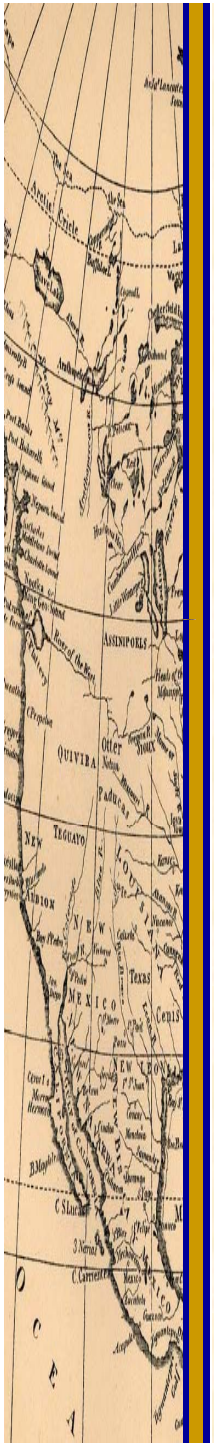

The Public Health Roots of Zoning and Modern Land Development Codes

In Search of Active Living's Legal Genealogy

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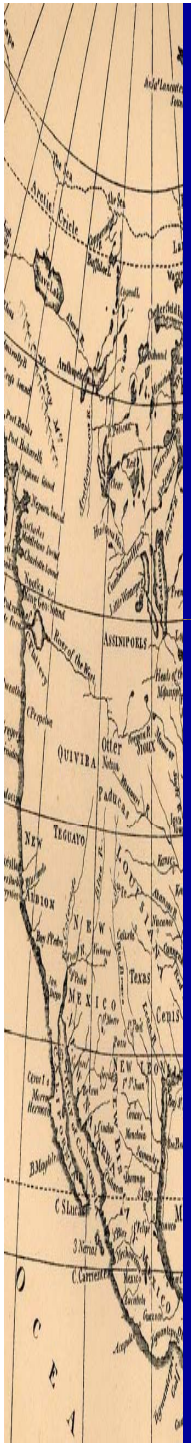
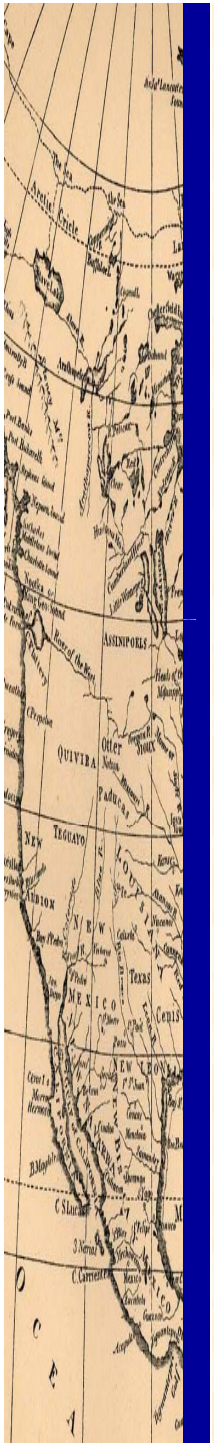


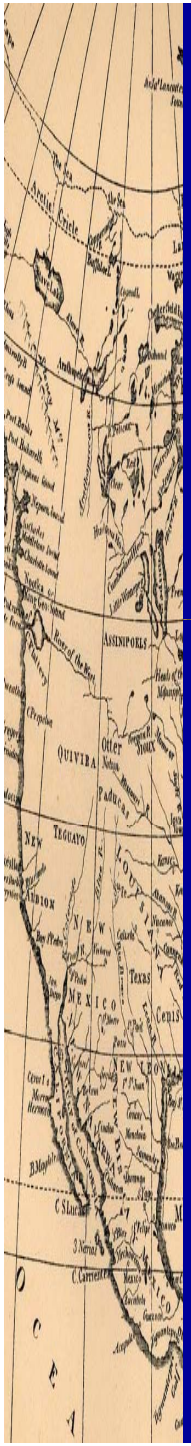
Today's Game Plan

- The scope and goals of our paper
- Land use codes / regulations as barriers to active living
- Public health as legal foundation
- Evolution of public health concerns / have land use codes kept pace?
- Results to date – charted "genealogy"
- Next steps and legal/policy implications



