The basis for land use law in the United States

The legal system's involvement in land use questions in the United States began long before the landmark *Euclid v. Ambler Realty* decision of 1926. The question of the rights of private property owners forms an important cornerstone of American democracy. One could argue the basis of American freedom and capital enterprise is the right of private property ownership, and this has remained a distinct difference between land use law in the United States and other countries, where the control of land uses is more in the hands of government.

Land use law is conceptually based on the Jeffersonian principle of agrarianism, with its belief in the importance of landowners to be able to determine for themselves what to do with their land and what was in their own best interests. Jefferson felt this was the best base for a true democracy. Like wise, the Puritan settlers complemented this by bringing with them a strong ethic of hard work and individualism.

In England, Adam Smith also argued that the individual can best advance his own interests, and collectively such independent enterprise best serves society as a whole. Building on this, John Locke saw private property as the essential basis of a society:

> "The great and chief end, therefore, of men's uniting into commonwealths, and putting themselves under government, is the preservation of their property...
>
> "The supreme power cannot take from any man any part of this property without his own consent. For the preservation of property being the end of government, and that for which men enter into society, it necessarily supposes and requires that the people should have property, without which they must be supposed to lose that by entering into society, which was the end for which they entered into it; too gross an absurdity for any man to own."
>
> John Locke. *The Second Treatise of Civil Government*. ed. J.W. Gough (1690; reprint, Oxford: Basil Blackwell. 1948). p. 62, 69.

According to Lai,[1] this concept of private property was only one of three major reasons American planning law developed from its inception as it did. A second reason was the abundance of land, which made this individual control and proprietorship possible. In more urbanized Europe, where there had for centuries been a scarcity of land, government needed to be more involved in its allocation and use. This led to conflict and domination, and eventually expansion through colonization. But in the open frontiers of the United States, where land was seen as limitless, there was less need for government interference in land development; dissatisfied settlers could pick up stakes and "move west."

A third basis for American land use law has been its constitutional basis. The Fifth Amendment established the principle that private property would not be "taken" for public use without just compensation. The Fourteenth Amendment entitled every citizen to "due process' and "equal protection." A citizen could expect notification of action affecting his or her property, along with the right to a hearing in the public prior to any action being taken affecting that property. The Fourteenth Amendment also ensured that government actions affecting private property must be "reasonable" and "fair, " and must advance a legitimate public purpose.

Early history of land use regulation in the U.S.

As early as the 17th Century, there were farmland ordinances in the colonies giving protection from the overproduction of certain agricultural crops, most notably tobacco. There were also early building ordinances which required fireproof masonry construction, and ordinances which restricted the location of noxious land uses within cities. In an early example from 1700, a Philadelphia tree ordinance stated every home should have one or more trees within at least eight feet of a dwelling.

Perhaps the law which had the greatest impact on early land use was the grid-iron plan adopted by Congress for the settlement of the western territories. The law, called *An*

---

[1] Lai, Richard Tseng-yu. 1988. *Law in Urban Design and Planning: The Invisible Web*. New York: Van Nostrand Reinhold Company.

Ordinance for Ascertaining the Mode of Disposing of Lands in the Western Territory (28 J. Continental Congress 375 (1785)), described an efficient way to divide up unsettled land and an efficient method for encouraging its sale, even from distant locations. It has also had a lasting impact on the land use in the mid-western and western states, as described by urban historian John Reps.

> "Today, as one flies over the last mountain ridges from the east, one sees stretching ahead to the horizon a vast checkerboard of fields and roads. With military precision, modified only on occasion by some severe topographic break, or some earlier system of land distribution, this rectangular grid persists to the shores of the Pacific. America thus lives on a giant gridiron imposed on the natural landscape by the early surveyors carrying out the mandate of the Continental Congress expressed in the Land Ordinance of 1785."[2]

The gridiron plan allowed land to be surveyed, subdivided, described in deed, and auctioned without needing planners, or even having to leave a land office.

