




PLANNING 101
MONTANA ASSOCIATION OF PLANNERS

WHAT IS PLANNING?

- Zoning?
 - Subdivision Regulations?
 - Growth Policy? (Comprehensive Plan, Master Plan, General Plan)
 - CIP
 - Emergency Management
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ACCORDING TO THE APA.....

“When government officials, business leaders, and citizens come together to build communities that enrich people’s lives, that’s planning.”



BUT WHAT IS IT REALLY?

- **Planning is participatory and inclusive.**
- **Planning is on-going.**
- **Planning is visionary.**
- **Planning is comprehensive.**

Comprehensive Plan (growth policy): A broad body of public policy that embodies a community vision, and addresses all components of a community.



10TH AMENDMENT TO U.S. CONSTITUTION

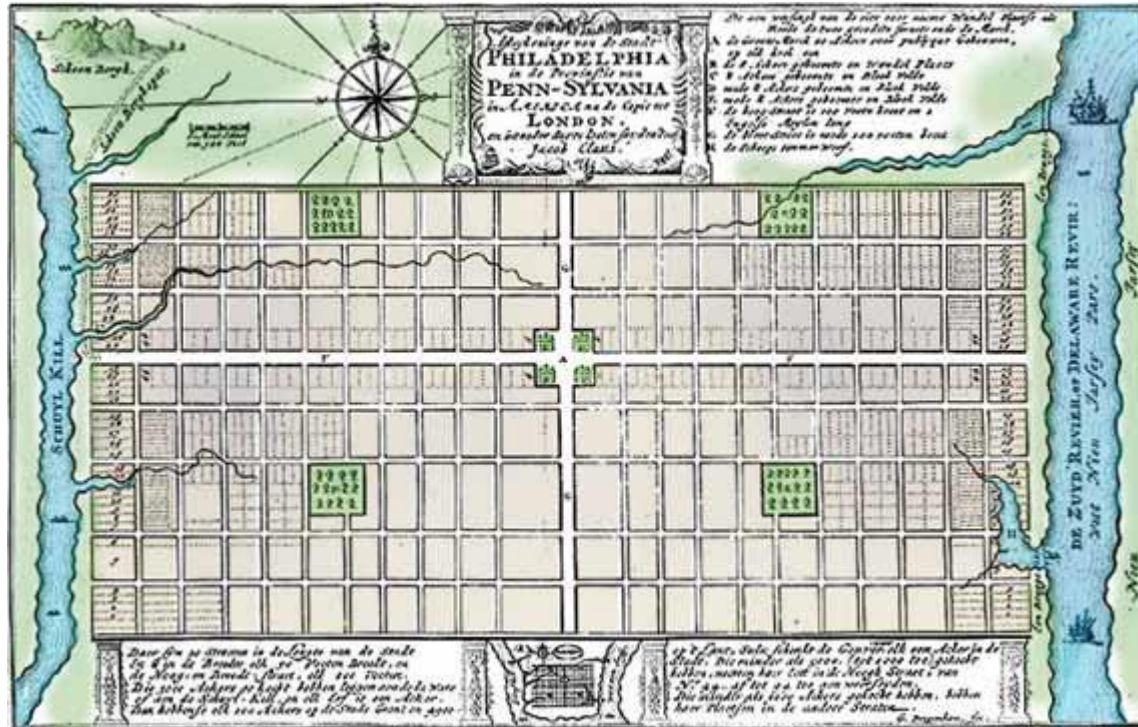
“The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”



BRIEF HISTORY OF PLANNING

- The Colonial Tradition
- Ordinance of 1785 (system of rectangular survey coordinates)
- L'Enfant's plan for Washington DC- 1791
- NYC Tenement House Law
- Hartford Commission on a City Plan
- Daniel Burnham's plan for Chicago
- Wisconsin Enabling Act
- LA Land Use Zoning Ordinance
- NYC Zoning Code adopted
- Cincinnati Comprehensive Plan
- Euclid v Ambler Realty- landmark zoning constitutionality case

