

SAN JOSÉ STATE UNIVERSITY
DEPARTMENT OF URBAN AND REGIONAL PLANNING
URBP 225-02/ENVS 136-02 Land Use & Planning Law
FALL 2022

Course and Contact Information

Instructor: **Jeffrey B. Hare**
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Telephone: **408-391-8321 (Voicemail)**
Email: **Jeffrey.Hare@sjsu.edu**
Office Hours: **3:30 – 4:30 p.m. Thursdays, Clarke 243 or by Appointment (Online)**
Class Days/Time: **Thursday 4:30 – 7:15 p.m.**
Classroom: **CLARKE 243**
Class Website: **Canvas**
Units: **URBP 225-02/ENVS 136-02: 4 Units**

Course Description

URBP 225: Study of contemporary growth and land use management techniques used by local, state and federal governments. Examination of the role of public law in addressing urban growth and environmental change issues, and the legal aspects of preparing and administering planning controls and incentives.

Course Overview

This course is a broad survey style course with a focus on California land use and planning law and its application to both development and governmental regulatory decisions. It is intended to provide a practical and topical perspective for planners on both sides of the counter, including subjects such as entitlements, fees, exactions, environmental review, zoning, and policy. Through this course, students will explore issues related to housing and commercial development

well as assigned court rulings and legislative measures. Students will be expected to submit questions each week for class discussion based on the assigned reading, and make presentations based on the court rulings. Students are encouraged to bring their own experience and backgrounds into the discussion.

Course grades will be based primarily on completion of a series of assignments and a final paper, which will be submitted using Canvas. Two of the assignments will involve “attending” a public hearing involving a land use matter and submitting a report on what occurred. Students will be expected to review the agenda materials, and observe the public comments and debate among the decision-makers. “Attending” the public hearing may be done in person or online. One assignment will involve reviewing two court rulings that have to do with land use, and making a (brief) presentation to the class about one of the cases. Another assignment involves doing research into a current or recent legislative matter involving land use and submitting a brief report. The final assignment will involve writing a report about a real-world development project. Students will be provided with information about the project, and be expected to use their knowledge and materials from the class to prepare and write an objective analysis about the proposed project.

Course Textbook and other Materials

Textbook and Required Reading

Barclay, Cecily (2020) *California Land Use and Planning Law* 8th Edition. Point Arena: Solano Press. May only be available as Kindle e-book. Some printed copies of the 37th Edition may be available at SJSU Bookstore and Solano.com.

Rothstein, *The Color of Law*, © 2017, Liveright Publishing Company; Available at SJSU bookstore, as a Kindle e-book, and through Amazon and other sources.

Other Readings

Land use and planning issues are constantly the subject of public hearings, legislative actions, ballot measures, court decisions, and in the public discourse, especially in the area of various measures to address concerns about affordable housing, sustainable development, and the impact of climate change on the urban environment. In addition to assigned articles, case law and legislative matters, student6 (r)utud52 (n)lle a (ma)6 (te)6 (u)2 (k)2 (k)2 ()-1(t6 (r)utu)2e (J)-1 (u3 (e)6 (ma)69

Other technology requirements

Students should have access to and be able to use computer technology for purposes of accessing the Canvas Learning Management System, as well as to virtually attend online public hearings, and conduct online research from databases which are available through the University, including but not limited to online legal and legislative databases. Students will be expected to be able to receive and submit Assignments via Canvas. In addition, in the event the in-person format for the class has to switch to an online format, students will be expected to have the ability to participate virtually in the class (i.e., Zoom).

Library Liaison

The SJSU Library Liaison for the Urban and Regional Planning Department is Ms. Peggy Cabrera. If you have questions, you can contact her at peggy.cabrera@sjsu.edu or 408-808-2034.

Course Learning Outcomes (CLO)

Upon successful completion of this course, students will be able to:

1. Explain to the public the contexts in which planning takes place and the principles and processes by which plans are made and implemented. Recognize both public- and private-sector stakeholders and their interests in the planning processes.
2. Describe the fundamental growth and land use management controls, the interrelationships of these tools (e.g., general plan, zoning, and permitting).
3. Determine whether a proposed project, permit, or other land use action is ministerial or discretionary, and also whether it is quasi-judicial or legislative.
4. Determine whether the major components of land use and development proposals comply with a jurisdiction's planning policy framework (i.e., general plan, zoning ordinance, design guidelines, environmental legislation, etc.).
5. Explain the role of the California Environmental Quality Act (CEQA) in land use planning, policy and development and how it impacts the urban and regional development processes.
6. Explain the implications of major legal precedents including, but not limited to:

Village of Euclid v. Ambler Realty (1926); Penn Central Transp. v. New York City (1978); Friends of Mammoth v. Mono County (1972); First English v. Los Angeles County (1987); Friends of Westwood v. City of Los Angeles (1987); Laurel Heights Improvement Assn. v. Regents of the UC (1988); Nollan v. Calif. Coastal Comm. (1987); Dolan v. City of Tigard (1994); Ehrlich v. City of Culver City (1996); Tahoe Sierra Preservation Council v. Tahoe Regional Planning Agency (2002); BIA v. BAAQMD (2015); and other cases as assigned.

