

UrbDP 580: Legal and Administrative Framework for Planning

Syllabus

Spring Quarter, 2019
Monday & Wednesday, 8:30 – 9:50 am
Gould Hall, Room 322

Instructors

Chuck Wolfe, Esq.

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Overview

The course is designed to provide the practicing planner with a background in the essentials of land use and environmental law, with an emphasis on recent Washington State developments.

Readings

The class has two required textbooks:

- Daniel R. Mandelker, et al., *Planning and Control of Land Development: Cases and Materials* (9th ed., 2016).
- Charles R. Wolfe, *Urbanism Without Effort* (rev. ed., 2019).

These are available at the University Bookstore and elsewhere. Be sure to purchase or rent the correct edition. Additional assigned readings will be available in PDF format on the class website. Specific reading assignments are indicated on the schedule below; you are expected to complete each reading *before* the class in which it is assigned.

Optional readings for this course include *Seeing the Better City* by Charles R. Wolfe, available at the University Bookstore or electronically through Amazon, Nook, iTunes etc. Placemakers, a new urbanist planning firm, has developed a suggested reading list for those interested in new urbanism, particularly in the theory and implementation of placemaking. This extensive list of suggested material can be found on the firm's website (<http://www.placemakers.com/how-we-teach/recommended-reading/>)

Assignments and Grading

The following will determine your grade for the class:

Midterm Project	40%
Final Exam	40%
Case Briefs	10%
Class Contribution	10%

Midterm Project

The midterm is a group project including a written report and an in-class presentation. Team assignments and project instructions will be given in class during Week 3. Before then, you will be asked to complete a brief survey of skills and experiences to help the instructors create balanced teams. The project will require the creation of a deliverable document with each team member responsible for a discrete one-page section. Your work will be based on concepts and cases discussed in class through Week 5. Teams will present their work during Week 6 class periods. Documents from all teams will be due at 5pm on the Sunday before the week of presentations.

Final Examination

The final exam will be from 8:30 to 10:20am on Tuesday, June 11, in Gould 322. You will be allowed to bring your textbook, class handouts, and case briefs that *you* have produced into the examination room. Additional details on the final format will be provided in May.

Case Briefs

All students are required to submit three case briefs. A case brief is a short (1-page) summary of the key issues and implications of a court case. Specific guidance on the format and expectations for case briefs will be provided in class. You may not brief *Penn Central*, and you may not brief cases from reading assignments marked "skim." Otherwise, you may choose any case from the readings assigned within the date ranges specified for each of the three briefs:

- Case Brief #1, from reading assigned for April 8 – April 15
- Case Brief #2, from reading assigned for April 17 – April 29
- Case Brief #3, from reading assigned for May 1 – May 29

Case briefs are due at 8pm on the evening *before* the class in which the case is assigned. Briefs submitted for cases that have already been discussed in class will not be accepted.

Class Contribution

Class contribution will be evaluated based on your active engagement in class: listening attentively to instructors, guest speakers, and your peers; participating in discussions; demonstrating your understanding of readings; asking for clarification; raising relevant issues; etc.

Class Attendance, Readings, and Discussion

We expect class attendance and participation in class discussion. We also expect you to complete assigned readings on time. In comparison to other course work, the readings may seem substantial from time to time, and it will be wise to plan your study schedule accordingly.

We highly encourage forming a study group with a few other people in order to discuss the readings, share different points of view on the cases, and/or proof each other's case briefs before turning them in. Remember that aside from the midterm project, you are responsible for submitting your own individual work, and using only the work that you have produced (in addition to class handouts and the textbook) during the final examination.

Academic Conduct

The University of Washington has a set of guidelines on how to respond to suspected cases of academic dishonesty, or "cheating." These cases include plagiarism in written assignments (copying directly from texts or another student's work) and referring to contraband or getting help from someone else in testing situations. You should familiarize yourself with these guidelines. If you have any questions about the boundary about what is or is not acceptable, ask the instructor or the TA to clarify.

As a student at the University of Washington you are held to "high standards of academic and professional honesty and integrity" by the Student Conduct Code. The Student Conduct Code can be read on the University's homepage at:
<http://www.washington.edu/students/handbook/conduct.html>

The University has a license agreement with Turnitin, an educational tool that helps prevent or identify plagiarism from Internet resources. Your instructor may use the service in this class by requiring that assignments are submitted electronically to be checked by Turnitin. The Turnitin Originality Report will indicate the amount of original text in your work and whether all material that you quoted, paraphrased, summarized, or used from another source is appropriately referenced.

Students with Disabilities

Students that believe that they may have any form of a disability should speak with the instructor as early as possible and consult the University's resources for students with disabilities: <http://www.washington.edu/students/drs/>

Assigned Readings and Schedule

This schedule and assigned readings may be amended from time to time; please check the class website for updates. Textbook pages refer to Mandelker, et al., 9th ed.

WEEK 1

Mon. April 1

Topics Class Overview

Instructors Chuck Wolfe, Tim Trohimovich

Reading Skim Textbook pp. 1–65.

Wed. April 3

Topics The Legal System/Reading Cases
Overview of Land Use Law and Planning
Urbanism and the Role of the Law

Instructor Chuck Wolfe

Reading “Reading Cases.”
“Writing Case Briefs.”
Textbook pp. 127 – 149 (*Penn Central v. City of New York*).
Urbanism Without Effort, Intro – Chapter 2.

WEEK 2

Mon. April 8

Topics Urbanism and Role of the Law (cont’d)
Nuisances
Historical Takings

Instructor Chuck Wolfe

Reading *Urbanism Without Effort*, Chapters 3 – Closing.
Textbook pp. 67–127 (*Bove v. Donner-Hanna*, *Kelo v. New London*,
Pennsylvania Coal v. Mahon, *Euclid v. Ambler*).

Wed. April 10

Topics Eminent Domain
Modern Takings

Instructor Chuck Wolfe

Reading Textbook pp. 127–158 (*Penn Central v. City of New York*, *Nollan v. California Coastal Commission*); pp. 196–230 (*First English v. County of Los Angeles*, *Lucas v. South Carolina Coastal Council*).

Assignment Complete student survey

WEEK 3

Mon. April 15

Topics Modern Takings (continued)
Other Constitutional Constraints
Special Property Rights Topics

Instructor Chuck Wolfe

Reading Textbook pp. 183–195 (*Koontz v. St. Johns River Water Management District*); 230–244 (*Tahoe-Sierra Preservation Council v. Tahoe Regional Planning Agency*); 264–269 (*Willowbrook v. Olech*).
American Planning Association commentary on takings.
Gerla & Schechter, Oregon Property Rights Initiative.

Assignments Last chance to turn in Case Brief #1 (due Sunday, April 14, 8pm)
Midterm groups announced, assignment posted

Wed. April 17

Topics Substantive Due Process and Vesting
Practical Aspects of Vesting

Guest Pat Schneider, Attorney, Foster Pepper

Reading *Guimont v. Clarke*.
Lingle v. Chevron.
Erickson v. McLerran.
Cradduck v. Yakima.

WEEK 4

Mon. April 22

Topics History & Structure of Zoning
Comprehensive Plans
Recurring Zoning Issues

Instructor Tim Trohimovich

Reading Textbook pp. 40–47, pp. 295–308; pp. 348–358 (*Johnson v. Town of Edgartown*); pp. 370–384 (*Belle Terre v. Boraas*); pp. 405–424 (*BP America v. Avon, Loreto v. Chardon*), pp. 825–828.
Skim Textbook pp. 385–400 (*Cleburne v. Cleburne Living Center*).

Wed. April 24

Topics Zoning Amendments
Subdivisions
Exactions
Impact Fees and Connection Charges

Instructor Tim Trohimovich

Reading Textbook pp. 158–183 (*Dolan v. Tigard*, *Lingle v. Chevron*); pp. 873–883; pp. 902–929 (*Sparks v. Douglas County*, *Home Builders Association v. Beavercreek*).
Skim Textbook pp. 883–902.
Review Textbook pp. 183–195 (*Koontz*).