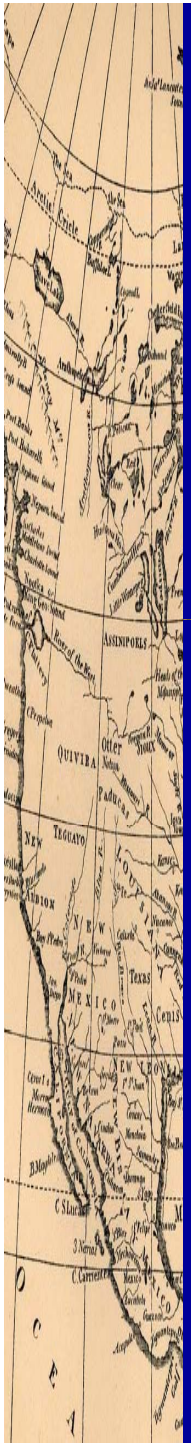
Scope and goals of our research

- Scope:
  - Investigate and describe underlying public health basis for zoning and other land development codes;
  - map the relationships as a “genealogy”
- Goals:
  - Provide legal rationales for reforming zoning and existing land development codes
  - Build the legal case for code reform
  - Reinforce the legal foundations for active living



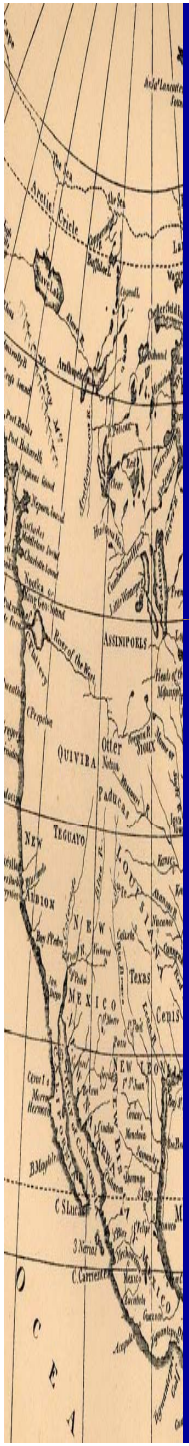
Our Research Plan

- Identify/ describe the barriers that zoning and other state and local land development codes (LDCs) create for Active Living
- Examine historical parallels of planning & public health issues
- Search case law, briefs, legal treatises, and law reviews for the common public health influences on zoning and LDC
- Mapping a genealogy framework
- Highlight model codes and best practices



Zoning and Land Development Codes

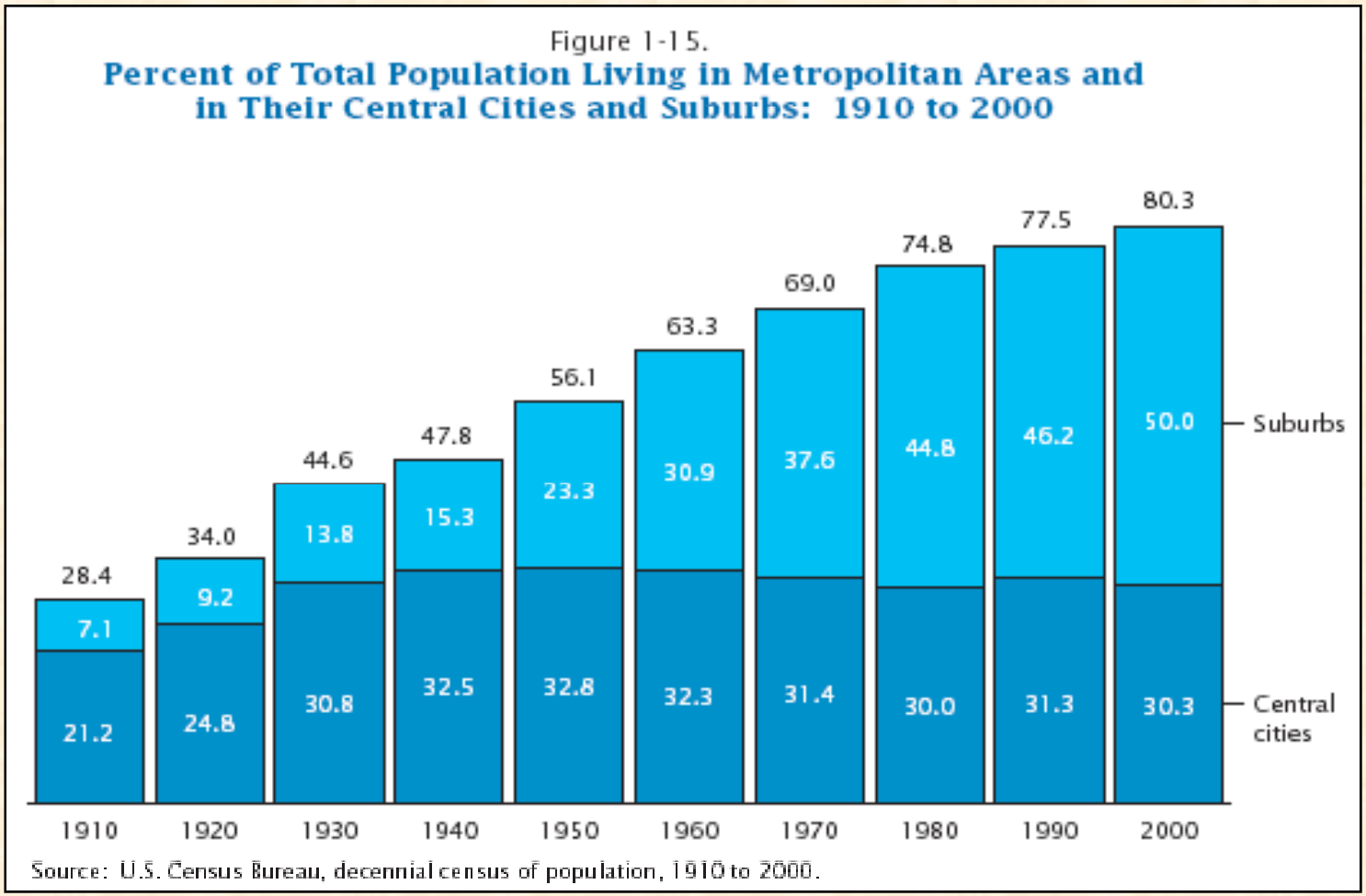
- Land development codes – (umbrella term) government controls or policies that affect the use / development of land, associated structures, and public infrastructure
- Zoning – local statutes that establish land use districts for residential, commercial, industrial and agricultural activities, and usually prescribing standards w/in districts for building height and bulk, setbacks from lot lines, and density or intensity of the use of individual lots w/in the district
- Other LDC's – subdivision regulations, impact fees
- Building and Housing Codes
- Engineering Standards
- Architectural and Design Guidelines