> "Perhaps the rectangular survey pattern for the west was the only system that could have resulted in speedy settlement and the capture of a continent for the new nation, but its results in city planning were dullness and mediocrity."[3]

In New York City, the city's Commissioners' Plan of 1811 created a grid in the belief that "...a city is to be composed principally of the habitations of men, and that strait sided, and right angled houses are the most cheap to build, and the most convenient to live in."[4]

Other cases in the 19th Century began to establish a body of early land use law. In the 1820s, New York City forbid internments within certain areas of the city, and established acceptable locations for cemeteries. In 1887, *Mugler v. Kansas* established that a state could control manufacturing facilities, and prohibited the manufacture and sale of an intoxicating beverage. Such a prohibition was a police power, and was determined not to be a taking because the use was injurious to the public welfare.

---

2 John W. Reps. 1965. *The Making of Urban America*. Princeton, NJ: Princeton University Press. pp. 216-217.

3 Reps. p. 217.

4 Reps, p. 297.

Mugler v. Kansas first established the principle that police power regulations do not constitute compensable takings. One of the most significant pieces of legislation in the 19th Century dealing with land use was the Homestead Act of 1862, for it transferred land from the public domain to private ownership, giving 160 acres free to settlers who agreed to live on it and use the property. This represented a strategic wholesale transferral of land from government to the private sector.

Twentieth century land use laws established other important principles leading eventually to the landmark case of *Euclid v. Ambler Realty*. In 1909, the first land use zoning board was established in Los Angeles. In 1915, *Hadacheck v. Sebastian* established that noxious uses could be subject to regulation even if they existed prior to an ordinance being established, or if they existed prior to surrounding land uses being developed (e.g., residential). By 1916, the first comprehensive zoning ordinance had been adopted by the city of New York. Its initial purposes were (1) to define stable neighborhoods and not allow undesirable uses, and (2) to promote commercial development in the center city. This early code regulated the use of land and buildings, their height and bulk, and population densities.

However, there were problems with the early ordinances being established at that time in various communities. For instance, in Brookline, Massachusetts, single family residential areas could keep out multi-family uses, but courts in both New Jersey and California said they could not. In Milton, Massachusetts, an ordinance allowed stores to be kept out of residential neighborhoods, but courts in Missouri and New Jersey did not accept such ordinances.

The Standard State Zoning Enabling Act of 1922 did much to establish a standard for zoning ordinances, and was used as a basis for ordinances across the country. Initially, the primary concern of new zoning ordinances was to protect stable residential areas against incursion of commercial, industrial and even multi-family uses. As described in the *Zoning Primer*, published after the first comprehensive zoning ordinance (New York City, 1916) and the landmark Standard State Zoning Enabling Act (1922), the concern was stated as follows:

> "Suppose you have just bought some land in a neighborhood of homes and built a cozy little house. There are two vacant lots south of you. If your town is zoned, no one can put up a large apartment house on those lots, overshadowing your home, stealing your sunshine and spoiling the investment of 20 years' saving. Nor is anyone at liberty to erect a noisy, malodorous public garage to keep you awake nights of to drive you to sell out for half of what you put into your home."[5]

These concerns were real and not unjustified. Thus, zoning was initially intended primarily to prevent undesirable uses from coming into stable residential areas. There was such concern over this possibility, and so many residential areas had been despoiled by inappropriate construction, that between 1916 and 1929 zoning was established in almost every community of any size. Little opposition was found to the new laws. Rather, there was almost universal support.

In large part zoning was a recognition that the rights of the neighborhood took precedence over the rights of individual property owners, and an acceptance of this fact. Neighborhood zoning was not seen as an infringement on property rights, but a reassertion of their importance on a collective level. It was also good for property owners individually, for stability of property values resulted directly from the protection offered through zoning.