WILLIAM PENN PHILADELPHIA PLAN



L'ENFANT PLAN FOR WASHINGTON DC




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BRIEF HISTORY — (CON'T)

- Standard Zoning Enabling Act- 1925 (US DOC)*
- Standard Planning Enabling Act-1926 (US DOC)*
- US Housing Acts of 1934, 37, 49, and 54- federal gov't in housing; beginning of urban redevelopment
- The Quiet Revolution- Late '60s into '70: states often involved in land use decision making
- HUD 701 Comprehensive Planning Assistance Program
- Model Land Development Code- American Law Institute
- Recent court cases- *Penn Central*, *Nolan*, *First English*, *Lucas*, *Dolan*, *Suitum*, *New London*
- *Heffernan v. City of Missoula (2011)*

PLANNING MONTANA STYLE

- Montana developed its own enabling acts in early 1930s
 - Bozeman adopted its first zoning code in 1936
 - Planning Boards authorized to “promote the orderly development of its governmental units and its environs”
 - Growth Policy- broad body of public policy; not a master plan and not a zoning map (N. 93 Neighbors and Heffernan)
 - Subdivisions- MS&PA very detailed and prescriptive as to how local gov'ts can review subdivisions; treated like an “implementation measure” in Montana
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PLANNING EVOLUTION

- From “experts” to citizens: Empowerment; Planning goes “*Grass Roots*”; public involvement plans often required.
 - Land as a “resource” more than a “commodity”; infill, realization that sprawl costs \$\$
 - “Aesthetic” considerations became acceptable P&Z issues; signage, landscaping, architectural review, design standards.
 - “Environmental Planning” became more accepted & widespread; air & water quality, hillside development, wildlife considerations, CAO.
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THE VALUE OF PLANNING

WHY DO WE PLAN? WHAT BENEFITS DOES IT BRING?

GOOD PLANNING.....

- **Works to improve the welfare of people and their communities**
- **Enables civic leaders, businesses, and citizens to play a meaningful role in creating communities**
- **Helps create communities that offer better choices for where and how people live**



WHAT MAKES GREAT PLACES?

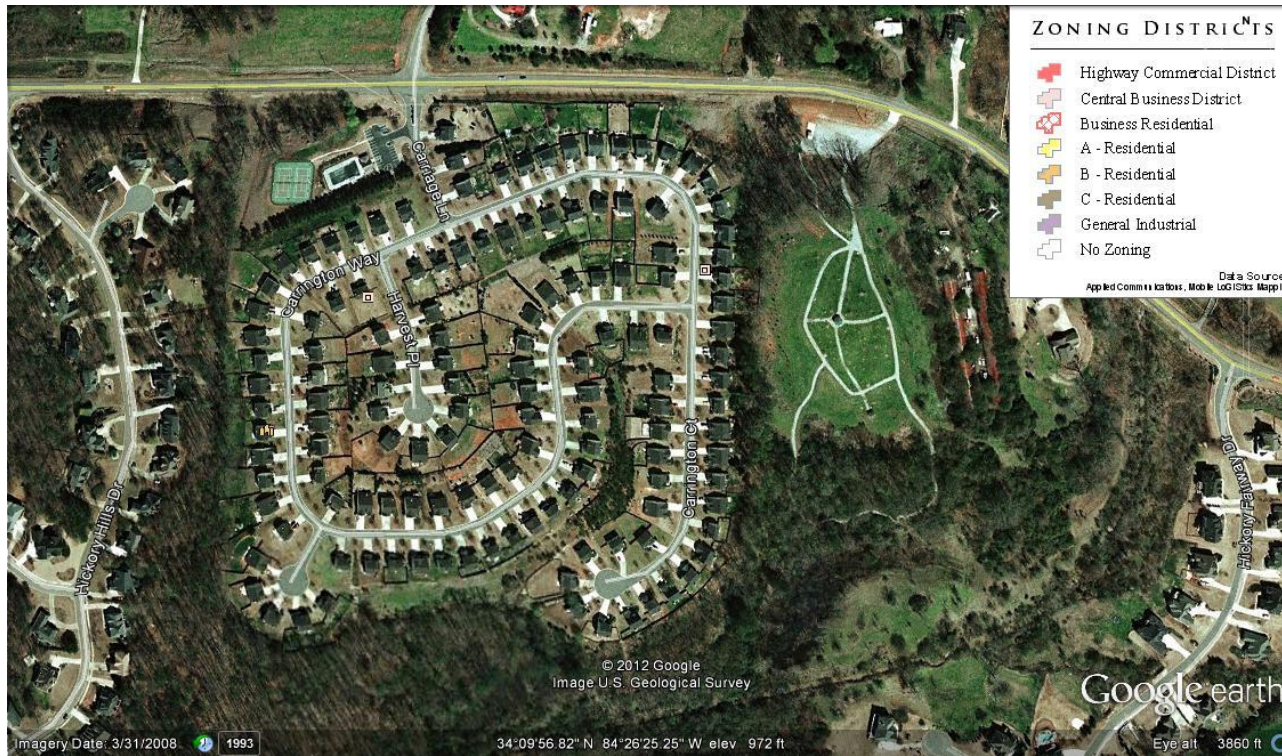
- Better choices for where and how people work and live
- Enjoyable, safe, and desirable
- What defines great places:
 - Accessibility
 - Functionality
 - Architectural features
 - People