3. (b) Governance and Participation: appreciation of the roles of officials, stakeholders, and community members in planned change.

(c) Sustainability and Environmental Quality: appreciation of natural resource and pollution control factors in planning and understanding of how to create sustainable futures.

Here is an updated link to the Knowledge Components

<https://www.sjsu.edu/urbanplanning/graduate-programs/masters-in-urban-planning/pab-knowledge.php>

Course Requirements and Assignments (All assignments submitted via Canvas).

Assignment #1: Personal Objective; Identify Your Community. Describe your objectives for this course, your academic goal at SJSU, and a brief summary of your academic and professional background. Identify the community you call “home.” This may be a City, or a neighborhood where you were raised, or where you currently live. Describe what you consider the **three (3) biggest challenges** facing your community. **Select one** of these challenges and briefly describe what is being done, if you know, to address that challenge. Discuss whether you

Assignment #4: Statutory Analysis. Court decisions often arise in response or a challenge to a land use issue. The Court’s ruling, in turn, often leads to a demand for legislative action: a new statute or law. This occurs on both the local and state level, and sometimes on a federal (Congressional) level. In this assignment, you will be tasked to review and analyze an assigned California statute. You will learn how to research the legislative history, understand the issues the legislation is attempting to address, and determine where the statute (or the amendment to an existing statute) fits within the structure of California land use and planning laws. **(Submit responses to specific questions about the statute; Total possible points: 15.0).**

Assignment #5 Attend Public Hearing; Analyze Staff Report. In Assignment #2, you were asked to locate and attend a public hearing involving a land use matter that you selected, and report what happened. In this assignment, you will be assigned to attend a specific public hearing, and analyze the Staff Report or Memorandum, using the criteria to be provided. In this case, you will be expected to do a more in-depth analysis of how the public hearing was influenced or affected by the Staff Report (if at all), and explain what role the Staff Report and staff’s recommendations played in the outcome. Take note of the process by which the public hearing is conducted – who makes the initial presentation, public comments, discussion and debate among the public officials, and then the final vote or other action taken on the matter. **(Submit report responding to specific questions about the hearing; Total possible points: 15.0. Engagement Unit.)**

Assignment #6: Analysis of Staff Report or Memorandum. As you’ve come to recognize, one of the key roles played by the planner, whether working for a government entity or a private developer, is to assist in the preparation of what is known as the “Staff Report” or “Staff Memorandum.” The primary purpose of the Staff Report or Memorandum is to provide the elected or appointed decision-makers (City Council members, Planning Commissioners, Planning Director, etc.), as well as members of the public, with a comprehensive, accurate and objective analysis of a proposed land use project that requires approval by that decision-making body. The Staff Report contains a review of the project, the setting, and a detailed explanation of the specific land use and regulatory elements that need to be reviewed as part of the approval process. The Staff Report usually also includes a summary of the alternative options the decision-makers can vote on, based on the applicable land use and planning laws, and sometimes includes a recommendations by Staff. **For this assignment, you will be provided with a Staff Report for a specific land use project, along with some specific questions that will require a detailed analysis of the Staff Report. Total possible points: 15.0)**

Final Assignment:

Assignment #7: Final Paper. For the final assignment, the class will be introduced to a new, real-world development project that is in the process of being submitted to a local jurisdiction for land use approval. If possible, the project developer will be invited to make a presentation to the class about the project, and will supply some of the key elements about the project. Students will have the opportunity to ask questions and do any additional research about the project. Students will then prepare and submit a Staff Report addressed to the decision-making body as if they were the assigned planner for the local planning agency. **Using the**

materials covered in class and the textbook, as well as any additional information obtained through independent research, students will be expected to identify the key land use issues, discuss how the project is affected by existing land use and planning laws and guidelines, and write a Staff Report. Specific details about the assignment will be provided later.