> "...zoning caught on as an effective technique to further an eminently conservative purpose: the protection of the single-family house neighborhood. In spite of all the subsequent embellishments that objective remains paramount."[6]

Euclid v. Ambler Realty Company

The validity and constitutionality of zoning was firmly established in the landmark Supreme Court decision in 1926, *Euclid v. Ambler Realty Company,*[7] in which it was determined that the exclusionary nature of zoning was appropriate and in the public interest as a means to reduce nuisances, and as such overrides the interests of individual property owners. This case almost by itself guaranteed the validity of zoning as a rightful use of the state's police power, and led to zoning's role as the most significant tool yet devised of land use, as well as of planning.

---

[5] *Zoning Primer*, p. 2.

[6] Babcock, Richard F. *The Zoning Game: Municipal Practices and Policies*. Madison, WI: University of Wisconsin Press, 1966. p. 115.

[7] *Village of Euclid* v. *Ambler Realty Co*., 272 US 365, 1926.

Zoning was popular not because of its sophistication, but because of its simplicity. The 1926 case upheld the principle that land use could be controlled, and that "nuisance" uses could be kept out of designated areas. The question became, What determines a nuisance use? Alfred Bettman, a zoning advocate who argued the case in front of the Supreme Court, felt zoning clarified this issue:

> "The zone plan, by comprehensively districting the whole territory of the city and finding ample space and appropriate territory tor each type of use, is decidedly more just, intelligent, and reasonable than the system, if system it can be called, of spotty ordinances and uncertain litigations about the definition of a nuisance."[8]

Two years after *Euclid v. Ambler*, the case of *Nectow v. City of Cambridge* took a different perspective, and established that a city's restriction on the use of land for industrial purposes was not proper, since the restriction did not relate to public health, safety, or general welfare.

In 1928, the Standard City Planning Enabling Act was enacted to complement the Standard State Zoning Enabling Act from six years earlier. It began to establish the link between zoning and planning, Notably, it came after the SZEA, rather than before. The policies to come out of the Planning Enabling Act included the following:

- Provided the authority for planning
- Planning was optional rather than mandatory
- Specified issues and elements local plans were required to address
- Delegated development of planning policies to a Planning Commission

The primacy of zoning

The role of planning versus zoning became a major thread of land use law in the 20th century. Which had priority, planning or zoning? Generally, it was assumed the Comprehensive Plan (otherwise called the Master Plan or General Plan) had priority, and land use regulations were created to implement the plan. This made rational sense, for the characteristics of the Comprehensive Plan included the following:

---

[8] Babcock. p. 4.

1. Plan for the physical development of a community
2. Future oriented
3. Geographically and functionally comprehensive
4. Include land use, public facilities, and circulation elements

Although the logic of having zoning regulations follow the Comprehensive Plan is inescapable, in practice that is not how it happened. In most communities, Comprehensive Plans were looked on by the public as government instilling its will on private property owners, while zoning was seen as the tool for protecting personal private property rights and property values.

It is not mere coincidence that the concept of zoning came into being at the same time suburban areas were first being developed. The construction of inter-urban transit lines and the development of the automobile allowed middle and upper class residents to leave the density and congestion of the central urban areas and buy a house on a larger lot just outside the urban fringe. These homeowners, who had just "escaped," developed a real concern that the problems of the city would follow them to their new, pristine environments. To keep this from happening, they needed to have protective regulations, and zoning provided the perfect vehicle to give this protection. Thus, in spite of how it was stated in theory, zoning's real purpose was to protect single-family homeowners and their neighborhoods. In fact, zoning has been considered by most middle and upper income homeowners as the primary method for protecting their home and property, and this has led to its incredible popularity and support.

