

**SAN JOSE STATE UNIVERSITY
DEPARTMENT OF URBAN AND REGIONAL PLANNING**

SYLLABUS

Urban and Regional Planning 229: Planning and Environmental Law

FALL 2007

Wednesday: 4:00 - 6:45
Room SH 410 Wed.

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Office Hours: Wednesday, after class at the URBP office.

URBP 229. Planning and Environmental Law

The role of public law in meeting problems of urban growth and environmental change; legal aspects of preparing and administering planning controls and incentives; the law of real property with respect to the planning process.

Academic Integrity Statement (from the Office of Student Conduct and Ethical Development): “Your own commitment to learning, as evidenced by your enrollment at San José State University, and the University’s Academic Integrity Policy requires you to be honest in all your academic course work. Faculty members are required to report all infractions to the Office of Student Conduct and Ethical Development. The policy on academic integrity can be found at http://sa.sjsu.edu/student_conduct.”

GOALS, OBJECTIVES AND METHODOLOGY

The purpose of this course is to give the student a practical and usable understanding of the legal underpinnings of most of the laws regulating land use in the state of California. The course will include an overview of California Zoning and General Plan law, as well as other laws which implicate the land use planning process. The course will also explore the challenge of

balancing land use prescriptions designed for the public good, against private property rights and other constitutional considerations. The goal here is not simply to teach what the law is, but, more

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significantly, to impart to the student a method of analysis for determining consistency of a particular ordinance, application, or plan with applicable legal principals and laws. Students should come away not just knowing what the law is, but understanding how to determine what legal issues and challenges may be presented by a wide range of planning scenarios which he or she will face in the course of a career.

Course work will focus on review of statutory authority for various land use and planning regulations, and on case law interpreting and applying these laws. Students will be provided with reading materials comprised caselaw excerpts. Each of the assigned cases deal with the application or misapplication of planning and land use laws in the context of real life planning and entitlement scenarios. Students are also encouraged to purchase *Cutins' California Land Use and Planning Law* by Daniel J. Curtin. While this is not required reading, it is an extremely helpful source book which augments our course work nicely. Additional materials will be provided in the form of handouts dealing with the various sections.

Students should come to class well prepared to answer questions dealing with the assigned material. Lectures will be liberally interspersed with questions to students, asking them to apply authorities under consideration to hypothetical factual scenarios.

Grading will be determined by the following factors:

Mid-term paper:	30%
Final paper:	45%
Class participation:	25%

The Mid-term and the Final are to be completed alone, and without help or consultation with other students or individuals. The Mid-terms and Final will deal with of 2-3 hypothetical planning scenarios which present multiple legal issues. The hypotheticals will be handed out in class, and completed at home. The mid-term will be sent home after the ninth week.

Each week, I will select students to brief each of the cases assigned for the next week. The briefings will be in class, and represent 15 percent of your class participation grade.

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**CLASS SCHEDULE
And Readings
(Subject to Change)**

Week 1

**The Legal System: An introduction to the law of regulation.
Finding, Reading, and Understanding the law: Some Basics**

Week 2

The Police Power: The basis of all land use regulation.

Village of Belle Terre v. Boraas 416 U.S. 1 (1971)
Village of Euclid v. Amber Realty Corp., 272 U.S. 365 (1926)
Metromedia Inc. v. City of San Diego 26 C3d 848 (1980)
Associated Homebuilders Inc. v. City of Livermore, 18 C3d 582, (1976)

Weeks 3 & 4

The General Plan: The Constitution of all local land use planning.

Cal. Gov't Code Section 65300, et seq.

Authority and Purpose

Leshar Communications Inc. v. City of Walnut Creek 52 C3d 531 (1990)
DeBottari v. City Council, 171 CA3d 1204 (1975)

Required Elements

Cal. Gov't Code Section 65302
Twain Harte Homeowner's Assn. V. County of Tuolumne (1982) 138 CA3d 664
Concerned Citizens of Calaveras County v. Board of Supervisors (1985) 166 CA3d

90

Adequacy

Cal Gov't Code Section 65358 and 65359
Garat v. City of Riverside, 2 CA4th 259 (1992)

Application

Sequoyah Hills Homowners Assn. v. City of Oakland (1994) 23 Cal.App.4th 704

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Weeks 5 – 6

Zoning: Land use prescriptions for the general welfare.