The Impact of LDC's on Active Living

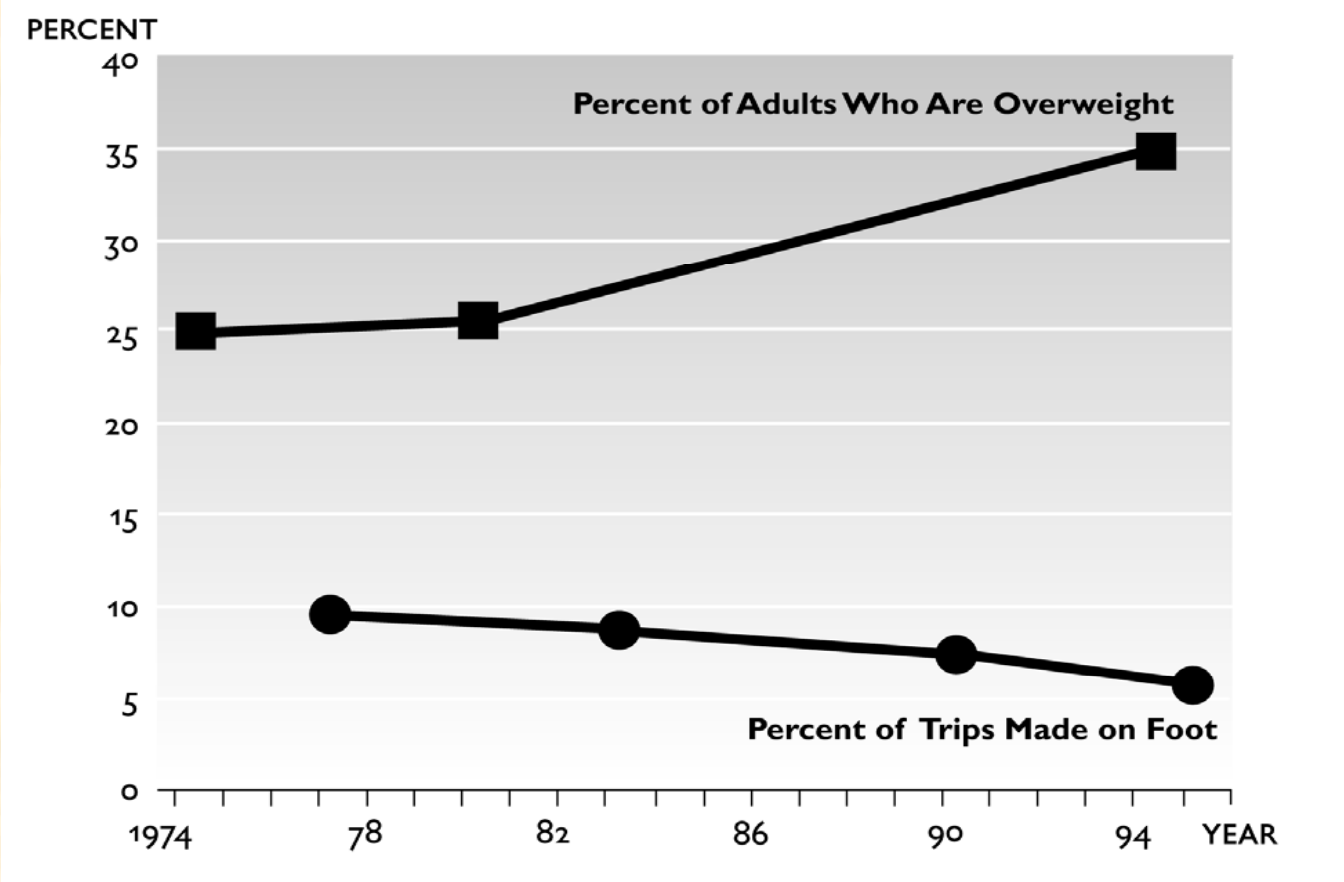
Attributes of built environment (examples)	*LDC's (examples)*
•Mixed land use	Zoning, subdivision regulations and codes
•Density	Zoning
•Street Connectivity	Engineering standards, transportation plans, zoning
•Pedestrian infrastructure	Engineering, street & sidewalk standards
•Access to public and recreation facilities	General / comprehensive plan and community plan, impact fees, dedication requirements, zoning
•Aesthetics	Architectural &design guidelines, zoning