> "No one is enthusiastic about zoning except the people. The non-people -- the professionals -- hope it gets lost. The judges find zoning a monumental bore, most lawyers consider it a nuisance, and the planners treat it as a cretinous member of the planning family about whom the less said the better."[9]

What did these homeowners want to protect their property from? Primarily, it was the threat of housing for families with incomes lower than theirs. Zoning, even in its infancy, must be seen as having been a tool of social discrimination, hidden behind the

---

[9] Babcock. p. 17.

guise of protection of property values, for its intent was to keep out as undesirables the lower income owners and tenants who remained stuck in the center city. As described in *The Politics of Land Use*,

> "The delightful part about this -- from the citizens group point of view -- is that zoning can be used by middle and upper-income neighborhoods in this manner without bringing the wrath of the moralists down on them....zoning is the real power behind planning; and it is zoning that gives teeth to planning ideals and objectives. Planning as such cannot require that land be used in a particular manner, but zoning can."[10]

In a sense, it must be seen that planning follows zoning, and gives legitimacy to it. Planning may seem more legitimate, since it can consider the broad implications of social issues and ills, and appear to accommodate the concerns of all segments of society. But planning is perceived as big on theory and concept and short on practical application. It is zoning, the behind-the-scenes tool whose importance is largely overlooked, that a community ultimately relies on for protection.

Zoning can be viewed as just one of the many tools a city has to deal with questions of land use and development, and to carry out the objectives of planning. But in essence it is just about the only effective tool a city has to deal with these agendas. To be involved with a planning commission or planning department at a local level, it becomes obvious that communities do not really plan -- they just zone. Planning may determine capital expenditure projects, and the location of public services and infrastructure, but it is zoning that defines the ultimate use of each particular parcel of developed land.

Peter Marcuse, in an article written for the APA (American Planning Association) Journal, lists a number of "critical junctures" in the history of planning where planners could have had a significant impact, but instead waived their responsibility. As he describes it, one of those key junctures took place in the 1920s, when zoning was first becoming accepted. Marcuse contends that planners defaulted by not embracing zoning, but rather seeing it as a threat to them professionally. Because of this, they

---

[10] Linowes, R. Robert and Don T. Allensworth. *The Politics of Land Use: Planning, Zoning, and the Private Developer*. New York City:Praeger Publishers, 1973. p. 61.

lost the opportunity to mold the concept of zoning to also deal with social ills, and "...reject its use to exclude the poor, blacks, or unconventional households, from entrenched residential communities, which made zoning more a tool to protect real estate values than to improve the quality of life in democratic communities."[11]

Later cases

Zoning continued to be used as a tool for protecting private property throughout the rest of this century. Later cases (*Simon* v. *Town of Needham*[12]) determined that zoning could be used to control minimum lot sizes and minimum floor sizes (*Dundee Realty Co*. v. *City of Omaha*[13]), both illustrating that zoning continued to be used to prop up property valuations.

Other cases involving land use law followed new planning initiatives. Before 1954, controls could not be put on properties on the basis only of aesthetics. Local ordinances had to establish a restriction based on an undesirable use. Any controls dealing with aesthitics had to rely on the concept of "Aesthetics Plus"—the city must have another reason for establishing controls beyond only aesthetics. In 1954, the Supreme Court changed this in its *Berman v. Parker* decision, which established the right of local government to "...tear down an old building to improve a neighborhood." This ruling established the concept that aesthetics was enough of a reason by itself. The initial application of this ruling led to the excesses of 1960s urban renewal, with city planners arguing that the demolition of older, run-down neighborhoods improved the appearance of the city. Later, however, preservationists reinterpreted this ruling to their own cause, stating that historic district ordinances could be established to protect older neighborhoods based solely on the area's visual importance to the historic fabric of the city. This became the more persuasive and pervasive argument, and the *Berman*

---

[11] Marcuse, Peter. "Who/ What Decides What Planners Do?". APA Journal, Winter 1989: 79-81.

[12] *Simon* v. *Town of Needham*, 42 NE2d 516, 1942.

[13] *Dundee Realty Co*. v. *City of Omaha*, 13 NW2d 634, 1944.

case has established the significance of aesthetic importance for historic structures, a principle that has now been well established in most communities.

