Course goal

This is an introductory course in land use controls for planning students. The course is designed to provide an introduction to the American legal system for non-law students. As planning takes place within this system and is subject to its constraints, an understanding of how law and lawyers function is crucial to the planner. The course is also intended to provide a substantive knowledge of a particular area of law—land use controls—that most planners will encounter to some degree during the course of their careers. Finally, the course will serve as preparation for additional planning law courses in City and Regional Planning or elsewhere (but not law school).

Course Objectives

At the conclusion of this course the student should:

- Be familiar with and be able to describe the basic structure of the American legal system.

- Be able to read critically and analyze legal decisions and basic statutory materials related to the content of the course.

- Be able to draft a basic ordinance and identify potential legal issues that arise in the context of planning work.

- Understand how ordinances and regulations relate to plans

Planning Accreditation Criteria

- Social sciences (history, economics, political science) including knowledge of the societal aspects of certain land uses
- Legal studies including knowledge about constitutional rights and principles, state and local government law, administrative rules and regulations, especially those focusing on the regulation of land use and human activity

- The institutions—primarily the judicial system— that both shape and respond to plans and planning related activities: including knowledge of the economic, social and political institutions that influence planning and that are susceptible to purposeful change

- The adoption, administration and implementation of plans and related policy, including knowledge of the relevant regulations (zoning, review processes), incentives, techniques (public finance and capital budgeting) and technologies, and agencies conducting planning or employing planners.

- Knowledge of the ways in which planners and planning practice have succeeded in altering the policies, institutions, and decisions that oppose the needs of disadvantaged persons.

- Use techniques for the adoption and implementation of plans including relevant regulations, incentives, techniques and technologies.

**Course requirements**

--- **Required texts and readings**

This course will be a combination of lectures, discussion, individual and team presentations; students are responsible for all material regardless of format. The course requirements include an expectation of active participation in class discussion, based on the readings and individual research. Students will be expected to have read the assigned materials prior to the class so that they may participate in class discussions.

The primary required text is Mandelker et al., *Planning and Control of Land Development: Cases and Materials* 8th ed. (LexisNexis, 2011) (herein "DM" or “Text”). This is the primary text. Students should read and be prepared to discuss assigned cases in the book. Notes following the assigned cases should also be read, and may be discussed in class. Some of the note cases will be treated as separate cases of their own, and you may be directed to read them. There may be other cases or material, such as state court cases and statutes, not included in the text that are relevant to a particular area. For the note cases and the other cases that you are asked to read, I will let you know when you need to read more than what is in the text, and will let you know where the material can be found. Usually, additional assigned cases and material will be available on the Internet on LEXIS (accessible from the OSU Library Home Page: go to the “Research Data Bases List,” click on “L,” then “LexisNexis Academic,” then “Legal,” then “Federal & State Cases,” then search by case name or citation number). You need to use an OSU computer machine or have an OSU account to access LEXIS this way. Some cases can be found by a general internet search, but for the sake of consistency (page numbers, etc.), this is
not recommended unless LEXIS is unavailable for some reason. You need to buy and bring the text (and LEXIS cases) to class. Do not buy any earlier edition of the text.

The secondary required text is *Land Use in a Nutshell*, by John Nolon and Patricia Salkin (herein “N & R”). You will not need this book until later in the course.

There will also be links to online materials posted on Carmen or other common site. Note that not all the material presented in class will be in the readings; it is important that you attend class lectures.

--Exams and other assignments

There will be a mid-term examination and a final examination during the scheduled examination period. In addition, students will prepare one short evaluation or analysis of a case (in the book or provided by the instructor), due in mid-February, and one short legal analysis of a land use situation, due in mid-March. The mid-term will be worth 35% of the grade, the case/problem analyses will be worth 10% of the course grade, and the final examination will be worth 35%. The mid-term will take place during the week of March 9. Working in teams of two or individually, and in consultation with the instructor, students will be responsible for presenting and explaining one case (from the text) or land use concept to the class. This exercise is basically pass/fail, but will be worth 10% of the grade. This will occur after Spring Break.

