LAND USE PLANNING
Fall 2007
Professor Nestor Davidson

Course Information

Class Meetings. Class meets on Tuesdays and Thursdays from 1:00 to 2:15 p.m. in Room 301.

Contact Information. My office is Room 443, my office phone is (303) 735-5294, and my e-mail is nestor.davidson@colorado.edu.

Office Hours. My office hours are Tuesdays from 2:30 p.m. to 4:30 p.m. and by appointment.

TWEN. I have set up a TWEN site for this class. I will use the site to distribute announcements, make changes in the assigned reading, and post materials. You are also able to post messages to the site. Please check the site regularly – you are responsible for materials and announcements posted there.

Some University Policies. Please note the following:

Religious Observances. If you need accommodation for religious observances, please let me know in advance.

Individuals with Disabilities. If you need accommodation for a disability, please contact Assistant Dean Lorenzo Trujillo (303-492-6682, lorenzo.trujillo@colorado.edu), or Director of Disability Services Cathy Donahue (303-492-5614, donahuec@colorado.edu, www.colorado.edu/disabilityservices).

The Honor Code. Please read it, understand it, and follow it. (See http://www.colorado.edu/Law/about/honorcode/index.htm.)

Course Materials

Required Materials. The primary text for the course is Robert C. Ellickson and Vicki L. Been, Land Use Controls (3rd ed. 2005) (“CB”).

From time to time throughout the course, I will also distribute supplemental materials through the website.

Reserve Reading. If you would like more background on a particular topic than is provided in the required reading, you may wish to consult Jon W. Bruce, ed., A Land Use Anthology (1998) and Julian Conrad Juergensmeyer and Thomas E. Roberts, Land Use Planning and Development Regulation Law (2003), both on reserve. Also, as general
(and fascinating) background, I have also put Dolores Hayden’s *A Field Guide To Sprawl* (2004) on reserve.

**Course Requirements**

**Final Examination.**

There will be a three-hour final exam for this course, based on the lectures, class discussions, and assigned materials (whether discussed in class or not). The exam will be limited open-book, which in this case means that you can use the casebook and any supplemental materials I’ve assigned, plus any materials that you’ve prepared yourself (so no commercial outlines and the like).

**Classroom Participation.**

In-class participation is a vital aspect of this course.

I will pass around a seating chart on Thursday, August 30th. Please sit where you would like to remain for the rest of the semester on that day.

To encourage your participation in our discussions, I will be following a variation of the “present and prepared” policy. Starting on Tuesday, September 4th, I will bring a copy of the seating chart to each class, dated for that day. If you are present and prepared to be called on, circle your name on the chart when you arrive—you will then be counted as “present and prepared” for that day and I may call on you.

If you *not* are “present and prepared” for 80% or more of our regularly scheduled classes, your grade for the semester will be lowered by three points (or more in egregious cases). Conversely, I reserve the right to increase your final grade for superior classroom participation, both when I call on you and for voluntary participation.

To be “prepared” you must have read the assignment and have made a good faith effort to think through the materials. You do not have to have perfect answers to the questions I might pose, but you must be willing to discuss the assigned reading (and prior readings) and work through the questions with the class. If you do sign up as prepared, I call on you, and in my opinion you are not prepared, I reserve the right to lower your final grade an additional point. (Not that any of you would do so, but if you have someone else sign you in and you are not present, I will dock your final grade as well.)

Please sign up before class begins. If you arrive late—but not more than 10 minutes after class begins—you may still sign up but that will require you to interrupt the class, so please be punctual.

Faculty assistant Maggie Stephenson, who works in Room 435, will keep a running tally of present and prepared sign-ups. If you want to check on the number of classes you have signed up for as “present and prepared,” please see Ms. Stephenson.
Let me know if you have any questions about this policy.

Field Visit and Report.

In the course of the semester, you are required to attend two land-use related public hearings or similar events that demonstrate how the land-use regulatory system works in practice.