Another means of protecting property values was to establish controls on the growth of communities. The growth control movement, which took hold in the 1960s and 70s, was led by communities where property values were high, and where residents wanted to limit the incursion of lower-valued land uses. In Ramapo, a suburb of New York City, such growth control was attempted through the scheduling of infrastructure improvements and the construction of public facilities. Under the new city ordinance, development permits would only be allowed as such improvements were completed, and only if five essential services were already provided. This allowed the city to manage both the size and the timing of growth. In 1970, the case *Golden v. Planning Board of the Town of Ramapo* established that such controls were constitutional, and upheld the right of the town to have growth control provisions. In practice, however, this program was not successful, for the loss of federal funds for improvements was not forthcoming, and improvements were not able to keep up with surrounding development.

One of the most significant, long-standing, and controversial land use cases in recent decades began in 1971 with *Mt. Laurel Township v. NAACP*. The action was based on a section in the New Jersey state constitution which says,

> "All persons are by nature free and independent, and have certain natural and inalienable rights, among which are those of enjoying and defending life and liberty, or acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness."[14]

The National Association for the Advancement of Colored People (NAACP) said that zoning was exclusionary as it was drawn up in Ramapo, and that it discriminated against the poor, young and old. The New Jersey Supreme Court finally decided the case four years later, in 1975, and ruled that "developing communities" should take positive steps to include realistic opportunities in their zoning ordinances for the construction of their "fair share" of housing for low and moderate income families.

---

[14] New Jersey State Constitution, Article 1, paragraph 1.

These should include multi-family housing, townhouses, smaller houses on small lots, and mobile homes. Exceptions were established for communities that were not growing or were being built on environmentally sensitive sites.

The 1975 Mt. Laurel ruling was largely ignored by communities and developers, who saw in such action a deterioration of property values. As a result, in 1978 the New Jersey Supreme Court reviewed six cases from the first decision, and in 1983 they issued a judgment, known as Mt. Laurel II, which insisted that 20 percent of new units be set aside for low and moderate income households. Under the new ruling, the court could give permission for developers to build 120 percent of their allowable number of units as set-asides to satisfy this requirement.

Communities were generally opposed to the new ruling, since it brought into their communities more than the allowable number of units. Developers didn't like it either, because higher-priced units would need to be sold at higher prices to cover the cost of the subsidized units. Mt. Laurel II led to a lot of litigation. As a result, the New Jersey Fair Housing Act of 1986 resolved the issue by establishing a Council on Affordable Housing to address the housing needs of the disadvantaged. The Council determined the low and moderate housing needs for each region, and then assigned fair share requirements for each community. This allowed newly developing communities to transfer their fair housing obligations to other urban areas within the region, where low and moderate housing needs were greater. These fees on new housing units generally were used to rehabilitate existing housing units in older urban areas.

With the Mt. Laurel decisions, the Court had established four objectives for housing in New Jersey. These objectives were:

1. Provision of affordable housing for everyone in the state
2. Access to public goods for everyone (e.g., education, environment)
3. Access to expanding employment opportunities throughout the state
4. Socioeconomic integration of municipalities

The outcome of Mt. Laurel was that it redistributed wealth from the suburbs to center cities, and encouraged more affordable housing to be built or rehabilitated than before. It also established the principle that exclusionary zoning was acceptable, as long as a

community was willing to pay the price for this exclusivity. The social outcome of Mt Laurel was that it shifted the housing emphasis from one of integration to one of finding the means to provide housing where it was most needed.

The issue of "takings"

The last major issue of land use law to be discussed in this report is the question of "takings." As stated previously, the Fifth Amendment established the principle that private property would not be "taken" for public use without just compensation. The major test of this concept was the Penn Central decision of 1978. *Penn Central Transportation Co. v. City of New York*. was significant because it dealt with the rights of owners to develop a property versus the rights of cities to review and regulate the development of a historic property. As such, this 1978 case became an important test of what constitutes a taking, and also became essentially the first Supreme Court decision dealing directly with historic preservation.