ACCESSIBILITY

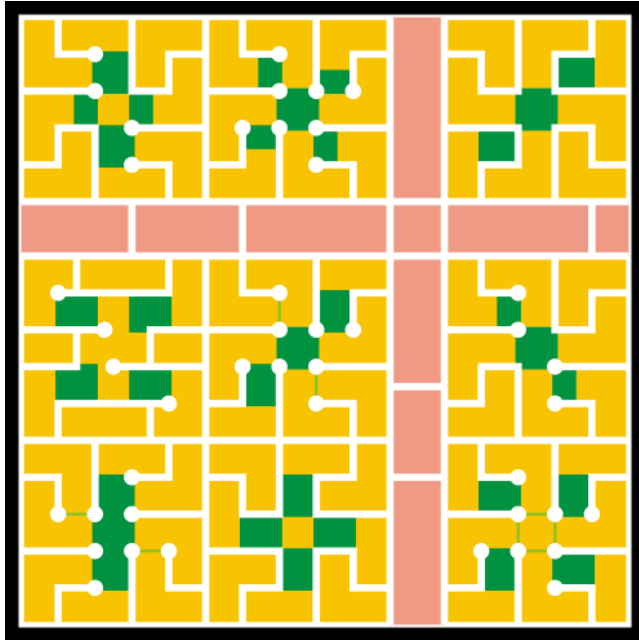


- Choice
- Economics
- Dependency
- Health

OR, LACK OF ACCESSIBILITY



FUNCTIONALITY



- Connectivity
- Convenience
- Availability of services
- Health and safety

ARCHITECTURAL FEATURES




- Landscaping
- Street furniture
- Lighting
- Building facades
- Roof planes
- Mass
- Scale

PEOPLE




- Public involvement
- Public buy-in
- Community
- Consensus


WHY PLAN?

- **Good plans shape good decisions- foundation for growth management and framework for sound decisions.**
 - **Investment follows plan- not only public investment, but private investment too; environment of predictability and security.**
 - **State law requires it- must formulate and adopt growth policy if we administer LDRs.**
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WHO IS THE “PLANNER”?

- The planner is a professional
 - Knowledgeable in the history and methodology of community development
 - Familiar with the U.S. Constitution and amendments
 - Familiar with land use law
 - Understands the consequences of growth and decline
 - Compels meaningful public dialogue
 - Creates solutions through a public process
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A DAY IN THE LIFE...