Grading will be designed to measure how well the student satisfies the objectives of the course, and understands the material. Students must attend the examinations when scheduled. Exceptions will be made only for serious circumstances in the sole discretion of the instructor. There will be no grading curve in the class. If you are encountering circumstances beyond your control that may prevent you from performing in the class, or if you are in fear of failing the course, please see the instructor as soon as possible to discuss options; do not wait.

All grading will be done as fairly and as consistently as is reasonably possible. Lateness in submitting assignments is not acceptable. In some cases, however, there are extenuating circumstances that may lead to a late assignment. Requests to turn in an assignment late must be made in advance, in writing. Requests will considered on a case-by-case basis, and extra work may be assigned. Only those students whom the instructor deems to have legitimate external issues will be given opportunity to make up projects.
--Grading scale

A = >93, A- = 90-92.99
B+ = 87-89.99, B = 83-86.99 B- = 80-82.99
C+ = 77-79.99, C = 73-76.99, C- = 70-72.99
E = < 60.

Students who are persistently unprepared, late, or absent may, after appropriate warning, have final grades reduced by up to two grade increments (e.g. B+ to B-).

--Appeal of Grade

Students wishing to appeal the grading of an assignment must make the appeal in writing within 5 calendar days after an assignment/exam is returned. As per University policy, you have one term to appeal a final grade.

Course Policies

Students are reminded that plagiarism is a serious offense. All students are held responsible for knowing and abiding by the Department’s policies on plagiarism and the University’s policies on academic misconduct. These have been distributed to all CRP students. If you have not received a copy, please obtain one from the graduate studies office on the first floor of Knowlton Hall. Students are encouraged to share ideas in intellectual discussions relating to the class. However, all assignments (exercises, papers, projects) must include proper citations within the text and proper references/bibliographies at the end. This is a critical component of any scholarly writing effort as well as any effort that uses other sources of information. Violations fall under academic misconduct regulations and can result in dismissal from the program and the University. If you do not know proper citation procedures, contact the OSU Center for the Study and Teaching of Writing (http://www.cstw.osu.edu/writingcenter). You may also see me during office hours.

Statement on Academic Misconduct

It is the responsibility of the Committee on Academic Misconduct to investigate or establish procedures for the investigation of all reported cases of student academic misconduct. The term “academic misconduct” includes all forms of student academic misconduct wherever committed; illustrated by, but not limited to, cases of plagiarism and dishonest practices in connection with examinations. Instructors shall report all instances of alleged academic misconduct to the Committee (Faculty Rule 3335-5-487). For additional information, see the Code of Student Conduct, http://studentlife.osu.edu/csc/.
Course Communication

Initially, the primary means of communication about the course will be via e-mail to the class roster. My e-mail address is oast.1@osu.edu. Carmen will be the primary repository for information about the class, including class announcements, assignments, submission deadlines, and similar information.

This course will also make use of our library and digital media. You will likely rely heavily on online information which provides additional insights into classroom lectures; supplemental information will also be provided as possible from these resources. Students also will be expected to conduct much of the background research for the group project on their own time using digital resources available from the OSU Libraries web site and official governmental websites, including Ohio LINK.

ADA Policy Statement

The Americans with Disabilities Act (ADA) is a federal anti-discrimination statute that provides comprehensive civil rights protection for persons with disabilities. Among other things, this legislation requires that all students with disabilities be guaranteed a learning environment that provides for reasonable accommodation of their disabilities. Professors rely on the Office for Disability Services for assistance in verifying the need for accommodations and developing accommodation strategies.

Students with disabilities that have been certified by the Office for Disability Services will be appropriately accommodated and should inform the instructor as soon as possible of their needs. The Office for Disability Services is located in 150 Pomerene Hall, 1760 Neil Avenue; telephone (614) 292-3307, TDD (614) 292-0901; http://www.ods.ohio-state.edu/.