Cal. Gov't Code Section 65800, et seq.

Application to Charter Cities

Cal Gov't Code Section 65860(d)

Arnel Dev. Co. v. City of Costa Mesa 28 CA3d 511 (1980)

Carty v. City of Ojai, 77 CA3d 329, (1978)

Ewing v. Carmel-By-The-Sea, 234 C3d 1579 (1991)

City of Santa Cruz v. Superior Court, 40 CA4th 1146 (1995)

Novi v. Pacifica, 169 CA3d 678 (1985)

Due Process Considerations

Cal Gov't Code Sections 65850 – 65858

Non-Conforming Uses

Livingston Rock Etc. v. County of L.A. 43 2d 121 (1954)

Variances

Gov't Code Sections 65906, 65852.1

Orinda Association v. Board of Supervisors, 182 CA3d 1145

Conditional Use Permits

Cal Gov't Code Section 65901

Concerned Citizens of Palm Desert, Inc. v. Board of Supervisors 38 CA3d 257 (1974)

Van Sicklen v. Browne, 15 CA3d 122 (1971)

Anza Parking Corp v. City of Burlingame, 195 CA3d 122 (1971)

Weeks 7-8

The California Environmental Quality Act: Public Disclosure and Informed Decision Making.

California Public Resources Code Section 21000, et seq., 14 California Code of Regulations Section 15000, et seq. (CEQA Guidelines)

CEQA Primer

Laurel Heights Improvement Association v. Regents of the University of California, 47 CA3d 376 (1989)

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City of Carmel-By-The-Sea v. Board of Supervisors 183 CA3d 29 (1986)

Pocket Protectors v. City of Sacramento (December 1, 2004)

Santiago Water District v. County of Orange 118 CA3d 818 (1981)

Western States Petroleum Assn. v. Superior Court, 9 C4th 559 (1995)

Kings County Farm Bureau v. City of Hanford, 221 CA3d 692 (1990)

Week 9

Interim Ordinances and Moratoria

Gov't Code Section 65858

Building Industry Legal Defense Fund v. Superior Court 72 CA4th 1410 (1999)

First Evangelical Lutheran Church v. County of L.A. 482 U.S. 304 (1987)

Week 10

The Subdivision Map Act: Regulation, design and control of land divisions.

Gov't Code Section 66400, et seq.

Horn v. County of Ventura 24 C3d 605 (1979)

Youngblood v. Board of Supervisors 24 C3d 644 (1979)

Knoell v. City of Lompoc, 195 CA3d 378 (1987)

Griffis v. County of Mono, 163 CA3d 414 (1985)

Real Property Journal: Avoiding New and Old Procedural Pitfalls

Week 11

Vested Rights and Due Process

Malibu Mountains Recreation Inc. v. County of L.A. 67 CA4th 359 (1998)

Avco Community Developers, Inc. v. South Coast Regional Commission, 17 C3d 785 (1976)

Development Agreements

Gov't Code Sections 65864-65867

Edelstein, *Development Agreement Practice*...22 Stetson L. Rev. 761 (1993)

Fair Play

Clark v. City of Hermosa Beach 48 CA4th 1152

Weeks 12 - 13

Inverse Condemnation, Takings and Exactions

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Agins v. City of Tiburon 24 C3d 266, (1979)

San Diego Gas and Electric v. City of San Diego, 450 U.S. 621 (1981)

Lake Nacimiento Ranch Co. v. County of San Luis Obispo, 830 F2d 977 (1987)

Elison v. County of Ventura, 217 CA3d 455 (1990)

Lucas v. South Carolina Coastal Council, 505 U.S. 1003 (1992)

Dolan v. City of Tigard, 512 U.S. 374 (1994)

Erlich v. City of Culver, 12 C4th 854 (1994)

Weeks 14 - 15

Annexations and Redevelopment

Health and Safety Code Sections 33300, et seq.

Gov't Code Sections 54900, et seq.

Kehoe v. City of Berkeley (1977)67 CA3d 666

Daniel Curtin, *Curtin's California Land Use and Planning Law*, Chapter 16, "LAFCO's".