Events that would be appropriate include meetings of the Boulder Planning Board (see http://www.ci.boulder.co.us/planning/planningboard/planningboard.html) or the Boulder Board of Zoning Adjustment and Building Appeals (see http://www.ci.boulder.co.us/planning/Bozaba/bozabboard.html), or similar bodies in Denver (e.g., the Planning Board (http://198.202.202.66/dephome.asp?depid=592)), or in other communities in the area.

I encourage you to obtain an agenda or other notice for the events you attend to ensure that the discussion will be substantive.

Before you go, please e-mail me to indicate the event and when you plan to attend. The reason for this is to allow me to make sure that we don’t have too many students attending any one event, especially towards the end of the semester.

You are required to submit an analysis of how what you observed on either or both of your field visits confirms or belies themes discussed in class. The format should include a brief description of the event or events you attended, what was on the agenda, what, if anything, was decided (and on what grounds – try to be specific as to code section, etc.), and then your analysis relating back to the course. The analysis should be no more than five pages in length, double-spaced, one-inch margins, 12-point Times Roman font (sorry to be so specific, but format has been an issue in the past). I will post some samples to give you an idea of what such an analysis might look like, but your paper will necessarily reflect the events that you attend.

The analysis paper will count for 20% of your final grade.
Syllabus

I. Background: Context and The Development Process
   A. Context
      CB 1 - 15
      Executive Summary, Arthur C. Nelson, *Toward A New Metropolis: The Opportunity to Rebuild America* [Supp.].
   B. Development: Players, Product, Process
      CB 16 – 30

II. Markets Versus Planners: Why And When Is Regulation Necessary?
   A. Market Theories – Coordination, Bargaining and Externalities
      CB 31 - 45
   B. Regulatory Framework: Local Government and Planning
      CB 45 – 71

III. Zoning
   A. Historical Perspective and Introduction to Modern Zoning
      CB 607 – 614
      CB 73 – 94
   B. Constraints on Zoning
      1. Owner/Developer Rights
         a. Efficiency, Substantive Due Process and Federal vs. State Courts
            CB 94 – 112
         b. Constraints on Zoning to Limit Competition
            CB 112 – 119
c. Constraints on Zoning That Imposes Unfair Burdens
   CB 125 – 209

d. Constraints on Zoning That Threatens Civil Liberties
   CB 209 – 232

e. Aesthetic Regulation
   CB 469 – 494

2. Procedural and Remedial Aspects of Owner/Developer Rights
   CB 233 – 267

3. Legislative Initiatives to Increase Owner/Developer Rights
   CB 274 – 282

   *MacPherson v. Department of Admin. Svs. [Supp.]*

C. Zoning Changes By Administrative Bodies
   CB 283 - 302

D. Zoning Changes By Legislative Bodies
   CB 302 - 352

E. Discriminatory Land Use Controls
   1. Discrimination Against Racial and Ethnic Minorities and the Poor
      CB 691 – 710
   2. Discrimination Against Unconventional Households and People with Disabilities
      CB 710 – 730

F. Developers and Neighbors
   CB 352 – 360, 393 – 409
IV. Other Major Land-Use Regulatory Regimes

A. Subdivision Regulations

CB 411 – 412, 416 – 444

B. Building and Housing Codes

CB 444 – 469

C. Streamlining

CB 505-509 (skim this section)

VI. Land Use in a Regional Context: Undesirable Uses, Affordable Housing and Growth

A. Introduction

CB 731 – 733

B. Obligation to Consider Negative Spillovers

1. General

CB 733 – 740

2. Siting LULUs and Environmental Justice

CB 740 – 749, 754 – 760

C. Obligation to Consider Regional Needs

1. Affordable Housing

CB 760 – 788

2. Regional Growth

CB 788 – 818

V. Alternatives to Public Regulation

A. Nuisance
CB 511 – 512, 516 (starting with the Ellickson excerpt) – 520, 523 – 524, 537-38 (note on public nuisance)

B. Beneficence

CB 539 – 544

C. Covenants

CB 550 – 554, 569 – 572, 580 – 582

D. Residential Community Associations

CB 582 – 601, 605 – 606