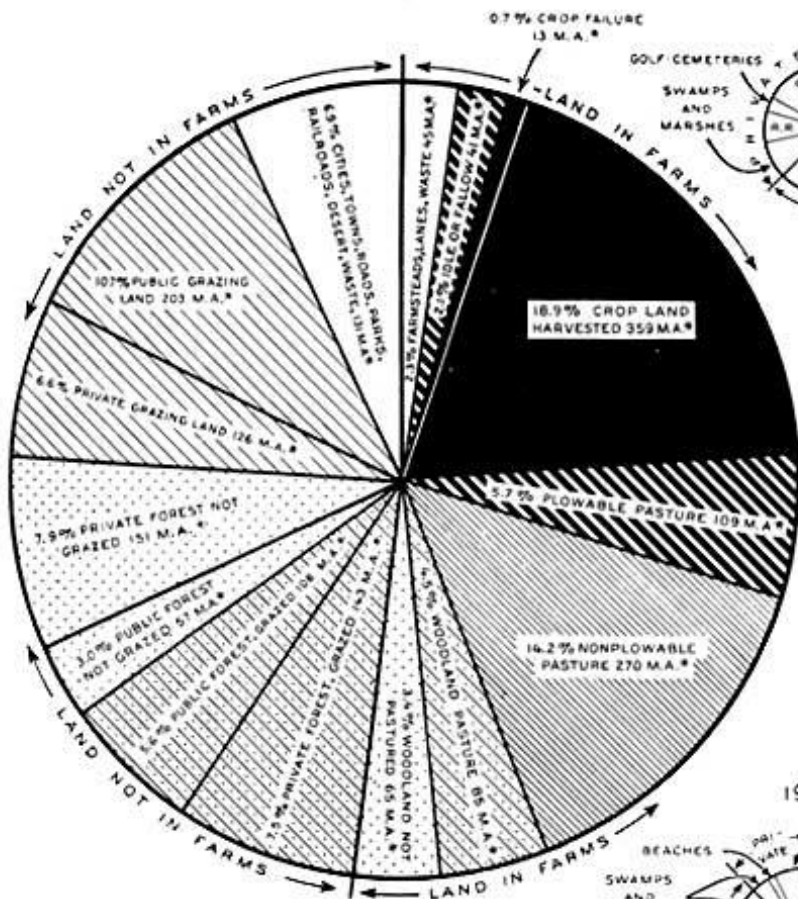


History of Zoning: Where's the Plan?

- **Zoning tended to be “map based”, much like orthogonal planning**
- **Planning, however, was evolving into something different than “city beautiful” sketches and street designs**