America Moves to the Suburbs

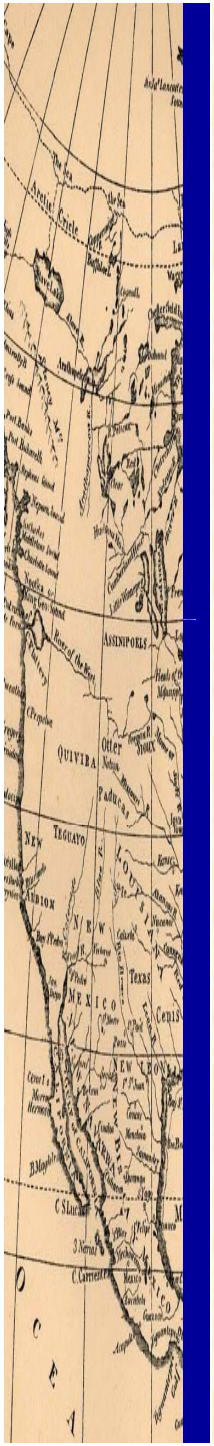


Hobbs & Stoops, Demographic Trends in the 20th Century Nov. 2002, US Census website

Walking trips decline



Source: Surface Transportation Policy Project - Based on data from the Nationwide Personal Transportation Survey and the Centers for Disease Control and Prevention.



Public Health and Land Use Planning Timeline

1887 Hygienic Lab (NIH precursor)

1901 Tenement House Act (NYC)

1900 Infectious diseases leading cause of death

1906 Pure Food & Drug Act

1916 NYC Zoning

1926 Euclid v. Ambler

1930 30 states SZEA

1945 WW II ends – GI Bill, ↑ housing starts

1950's TB treatments, polio vaccine

1964 Surgeon general smoking report

1970 Clean Air Act

1973 Oregon – state land reform

1978 Penn Central

1992 Lucas v. SC

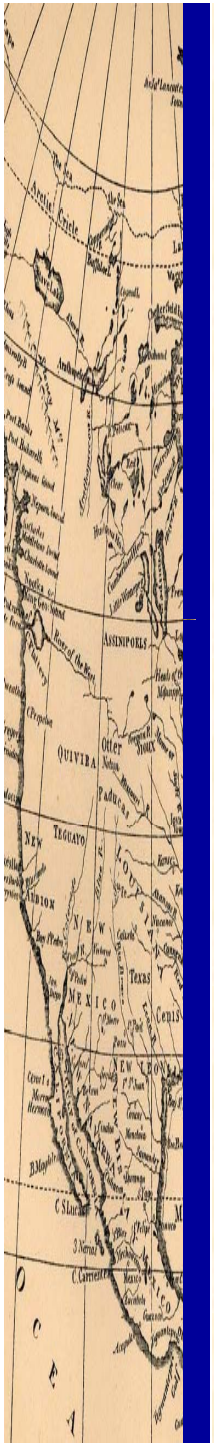
1998 Md. Smart Growth

1992 "Prevention" added to CDC name

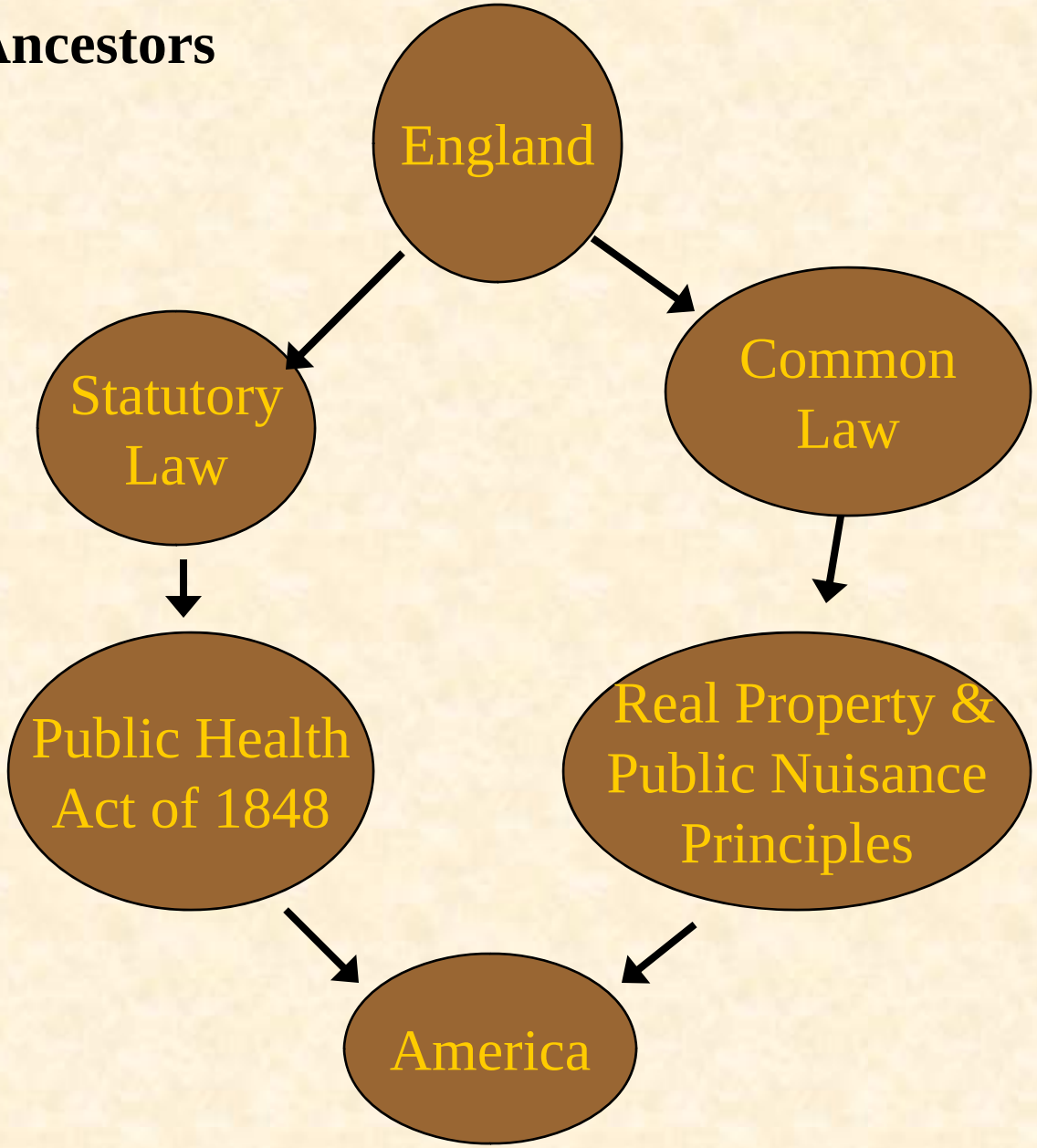
1910 1920 1930 1940 1950 1960 1970 1980 1990 2000

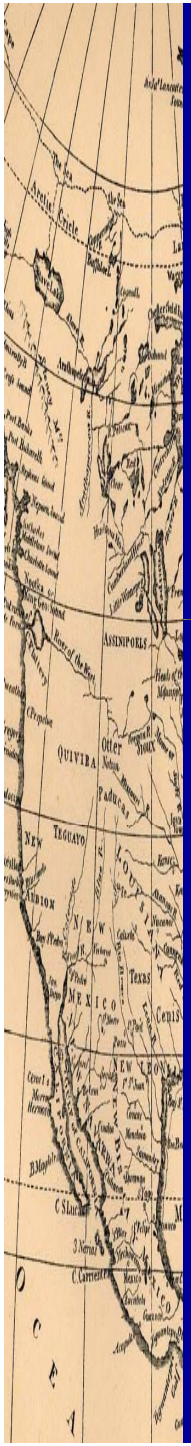
Public Health

Land Use Planning

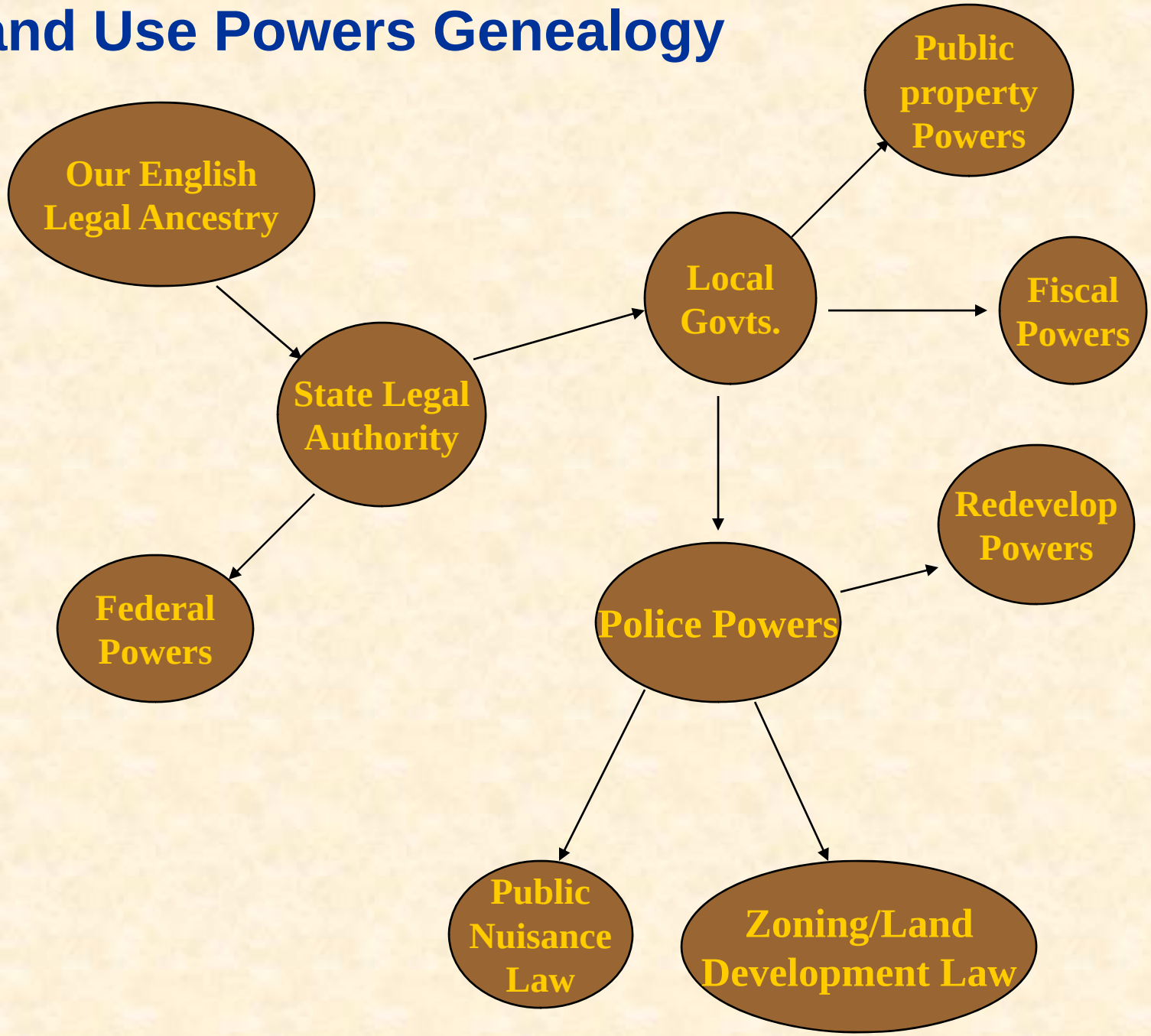


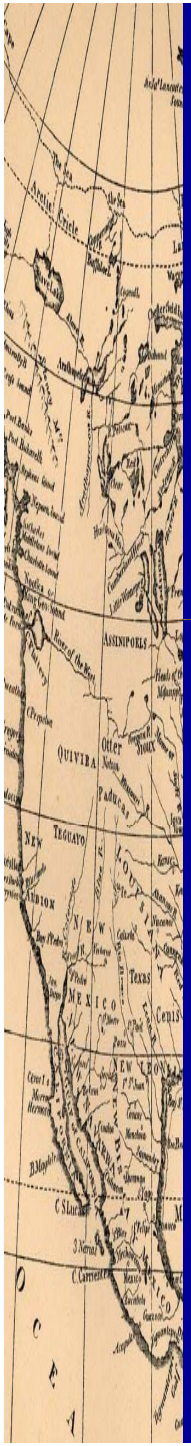
Legal Ancestors





Land Use Powers Genealogy



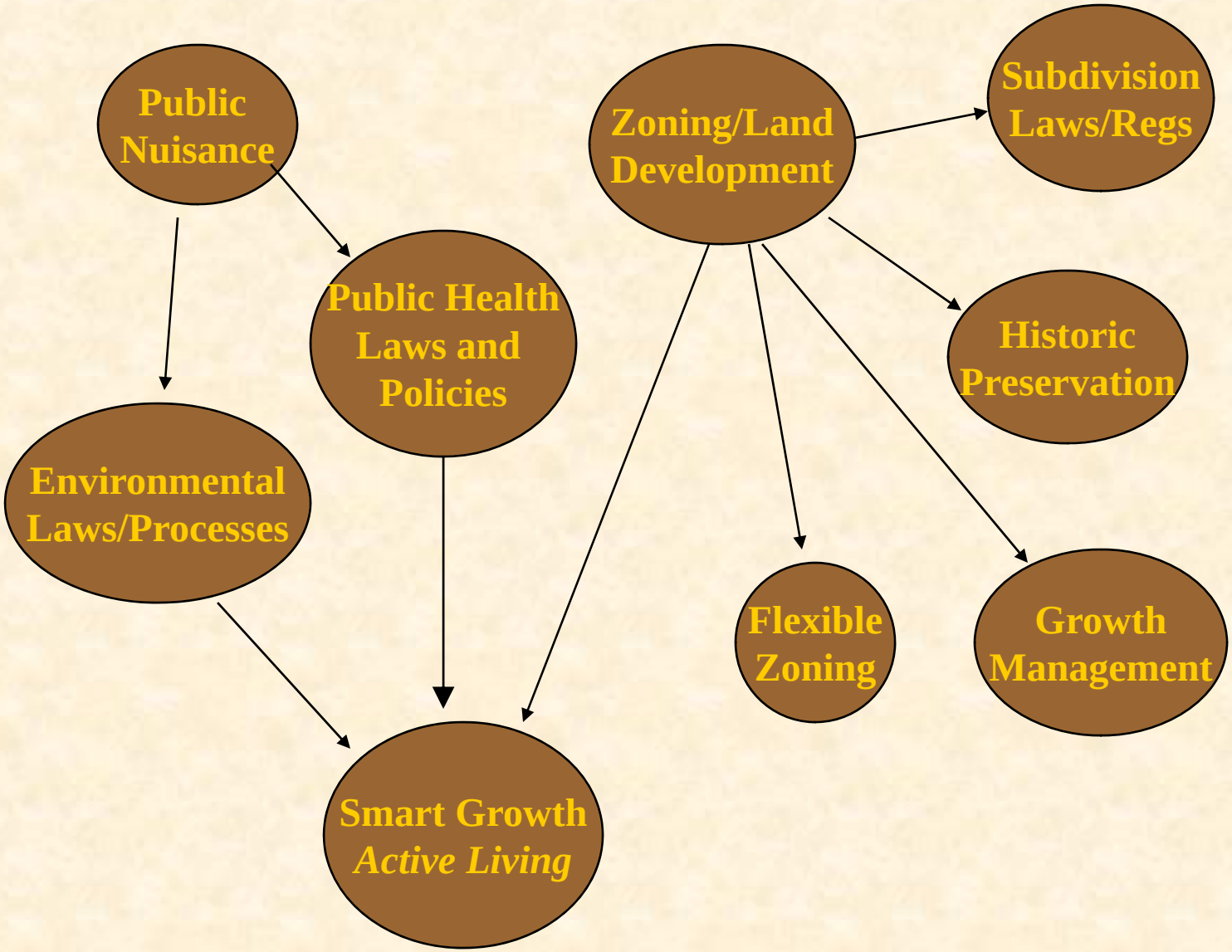


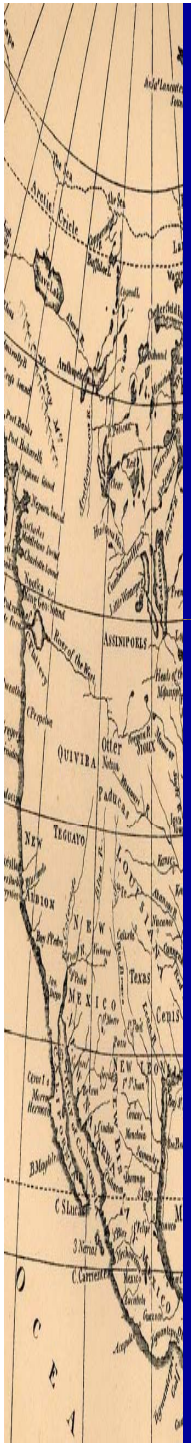
The Euclid Split

Euclid vs. Amber Realty (1926)

- Inner ring suburban community
- Case of first impression for Sup. Ct.
- State court decisions favor zoning
- Supreme Court's rationale:
  - Approve as proper exercise of police powers