ALL ASSIGNMENTS ARE TO BE SUBMITTED VIA CANVAS. LATE SUBMITTALS WILL BE SUBJECT UP TO A 50% GRADE PENALTY. NO ASSIGNMENTS WILL BE ACCEPTED MORE THAN 24 HOURS AFTER DEADLINE BASED ON CANVAS

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#5:	Attend Hearing; Staff Report Analysis (Engagement).	15%	1,2,3,4,5,7,11,15
#6:	Staff Report; Detailed Analysis	15%	3,4,5,9,12,15,16
#7:	Final Paper	20%	1,2,3,7,9,8,15,16
Class Participation (Participation, Discussion Topics):		5%	1,2,6,9,12,13
Total		100%	

Late or Missed Assignments

Students are provided ample time to complete each assignment, and are expected to manage their schedule and workload accordingly. Therefore, as a standard policy, late submittals will be subject to up to a 50% grade penalty. No assignments will be accepted more than 24 HOURS AFTER THE CANVAS TIMESTAMP DEADLINE. Exceptions due to extraordinary circumstances (i.e., Canvas is down; health emergencies) will be considered on a case-by-case basis.

Classroom Protocol

This course will consist of a lecture/seminar format. It is expected that students will read all assigned readings before class so that they can actively participate in class discussions. **Students will be required to submit one or two discussion topics based on the assigned reading, and may be called upon to lead a brief discussion on the topic or question raised.** Students are expected to complete the assigned reading materials, and apply this information to the various assignments, whether or not the assigned material in the textbook was covered or discussed in class.

Recordings Not Permitted

Students are not allowed to record. Students are prohibited from recording class activities (including class lectures, office hours, advising sessions, etc.), distributing class recordings, or posting class recordings. Materials created by the instructor for the course (syllabi, lectures and lecture notes, presentations, etc.) are copyrighted by the instructor. This university policy (S12-7) is in place to protect the privacy of students in the course, as well

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- Using a sentence (or even a part of a sentence) that someone else wrote without identifying the language as a quote by putting the text in quote marks and referencing the source.
- Paraphrasing somebody else's theory or idea without referencing the source.
- Using a picture or table from a webpage or book without reference the source.
- Using data some other person or organization has collected without referencing the source.

If you still have questions, feel free to talk to me personally.

Citation Style

It is important to properly cite any references you use in your assignments. The Department of Urban and Regional Planning uses the Chicago Manual of Style. See Kate Turabian's *A Manual for Writers of Research Papers, Theses, and Dissertations*, 6th edition (University of Chicago Press, 2013, ISBN 780226816388). For details and some quick tips, see the following links:

<https://www.chicagomanualofstyle.org/turabian/citation-guide.html>

<https://www.chicagomanualofstyle.org/turabian/Student-Tip-Sheets.html>

IMPORTANT: In your assignments, especially when submitted through Canvas, please minimize the use of links, and instead provide a brief summary (in a footnote or the body of your paper), of the information you want the reader to see. You may always provide a link to a source in addition to your description or summary. Also, make certain that your links are accurate.

Accommodation for Disabilities

If you need course adaptations or accommodations because of a disability, or if you need to make special arrangements in case the building must be evacuated, please make an appointment with me as soon as possible, or see me during office hours. Presidential Directive 97-03 at http://www.sjsu.edu/president/docs/directives/PD_1997-03.pdf requires that students with disabilities requesting accommodations must register with the Accessible Education Center (AEC) at <http://www.sjsu.edu/aec> to establish a record of their disability.

SJSU Writing Center

The SJSU Writing Center is located in Clark Hall, Suite 126. All Writing Specialists have gone through a rigorous hiring process, and they are well trained to assist all students at all levels within all disciplines to become better writers. In addition to one-on-one tutoring services, the Writing Center also offers workshops every semester on a variety of writing topics. To make an appointment or to refer to the numerous online resources offered through the Writing Center, visit the Writing Center website at <http://www.sjsu.edu/writingcenter>.

SJSU Counseling and Psychological Services

The SJSU Counseling and Psychological Services is located on the corner of 7th Street and San Fernando Street, in Room 201, Administration Building. Professional psychologists, social workers, and counselors are available to provide consultations on issues of student mental health,

campus climate or psychological and academic issues on an individual, couple, or group basis. To schedule an appointment or learn more information, visit Counseling and Psychological Services website at <http://www.sjsu.edu/counseling>.

ADDITIONAL INFORMATION ABOUT READING ASSIGNMENTS

Land use and planning is a dynamic, ever-changing and at times, a very controversial topic that impacts both our professional and personal lives. During the course of the semester, we can expect to see new statutes, court decisions, and local government actions on topics such as housing policy, commercial developments, transportation issues, and other projects that will be part of the discussion in class, and possibly be the subject of one or more of the Assignments. The assigned reading in the Textbook, as well as additional assigned reading (usually posted on Canvas), is intended and designed to provide you with the background information and context. The lectures are intended to highlight some of the key factors and provide a basis for classroom discussion of these issues. The more time you devote to reading and comprehending the assigned reading, the more prepared you will be to participate in classroom discussions, and the more prepared you will be if you are pursuing a professional career in the area of land use and planning.

READ AHEAD; SUBMIT QUESTIONS: Each student is asked to email a question to me