Penn Central Transportation Company, the owner of Grand Central Station in New York City, had applied for permission to construct a 55 story addition over the Grand Central Station building, which had previously been listed as a historic landmark structure. When the city denied approval, based on the structure's historic designation, Penn Central claimed a "taking" and asked the City of New York for compensation for not being able to develop its property. The case became a *cause célèbre*, with many notables, including Jackie Kennedy Onassis and architect Philip Johnson, marching in the streets to "save Grand Central."

The Court ruled that "there was no "taking," since the historic designation and resulting regulation had not transferred control of the property to the city, but had only restricted the appellants' exploitation of it. When the owners argued there had not been due process in the designatin of their building, the court respoonded that there was no denial of due process because (1) the same use of the terminal was permitted as before; (2) the appellants had not shown that they could not earn a reasonable return on their investment in the terminal itself; (3) even if the terminal proper could never operate at a reasonable profit, some of the income from Penn Central's extensive real

estate holdings in the area must realistically be imputed to the terminal; and (4) the development rights above the terminal, which were made transferable to numerous sites in the vicinity provided significant compensation for loss of rights above the terminal itself."[15] This landmark decision upheld the legitimacy of historic ordinances, and formed the legal basis for the right to establish controls to which the owners of historic properties would be subject.

With the Penn Central decision, the Supreme Court upheld the legitimacy of historic preservation ordinances, but many questions were left unanswered. Primary among these was just how far a public agency could go in limiting the rights of private owners to develop their property. Penn Central's proposal was denied because, in the Court's opinion, the company was already able to get a "reasonable return" from its property. What the Court didn't indicate was how much regulation would be considered too much.

If the owner was kept from making a "reasonable" return (in New York City a reasonable return has generally been assumed at six percent per year, although the calculation of this figure is open to argument), a "taking" could be claimed, in which case the public agency would need to compensate the owner for the loss of use of his property. A number of later court cases established the general limits of regulation before a taking could be claimed.

Later cases sometimes created more questions on this issue than they resolved. In 1980, a developer claimed a taking when the city required 5 acres in a new development be put toward an Open Space Zone. In this case, *Agins v. City of Tiburon*, the court decided it was not a taking because the developer had not filed a development plan.

The *Nollan v. California Coastal Commission* decision of 1987 looked at whether a partial taking can be claimed, or could a taking be claimed only for an owner's entire "bundle of rights." Although the state argued that a strip of land on the Nollan property was needed for a public purpose, to "protect the public's ability to see the

---

[15] *Syllabus, Penn Central Transportation Co. v. New York City*, Appeal from the Court of Appeals of New York, No. 77-444, 42 N.Y. 2d 324, 366 N.E. 2d 324, affirmed.

beach," as well as "assisting the public in overcoming the 'psychological barrier' to using the beach created by a developed shorefront," the court agreed with the owner that requiring a portion of their beachfront property be given for public access was essentially a taking, and the owner must be compensated for this portion.

Another case from the same year, *First Lutheran Church v. Los Angeles County*, said that owners should be compensated even if a taking is temporary. This case has been of special concern to municipal governments, for it left open the question of whether takings could be claimed for delays in processing, such as review, permits, zoning changes, and hearings.

Conclusion

As has been shown in the selected cases presented in this discussion, the courts have played a very active role in determining land use questions. Although they have been involved since the earliest days of colonial government, the greatest thrust of involvement began with the Standard Enabling Acts of the 1920s and the landmark *Euclid v. Ambler Realty* decision of 1926. In some cases, as in *Mt. Laurel*, the courts have been used as vehicles for establishing new principles of planning. In others, such as Penn Central, they have given definition to principles established long before.

Essentially, zoning and planning have been inextricably linked throughout this century. Although in principle, planning was to have provided the framework for land use regulations, in practice the regulations have preceded, and planners have more and more simply reacted to changes, rather than instituting them.