  - Preserve single family character
  - Protect property owner investment

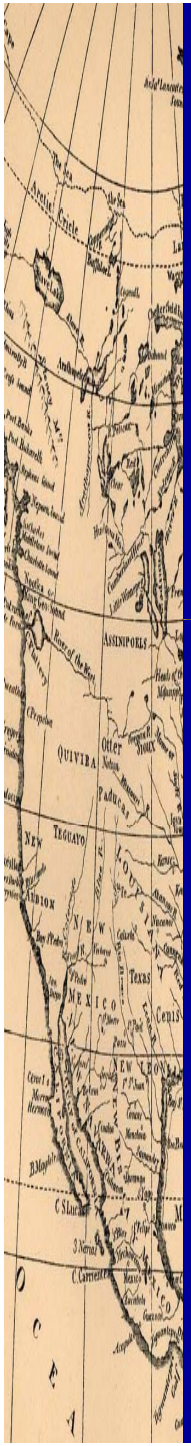
Active Living's Legal Foundations





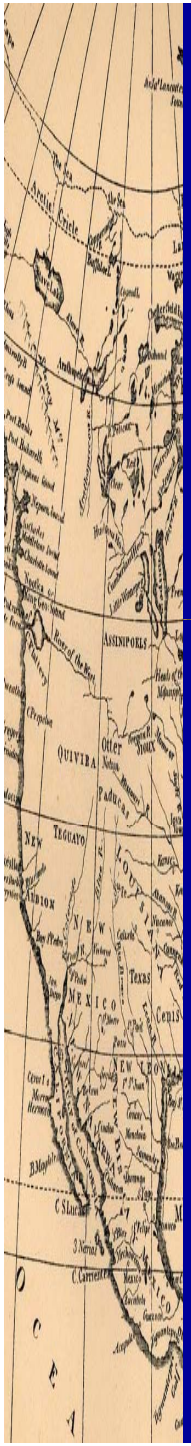
Start Growth/New Urbanist Alternatives

- Focus on building form and building type
- Encourage a mix of uses and housing types
- Encourage more attention to streetscape and the design of the public realm
- Focus on compact communities that are friendly for the pedestrian and bicyclist



Trends Towards Code Reform

- Greater Awareness/Code Reform is a hot topic
  - Conferences and workshops
  - Publications
- APA's Growing Smart Initiative
- Duhaney's Smart Code
- Katz' Form Based Code
- Pioneering cities willing to tackle code reform



Conclusions, Trends & Next Steps

- Integration of Active Living Principles into Smart Growth Policies/Programs
- Reform of Zoning and LDCs
- Crafting Legal Rationales
- Test/Refine our Preliminary Framework
- Additional Legal and Policy Research
- Collect and Share Best Practices