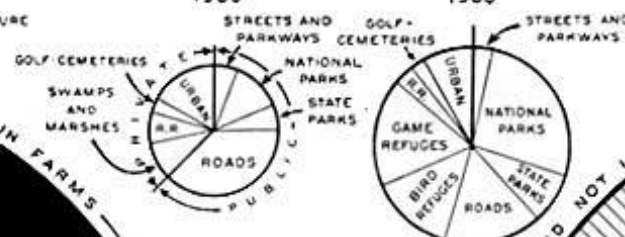
MAJOR USES OF LAND IN THE UNITED STATES

AS OF 1930



LANDS OF NONAGRICULTURAL NONFOREST USE

1930 1960

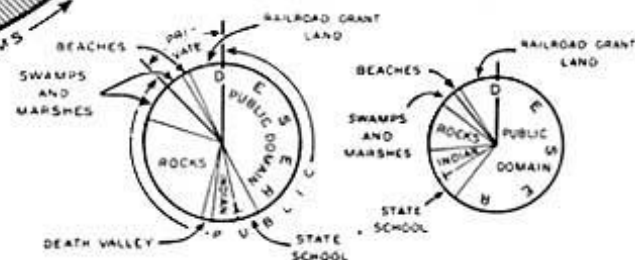


LEGEND

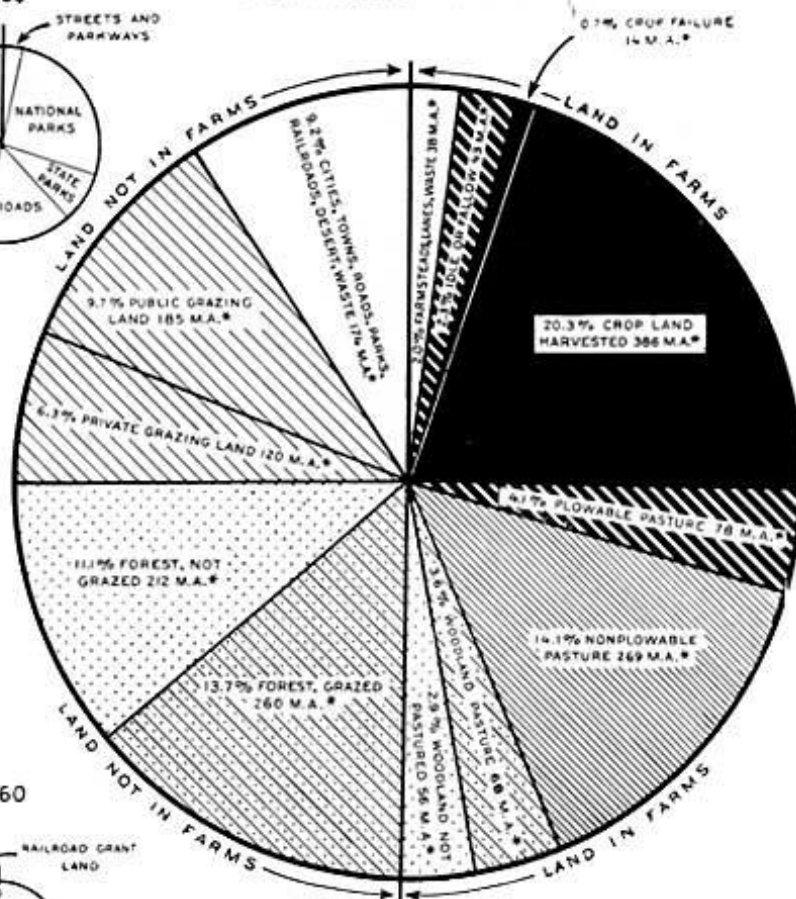
- Crop land
 - ▨ Grazing land
 - ▤ Forest and woodland
 - Nonagricultural nonforest
- ON LANDS HAVING DOUBLE USE THE SYMBOLS OVERLAP
- PERCENTAGE SHOWN IN LARGE CIRCLES ARE OF TOTAL LAND AREA OF THE NATION

LAND OF LITTLE OR NO USE

1930 1960



ESTIMATED FOR 1960



M.A. MILLION ACRES

M.A. MILLION ACRES

History of Zoning: Where's the Plan?

- **The “new school” planning of the New Deal was less based on maps and visions and more based on goals and policies**
- **Goal-oriented planning “entails developing programs or means to allocate limited resources in order to achieve the goals of the community (and its members) ranked in order of priority” – Herbert Gans**