Sexual Harassment

OSU's Sexual Harassment policy, which applies to all faculty, staff, and students, includes lewd remarks and inappropriate comments made in the classroom and computer labs as well as the "display of inappropriate sexually oriented materials in a location where others can see it." Additionally, while you may wish to share with other students not in the class the topics you are studying, make sure that you are conscious of other students and what they may deem as appropriate discussion. Students can file a complaint by contacting Student Judicial Affairs at 292-0748. Sanctions for violating the Sexual Harassment Policy range from reprimand to suspension or dismissal from OSU.
Outline of Topics and Schedule (subject to adjustment, with notice)

After an introduction to and overview of the America legal system, the course will follow the basic structure of the Mandelker text, with some use of the Nolon and Salkin text in the second part of the course.

Readings
All cases and text material listed should be read. Time may not permit discussion of all cases in class. Notes after assigned cases should also be read along with the cases. The following schedule is approximate. Substitutions may be made where there are cases not in the text that better illustrate certain concepts.

Introduction and overview (all page and case references are to the Mandelker text unless otherwise noted)

Week #1 January 13 and 15
--The American legal system
Text 33-61

Week #2 January 20 and 22
--American legal system cont’d

Major Constitutional Issues

--Nuisance

Week #3 Jan 27 and 29

--Eminent Domain

Text 74-75
Berman v. Parker (U.S. 1954) LEXIS.
Kelo v. City of New London, Text at 76.
Regulatory Takings

Week # 4  Feb 3 and 5

--The legal foundations of land use regulation
Text 86-88
Village of Euclid v. Ambler Realty Co. (U.S.1926). Text at 93, 97, 98.
Text 104-108.

Week # 5  Feb 10 and 12

--Refining the takings analysis

Text 153-160.

Week # 6  Feb 17 and 19

Text 706-710. 4
Text 723-728.

Week # 7  Feb 24 and 26

--Redefining taking

First English Evangelical Lutheran Church of Glendale v. County of Los Angeles
(U.S. 1987). Text at 133.
Tahoe-Sierra Preservation Council Inc. v. Tahoe Regional Planning Agency. Text at 160. See Text
555-558.

Week # 8  March 3 and 5

Text 180-188.
--Recent cases

Arkansas Game and Fish Commission, 133 Sup. Ct. 511 (2012). LEXIS.

Week # 9  March 10 and 12

Catch up and review, and mid-term (March 12)
Spring Break March 16 – 20

The importance of the plan

Week # 10  March 24 and 26

Text at 223-226.
Text 228-234.
Bd. Of County Commissioners of Brevard County v. Snyder (Fla. 1993).
Text at 606.
Text 614-618

Zoning ordinances and regulation of land use

Week # 11  March 31 and April 2

-- Non-conforming Uses
Test 354-355.

--Residential Use Classifications
Text 270-271.
Text 279-287.
Text 198-199.
Text 303-312.
Week # 12  April 7 and 9

--Commercial and Industrial Uses
Text 322-326.
Hernandez v. City of Hanford (Cal. 2007). Text at 326.

--Exclusionary and Inclusionary Zoning
Text 476-502.

Flexible Regulatory Techniques

Week # 13 April 14 and 16

Text 537-539.

--Variance
Text 563-568
Ziervogel v. Washington Co. Board of Adjustment (Wis. 2004) Text at 569

--Conditional Use
Text 577-585

--Zoning amendment, estoppel and vested rights.
Text 585-586

--Spot zoning
Kuehne v. Town of East Hartford (Conn. 1950). Text at 598, and notes following.

--Floating and conditional zones
Text 626-628.
Development Controls

Week # 14  April 21 and 23

--Subdivisions
Text at 681-697.

--Dedications, exactions and impact fees
Text at 706-710.
Reread Dolan v. City of Tigard, Text at 710 and Text 723-728.
Text at 734-739.
Text at 743-747.

--Planned Developments
Text 747-751
Text 758-765

--Phased development/Public services and facilities control.

Special problems, catch-up and review.

Final Exam: