

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

SYLLABUS

Urban and Regional Planning 275: Conflict Resolution in Land Use and Planning

FALL, 2007

Day: Monday

Time: 4:00 – 6:45

Place: BBC 128

Instructor: Keith A. Sugar
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Efficient and constructive conflict resolution is at the heart of planning as a discipline. Planning and the entitlement process are increasingly circumscribed by environmental and resource constraints. These limitations invariably result in tension between those who want to exploit or develop these resources, and those who want to conserve them in the name of aesthetics, bio-diversity, quality of life, or health and safety. Often developers place a high value on the preservation of these attributes, and at times, the parlance of preservation is used in the name of self serving NIMBYism. Nevertheless, the tension between land use and economic development, on the one hand, and conservation of diminishing resources on the other makes conflict in connection with most planning and use efforts inevitable.

In this class, we will study the dynamics of land use conflicts and the role of conflict in the planning and entitlement process. The class will include reading and discussion regarding the nature of land use disputes and about how to manage conflicts in order to optimize one's own interests and objectives.

Students will have an opportunity to examine actual planning and development projects, and to apply what they learn in class to these projects. Students will be asked to share their analysis and suggestions for the management of these conflicts. We will be introduced to case studies in which students will be asked to assume the roles of stakeholders, decision makers, advocates and mediators. We will thus examine conflict from a number of essential perspectives. Finally, we will examine the role of advocacy and activism in land use conflicts and decision making.

The class will also feature prominent guest lecturers with expertise and experience in land use dispute resolution and advocacy. Speakers and time will be announced at a later date.

The class will be graded as follows

Class Participation (includes class participation in general and performance in case studies and role play):	30%
Mid Term	30%
Final	40%

The assigned reading for this class will be selected portions of *Getting to Yes*, Fisher, Ury and Patterson. Readings will also include excerpts (provided by the instructor) from *The Limitless City*, by Oliver Gillham, and *The Geography of Nowhere*, by James Kunstler, as well as various articles.

CLASS SCHEDULE

WEEK 1

Class Overview

- Nature of the resource
- The interests at stake.
- ROI v. externalities and intangible costs
- The decision making apparatus
- Law and politics of land use
- Harvard Project conflict resolution
- 12 Angry Men

Read *Geography of Nowhere*, p 9-15, 113-131

WEEK 2

Environmental and social impacts of land use and development.

- Quality of life and environmental issues raised by local land use decisions.
- Overview of the police powers doctrine and the Fifth Amendment: regulatory imperatives v. property rights.

Read *City of Euclid v. Ambler*

WEEK 3

Continue discussion of the laws governing land use decision making
Discussion: How do these laws facilitate/impair resolution of land use disputes?
How Land use Conflicts can lead to sound planning.

Read *The Limitless City* pp. 69-81

WEEK 4

The administration of land use entitlements
Engaging local decision makers
Building the administrative record
Appearing before administrative agencies
The role and function of discretion.

Read *Getting to Yes*, pp 1-14

WEEK 5

Fighting with v. working with City Hall. Working with legislative bodies.
Land use dispute resolution through litigation.
Distinguishing bad conflict from good conflict
More on the use of administrative records.
Introduction to the Harvard Project on Conflict Resolution

WEEK 6

Principled Negotiation. Critique approach of The Authors of *Getting to Yes*.
Wise Agreements. Poor negotiation techniques. Worse negotiation techniques.
Use of pre-planning to avoid confrontation later on

Read *Getting to Yes*, pp 40-55

WEEK 7

Interests v. Positions. Identification of stakeholders. Political and practical implications of engaging the opposition. Consideration of methodology for identifying potential stake holders ;matching interests with stake holders

Read Getting to Yes, 17-39

WEEK 8

MID TERM

WEEK 9

Relationships and interaction. Posturing and its outcomes. Building trust and the role of good will. Helping each side to identify interests and to distinguish from positions. Means of determining when ADR won't work.

Read Getting to Yes, pp 56-81

WEEK 10

Creating Options. Brainstorming creative alternatives and the role of CEQA. Litigation as an alternative. Using Objective Criteria. Agreement on benchmarks and performance. Maintenance of good will.

WEEK 11

Discussion of Best Alternative to Negotiated Settlement (BATNA) Recognizing degrees of intractability.

WEEK 12

Politics and activism. Addressing the interests of stakeholders in the context of local politics and relationships. Persuasion and activism and the role of the elected official/professional planner

WEEK 13

Case studies and Simulations/role play

WEEK 14

Case studies and Simulations/role play