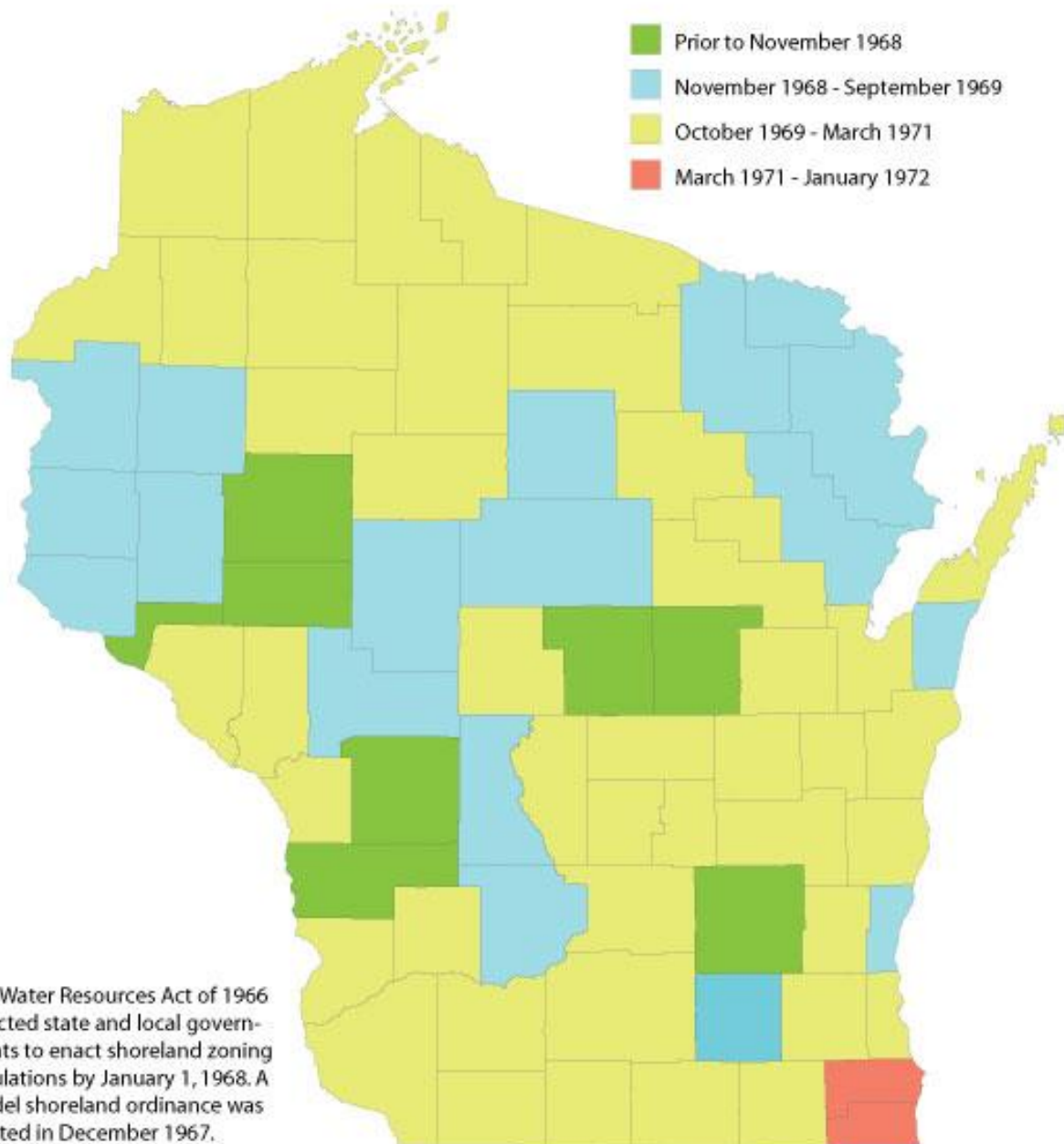
History of Zoning: Where's the Plan?

- **The missing link between explicit community goals (subsumed under public health, safety and welfare) was increasingly seen as a weakness in land use law**
- **The “policy plan” model seemed to fill this gap, but these plans were not easily prepared**

Zoning in the Modern Era (1970-present)

- **The 1965 Wisconsin Water Resources act begets shoreland zoning and more**

County Adoption of Original NR 115 Zoning Requirements



The Water Resources Act of 1966 directed state and local governments to enact shoreland zoning regulations by January 1, 1968. A model shoreland ordinance was created in December 1967.

Zoning in the Modern Era (1970-present)

- **The 1965 Wisconsin Water Resources act begets shoreland zoning and more**
- **For many counties, NR115 awoke the zoning giant who had slumbered since WWII**
- **The pace and scale of shoreland development (and associated prices) was rather unprecedented in rural WI**

Zoning in the Modern Era (1970-present)

- **Land use conflicts continued through the 1980s and 1990s**
- **Stars aligned in the late 1990s when a series of study groups and task forces convened on land use and planning issues**
- **Wisconsin's effort drew heavily on American Planning Association's "Growing Smarter" effort**

Zoning in the Modern Era (1970-present)

- **“Growing Smarter” and WI Comp. Planning Law are the latest attempt to “realign” planning and zoning**

Zoning in the Modern Era (1970-present)

“In accordance with a comprehensive plan” now is made more clear...