WEEK 5

Mon. April 29

Topics Commercial and Special Uses
Uses Subject to Special Protection

Instructor Tim Trohimovich

Reading Textbook pp. 442–502 (*Conforti v. Manchester*, *Los Angeles v. Gage*, *Renton v. Playtime Theatres*, *Chabad Lubavitch v. Litchfield*).
Skim Textbook pp. 425–442 (*Hernandez v. City of Hanford*).

Assignments Last chance to turn in Case Brief #2 (due Sunday, April 28, 8pm)

Wed. May 1

Topics Variances and Conditional Uses
Environmental Review (SEPA/NEPA)

Instructor Tim Trohimovich

Reading Textbook pp. 718–752 (*Puritan-Greenfield v. Leo*, *Ziervogel v. Washington County*, *Fairfax v. Southland*, *Crooked Creek v. Hamilton County*).
Anderson v. Pierce County.
Cougar Mtn. Associates v. King County.
SEPA Review Process chart.

WEEK 6

Mon. May 6

Assignment Midterm Presentations

Wed. May 8

Assignment Midterm Presentations

WEEK 7

Mon. May 13

Topic Growth Management
Planning Law in Practice

Instructor Tim Trohimovich

Guests Catherine Beam, Principal Planner, City of Redmond
Karen Wolf, Senior Policy Analyst, King County
John Owen, Partner, Makers Architecture & Urban Design

Reading Growth Management Act Legal Primer for Planners.

Wed. May 15

Topics Critical Areas Ordinance
Shoreline Management Act

Instructor Tim Trohimovich

Reading Critical Areas Ordinance Updates.
Textbook pp. 520–521 & pp. 523–531.

WEEK 8

Mon. May 20

Topics General Legal Procedures, Appeals, Mediation
Judicial Review

Guest The Honorable David S. Mann, Judge, State of Washington Court of Appeals

Reading Textbook pp. 308–347 (*Center Bay Gardens v. Tempe*, *Ben Lomond v. Anchorage*, *Copple v. Lincoln*, *Richmond v. Randall*, *Krause v. Royal Oak*).
Hearing Examiner Rules of Practice and Procedure.
Skim RCW 36.70C Judicial Review of Land use Decisions.

Wed. May 22

Topics Current Issues in Housing: Role of Zoning in Racial Discrimination, Affordable and Fair Housing, Inclusionary Zoning, Linkage Fees, Rent Control, Land Trusts, Regional Fair Share, Builders Remedy, Public Participation

Guests Sally J. Clark, Director, Regional & Community Relations, UW
Amy Gore, Senior Legislative Assistant to Councilmember Rob Johnson

Reading Textbook pp. 595–602 (*Burlington NAACP v. Mount Laurel I*); pp. 606–635 (*Burlington NAACP v. Mount Laurel II*); pp. 642–653.

WEEK 9

Mon. May 27

Memorial Day, no class

Wed. May 29

Topics Design Guidelines
Urban Design
Other Land Use Issues

Guest Janet Shull, Strategic Advisor, City of Seattle

Reading Textbook pp. 1066–1117 (*Stoyanoff v. Berkeley, Figarsky v. Historic District, French Investing v. City of New York*).
Optional: C. Wolfe, *Seeing the Better City*.

Assignments Last chance to turn in Case Brief #3 (due Tuesday, May 28, 8pm)

WEEK 10

Mon. June 3

Topics Current Issues in Housing (cont'd), Transit Oriented Development
Brownfields, CERCLA (Superfund), Model Toxics Control Act

Guest Sara Maxana, Policy Advisor, Office of Mayor Durkan

Instructor Tim Trohimovich

Reading Overview of EPA's Brownfields Program
Overview of Superfund: CERCLA
Superfund Cleanup Process
State of Washington Department of Ecology Model Toxics Control Act (also
click on “What is a hazardous site” and “How is MTCA funded”.)
Brownfields Planning and Process Primer

Wed. June 5

Topics Current Issues: Ruckelshaus Center Roadmap to Washington’s Future,
Climate Change Mitigation and Adaptation, Land Use and the Sharing
Economy

Guest Joe Tovar, Ruckelshaus Center

Instructor Peter Dunn

Reading None

FINALS

Tues. June 11

Assignment Final Exam
8:30 – 10:20am, Gould 322