- Communicates with the public, local officials and partner agencies
 - Researches case law, demographics, state statutes and local code
 - Analyzes and reports on development impacts
 - Assesses current and future community needs
 - Mediates conflicts
 - Reaches out to the community
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FUTURE CHALLENGES IN PLANNING

- Changing demographics- aging population, ethnic diversity
 - Changing lifestyles- lower household forming rates; marrying later in life
 - Disaster mitigation- planning to minimize lose of life and property
 - Transportation choices- huge public investment needed to provide alternatives
 - Housing choices- pent up demand for in town housing; own/rent
 - Energy conservation- development of alternative/renewable energy
 - Changing climate- emphasis on sustainability & less energy use
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PLANNING BOARDS

- 100-year old tradition.
 - Consultants and planning commissions products of the City Beautiful movement.
 - PC appointed to become “citizen experts” to bring the responsibility for planning under public authority.
 - Appointed to act “independently” in advising the governing body on matters of zoning, development, and the general plan; take political and time pressure off the governing body.
 - Formed as part of the “Good Government” movement, which in turn, was in response to corruption and lack of accountability in government.
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PLANNING BOARDS IN MONTANA

- Planning boards authorized by Sec. 76-1-101, MCA
 - Role established in 76-1-106: prepare the growth policy and advise the governing body on subdivision plats, public facilities and projects, and the development of platted and unplatted lands.
 - Conducts public hearing and advises governing body of subdivision plats (76-1-107) and may function as the zoning commission (76-1-108 and 76-2-204)
 - For zoning, advises the governing body on zoning district boundaries and regulations.
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76-1-101. Planning boards authorized. The governing body of any city or town, the governing bodies of more than one city or town, or the governing body of any county or any combination thereof may create a planning board in order to promote the orderly development of its governmental units and its environs.



76-1-106. Role of planning board. (1) To ensure the promotion of public health, safety, morals, convenience, or order or the general welfare and for the sake of efficiency and economy in the process of community development, if requested by the governing body, the planning board shall prepare a growth policy and shall serve in an advisory capacity to the local governing bodies establishing the planning board.

(2) The planning board may propose policies for:

(a) subdivision plats;


(b) the development of public ways, public places, public structures, and public and private utilities;

**(c) the issuance of improvement location permits on platted and unplatted lands;
or**

(d) the laying out and development of public ways and services to platted and unplatted lands.

76-1-107. Role of planning board in relation to subdivisions and plats. (1) Except as provided in subsection (2), the governing body of any city, town, or county that has formed a planning board and adopted a growth policy pursuant to this chapter and subdivision regulations pursuant to chapter 3 shall seek the advice of the appropriate planning board in all matters pertaining to the approval or disapproval of plats or subdivisions.

(2) The planning board may delegate to its staff its responsibility under subsection (1) to advise the governing body on any or all proposed minor subdivisions.



ZONING COMMISSION (CITY)

76-2-307. Zoning commission. In order to avail itself of the powers conferred by this part, except 76-2-306, the city or town council or other legislative body shall appoint a commission, to be known as the zoning commission, to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. Such commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and such city or town council or other legislative body shall not hold its public hearings or take action until it has received the final report of such commission.


ROLE OF PLANNING BOARD (COUNTY)

76-2-204. Role of planning boards. (1) The board of county commissioners shall require the county planning board and the city-county planning board to recommend boundaries and appropriate regulations for the various zoning districts. The county planning board and the city-county planning board shall make written reports of their recommendations to the board of county commissioners, but such recommendations shall be advisory only.


(2) This section shall apply to either the county planning board or the city-county planning board where only one of these planning boards has been established.