- Comprehensive plan is defined by statute (9 elements)**
- Zoning and subdivision regulations must be consistent with plan (@2010)**
- Plans must be updated regularly and involve the public**

Zoning's Relation to Comprehensive Plans

- **Zoning should reflect existing land uses and desired short term future uses**
- **The comprehensive plan:**
 - **reflects a longer term view**
 - **presents an analysis of why the community does what it does**
 - **addresses many different community policies and programs (roads, housing, parks, agriculture, etc.)**
 - **provides direction for various tools**

Zoning's Relation to Comprehensive Plans

Beginning on January 1, 2010, if a local governmental unit engages in any of the following actions, those actions shall be consistent with that local governmental unit's comp. plan:

- Official mapping**
- Local subdivision regulation**
- General zoning ordinances**
- Shoreland zoning**

Zoning's Relation to Comprehensive Plans

Does this apply to you? It depends...

- If your town is relying on county zoning to enable/prevent a land use, the consistency test resides with the county's plan**
- If your town is relying on county subdivision regulations to manage new development, again, the county plan needs to be consistent**
- If, however, you have town zoning or town subdivision regulations, then the consistency requirement applies to your town plan**

ESTIMATED Wisconsin Local Government Comprehensive Planning Status

Towns

adopted	761
process underway	261
not planning / unknown	235
Total	1257

Cities and Villages

adopted	443
process underway	70
not planning / unknown	81
Total	594

Counties

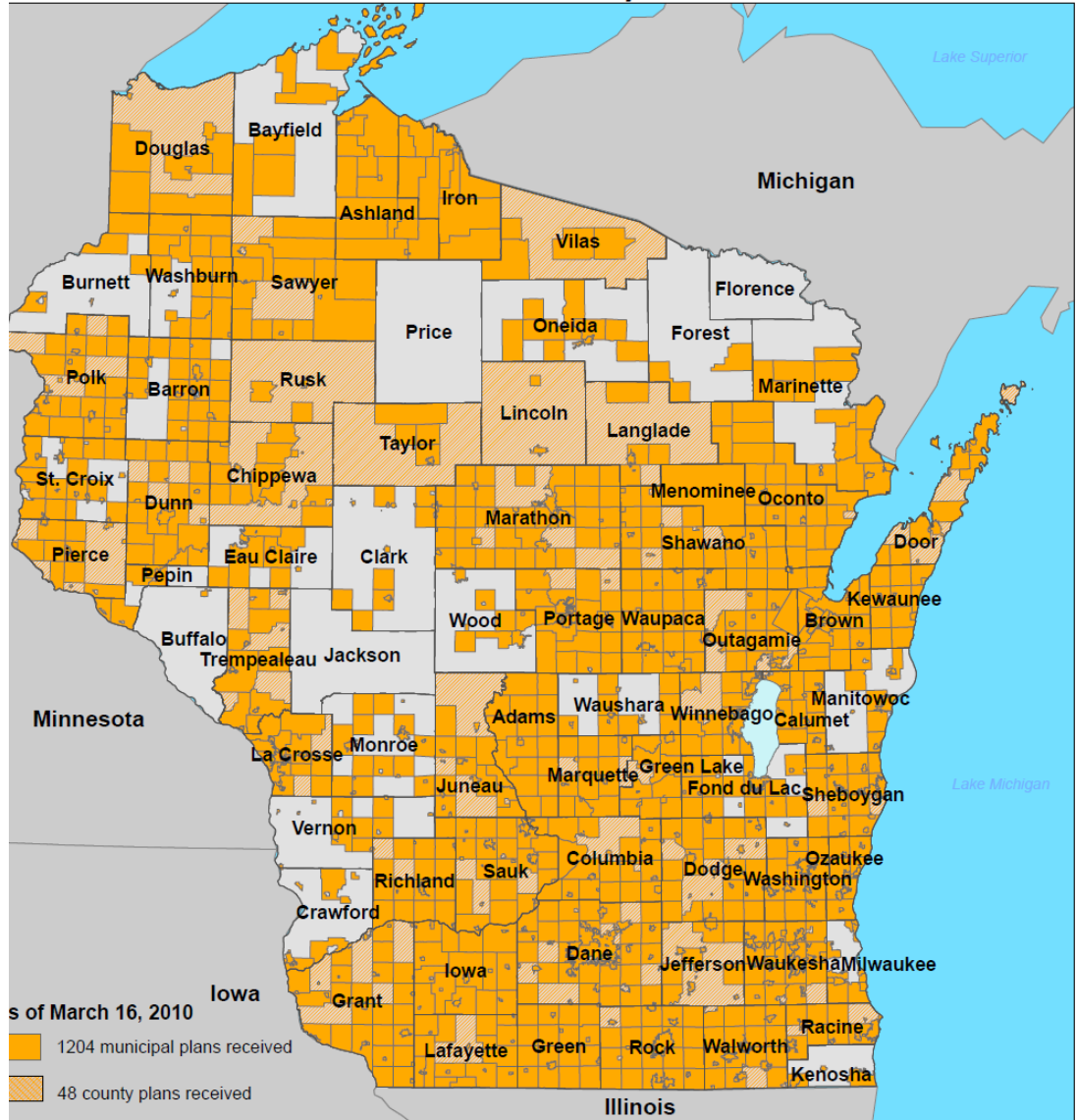
adopted	48
process underway	22
not planning / unknown	2
Total	72