As I see it, the best future role for the legal system is to continue on in the way it has functioned in the past. The problem with planning in the U.S. is not in the legal system, but rather with planners themselves. Since the early part of this century, planners have stepped away from the role of providing leadership on questions of land use. They have provided the public with little vision of what better communities could be like, and they have deferred to the courts in establishing both policy and implementation. The relevant question is not what is the future role of the legal

system, but what is the appropriate future role of planners and the planning community.

Bibliography

Alexander, Ernest R. 1994. “The Non-Euclidian Mode of Planning: What Is It To Be?” *Journal of the American Planning Association*. Vol. 60, No. 3. pp. 372-373.

Black, Alan. 1968. “The Comprehensive Plan.” from *Urban Planning Theory*. Melville C. Branch (ed.). 1975. Stroudsburg, Pennsylvania: Dowden, Huchinson and Ross, Inc. pp. 219-224.

Callies, David L. and Robert H. Freilich. 1986. *Cases and Materials on Land Use*. St. Paul, Minnesota: West Publishing Company.

Dalton, Linda C. 1989. “The Limits of Regulation: Evidence from Local Plan Implementation in California.” *APA Journal*. 55:151-168. (Spring 1989).

Duerksen, Christopher J. Esq. and Richard J. Roddewig, Esq. 1995. "An Introduction to Takings Law and the Historical Background of Takings." from Internet ARIN, c/o David Socolow, *Planning Commissioners Journal Home Page*.

Friedmann, John. 1995 (orig. 1989). “Planning in the Public Domain: Discourse and Praxis.” *Classic Readings in Urban Planning*. Jay M. Stein (ed.). New York: McGraw-Hill, Inc.

Haar, Charles M. and Jerold S. Kayden. 1989. "Foreword: Zoning at Sixty—A Time for Anniversary Reckonings." from Haar and Kayden. *Zoning and the American Dream*. Chicago: Planners Press.

Hagman, Donald G. 1980. *Public Planning and Control of Urban and Land Development: Cases and Materials* (2nd edition). St. Paul, Minnesota: West Publishing Company.

Hall, Peter. 1989. “The Turbulent Eighth Decade: Challenges to American City Planning.” *Journal of the American Planning Association*. 55, 3 (Summer, 1989).

Judkins, Robert L. 1990. "The Presumption of Validity is Weakened Without Adequate Planning." *Planning and Zoning News* (August 1990). pp. 6–12.

Krueckeberg, Donald A. 1983. *Introduction to Planning History in the United States*. New Brunswick, New Jersey: The Center for Urban Policy Research.

Lai, Richard Tseng-yu. 1988. *Law in Urban Design and Planning: The Invisible Web*. New York: Van Nostrand Reinhold Company.

Landis, John D. 1992. “Do Growth Controls Work?: A New Assessment.” *Journal of the American Planning Association*. Vol. 58, No. 4. pp. 489-508.

Lucy, William H. 1994. “If Planning Includes Too Much, Maybe It Should Include More.” *Journal of the American Planning Association*, Vol. 60, No. 3 (Summer 1994). pp. 305-318.

Mandelker, Daniel R. 1988. *Land Use Law* (3nd edition). Charlottesville, Virginia: The Michie Company.

Meck, Stuart and Edith M. Netter. 1983. *A Planner's Guide to Land Use Law*. Washington, D.C.: Planners Press.

Michigan Laws Relating to Planning. East Lansing, Michigan: Michigan State University, Community Development Programs.

Paris, Chris. 1982. *Critical Readings in Planning Theory*. New York: Pergamon Press.

Schaffer, Daniel (editor). 1988. *Two Centuries of American Planning*. London: Mansell Publishing Limited.

Tyler, Norman. 1989. "The Discriminatory Implications of Zoning." An unpublished manuscript.

Wakeford, Richard. 1990. *American Development Control:Parallels and Paradoxes form an Englich Perspective*. London: HMSO.