BOARDS OF ADJUSTMENT

- Authorized in the MCA for both city and county zoning. (and Part 1)
 - BOAs authorized to “make special exceptions to the terms of the ordinance in harmony with its general purposes and intent...” (variances)
 - Administrative appeals- may wholly or partly affirm , reverse, or amend an administrative order (76-2-323)
 - Conducts quasi judicial proceedings
 - A vote of at least four members (3 for counties) is needed to reverse an order or grant a variance. (76-2-324 and 76-2-224)
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AGENDA 21

- Non-binding, voluntarily implemented action plan; product of UNCED in 1992
 - 300 page document divided into 40 chapters and 4 sections
 - 178 gov'ts, including US, were original signatories
 - Promotes (among other things) the concept of “sustainability”; concentrating human settlement and preserving open lands
 - Often opposed by property rights advocates and other conservatives; A21 cited in opposition to projects (especially “green” projects)
 - *Sustainability: The act of making sure that the actions today do not preclude the choices of tomorrow.*
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SJ 9

- A Senate Joint Resolution that vilifies the UN by declaring its policies to be “extreme environmentalism, social engineering, and global control”.
- Encourages Montana political subdivisions not to adopt or implement policies or recommendations originating from the UN without due process of law (That’s OK)
- Links a number of catch phrases and buzz words to Agenda 21, and claims that various programs like local planning are being conducted pursuant to Agenda 21
- SJ 9 tabled in Senate Local Gov’t committee


WORDS & PHRASES LINKED TO AGENDA 21

- Sustainability
 - Smart growth
 - Complete streets
 - Comprehensive/master plan
 - Livable cities
 - Social/environmental justice
 - Yukon to Yuccatan
 - American Heritage Rivers
 - <http://laws.leg.mt.gov>
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TACTICS

- Disrupt meetings and hearings
 - Spread misinformation about policies and programs
 - Discredit staff and participants
 - Pour negativity on process; exaggerate any mistake or problem repeatedly
 - Helped stop complete streets policy in Great Falls
 - Disrupting GF growth policy update
 - Shelved park master plan in Big Timber
 - Stopped adoption of a growth policy in Hot Springs
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WHEN CONFRONTED.....

- **Treat with courtesy and respect; part of community too.**
 - **Be able to explain purpose and origin of program**
 - **Be prepared with documentation**
 - **Add structure to public participation process when necessary**
 - **Offer proof that the process is genuine and sincere**
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LEGAL PREMISES OF PLANNING & ZONING

- “Plan before you zone”- case from Flathead County; Heffernan
- P&Z must be a legitimate exercise in the public interest furthering the public health, safety, and general welfare.
- Due Process (substantive and procedural)- no plan or regulation can be adopted without adequate and MEANINGFUL opportunity for public involvement.
- Equal Protection- all are treated equally under the regulation; no preferential treatment for any party or interest.
- Property Rights- right to a “reasonable use”; occurs when “all economic use of a property has been removed as a result of the imposition of a regulation”; inverse condemnation

OTHER TYPES OF PLANNING

- **Transportation Planning-** travel demand forecasting, LOS, planned improvements, new corridor designation, alt modes.
- **Park & Rec Master Planning-** visioning, determining P&R needs (specific to community), standards, resource evaluation, alt. benefits to parks and trails, funding sources (leverage grants, partnerships).
- **Housing Needs Assessments-** evaluate existing housing stock, survey, income and demographic data, projections of future needs/demands (product types, affordability, rehabilitation, etc)
- **Downtown Master Planning (revitalization)-** business development/retention, parking/circulation, community niche, marketing/branding, building & open space design and functionality, scale & character, recommendations and action plan.
- **Neighborhood Planning-** refinement of GP, issues VERY specific to neighborhood.

RESOURCES

- The American Planning Association: www.planning.org
- Montana Association of Planners: www.montanaplanners.org
- Community Technical Assistance Program:
<http://comdev.mt.gov/CTAP/default.mcp>
- Western Planner: www.westernplanner.org
- Planetizen: www.planetizen.com



THE END