(All) Towns, Cities, Villages, and Counties

adopted	1252
process underway	353
not planning / unknown	318
Total	1923

Note: Not all local governments exercise land use regulations that need to be consistent with a plan. An estimated 90% of local governments that exercise land use regulations have either adopted a plan or are in the process of developing one.

Final, Adopted Comprehensive Plans received by the Department of Administration As of March 16, 2010



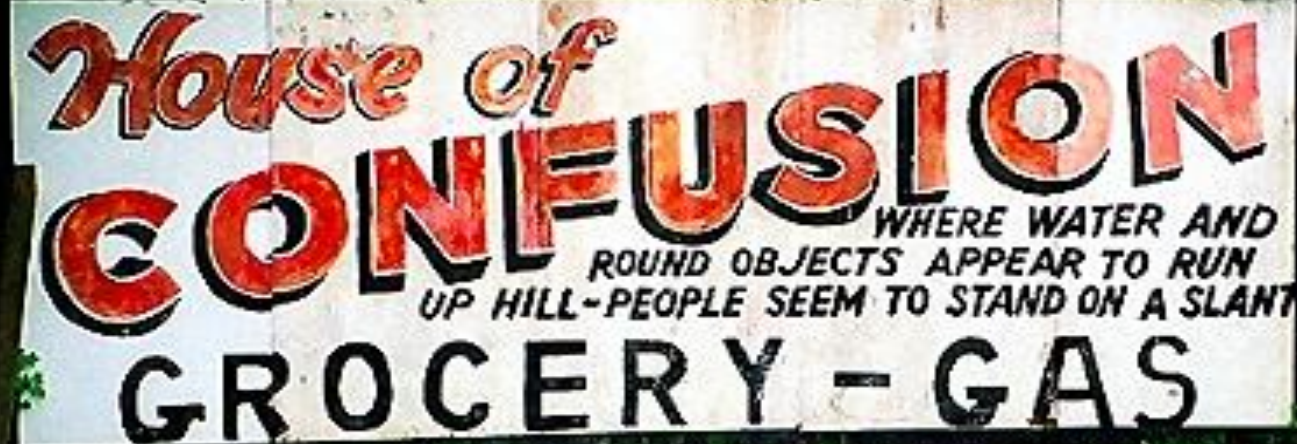
What does “consistent” mean?

- “Not contradictory”

Wisconsin Supreme Court in *Lake City Corp. v. City of Mequon*

- **Furtheres the objectives and policies of the comprehensive plan and does not obstruct their attainment**

Questions???



House of
CONFUSION
WHERE WATER AND
ROUND OBJECTS APPEAR TO RUN
UP HILL-PEOPLE SEEM TO STAND ON A SLANT
GROCERY - GAS