Planning and Development Law
Wayne State University
UP 6650 - 001
Adjunct Professor Peter Webster
Winter 2017

Course Information
Meeting Time: Mondays, 5:30 pm – 8:15 pm
Location: Alex Manoogian Hall, Room 128
Contact Information: (248) 433-7513 (Work)
pwebster@dickinsonwright.com
Please use this email and not Pipeline
Office Hours: By appointment.

Description
This course provides an overview of planning and land use and development, including institutional structures, sources of, and limits on, legal authority, and traditional and evolving approaches to land use and development control.

This course will principally focus on planning as public policy and the laws that enable and limit planning initiatives. Substantive topics include private property rights, the planning process, traditional zoning, aesthetic and historic preservation, exclusionary and inclusionary zoning, exactions, due process and equal protection issues, takings, First Amendment issues, and environmental issues.

Format
The class will include a mix of class discussion, questions and lecture. Please be prepared to participate in the discussion and to respond to questions. One of the better ways for you to learn is to engage in discussion of the law and its development and application. Our class time will be spent more on discussions than lectures, and I will often ask for your comments on a subject even when you have not volunteered. Please be prepared. Please read and reflect on the assigned material before class. The class format may be changed or sharpened at my discretion to promote the goals of the course.

Required Reading
The required text for the course is Mandelker, Payne, Salsich & Stroud, Planning and Control of Land Development: Cases and Materials, 8th Ed. (LexisNexis). I will post copies of the readings on Blackford. Additional required readings include several articles and court decisions, which you will find on the Blackboard site.

Grading
- Class participation = 15% of final grade
- Two short legal case briefs = 30% of final grade
- Final exam = 55% of final grade.

Attendance
Participation is important to both yourself and your classmates. Attendance is expected at all classes. If you expect to miss a class, please notify me by e-mail in advance. If you unexpectedly miss a class,
please contact me via email as soon as practical to make sure that you have any reading or class assignments.

**Academic Integrity**
Integrity is critical. I assume that all work you submit is yours alone. If I discover any form of academic dishonesty (whether it be cheating, plagiarism, use of writing services, or otherwise) you will receive a failing grade on the assignment and for the class. You may also be subject to disciplinary action by the University (including dismissal from the University). If you have any questions about this policy or what constitutes academic dishonesty, please contact me for clarification.

**Services for Students with Disabilities**
All students should feel able to participate fully in campus life at the University, regardless of any disability. This is especially true in the classroom setting. The Office of Education Accessibility Services is available to assist in this goal. Students are encouraged to use the Office’s services, which include note-taker services, alternative testing arrangements, interpreters, and other reasonable accommodations. More information about the Office may be found in the Graduate Bulletin.

**Reading Assignments**
The reading assignments listed below represent my best estimate of the material we will cover each class. I will likely make some adjustments through the semester. If you miss a class, please check with me or a classmate for any adjustments to the reading assignments listed here. I may issue a revised syllabus later in the semester.
Assignments

1. Week 1 January 9 Class Introduction - The Basics of Legal Environment
   - Mandelker Table of Contents. (Blackford)
   - Ann Arbor Planning Flow Chart 2013 (Blackboard)

2. Week 2 January 16 No Class - MLK

3. Week 3 January 23 Introduction to Planning and Zoning Civics Primer; Legal Citation; Introduction to Land Use Controls
   - U.S. Constitution – (Articles I, II, and III), read First, Fifth and 14th Amendment (§§ 1 & 5) in particular. (Blackboard)
   - Michigan Constitution – Differences from U.S. Constitution, esp. in structure and in Art. I, §§ 1 through 5, and Art. X, § 2. (Blackboard)
   - How to Brief a Case (Blackboard)
   - Nuisance Law –
     - Mandelker, pp. 63-67 8th Ed., including:
       - Bove v. Donner-Hanna Coke Co.
       - Spur Industries, Inc. v. Del E. Webb Development Co.
       - Boomer v. Atlantic Cement Co.
     - McMorran v. Fitzgerald, 106 Mich 649, 652 (1895). (Blackboard)

4. Week 4: January 30 Planning and Zoning Authority
   - Zoning
     - The Early History – Mandelker, pp. 223-234 8th Ed. (Standard Zoning Enabling Act and contemporary zoning enabling laws, a typical zoning ordinance)
     - Village of Euclid v. Ambler Realty Co. -- Mandelker, pp. 93-107 8th Ed.
     - Nectow v. City of Cambridge, 277 U.S. 183 (1928). (Blackboard)
     - Clements v. McCabe, 210 Mich. 207 (1920). (Blackboard)
     - Michigan Zoning Enabling Act (Blackboard)
   - Planning
     - The Local Comprehensive Plan – Mandelker, pp. 33-41 8th Ed.
       - Michigan Planning Enabling Act (Blackboard)
     - Standing – Mandelker, pp. 235-244 8th Ed.
     - Exhaustion of Remedies – Mandelker, pp. 244-252 8th Ed.
5. **Week 5: February 6 Recurring Issues in Zoning Law**
   - Density and Intensity of Use – Mandelker, pp. 270-285 8th Ed.
   - Residential Districts – Mandelker, pp. 285-304 8th Ed. (Separation of single-family and multifamily uses, nontraditional families, accessory apartments).
   - Manufactured Housing – Mandelker, pp. 304-309 8th Ed.
   - Commercial and Industrial Uses – Mandelker, pp. 312 8th Ed.
   - Disticting and Nonconforming Uses – Mandelker, pp. 340-353 8th Ed.

6. **Week 6: February 13 The Zoning Process**
   - The Zoning Variance – Mandelker, pp. 558-573 8th Ed.
     - Includes Ziervogel v. Washington County Board of Adjustment
   - Special Exceptions, Special Use Permits, and Conditional Use Permits – Mandelker, pp. 573-585 8th Ed.
   - Amendment of the Zoning Ordinance / Vested Rights – Mandelker, pp. 585-597 8th Ed.
   - “Spot” Zoning – Mandelker, pp. 598-599 8th Ed.
   - Downzoning – Mandelker, pp. 620-626 8th Ed.
   - Other forms of Flexible Zoning – Mandelker, pp. 626-638 8th Ed.

7. **Week 7: February 20 Eminent Domain and Regulatory Takings**
   - Eminent Domain
   - Uniform Condemnation Procedures Act, MCL 213.51 et seq. (Blackboard)
   - Regulatory Takings
     - Early cases – Mandelker, pp. 86-88 8th Ed.
     - Pennsylvania Coal Co. v. Mahon* -- Mandelker, pp. 88-93 8th Ed.
     - Physical Occupation – Loretto v. Teleprompter Manhattan CATV Corp. – Mandelker, pp. 122-124 8th Ed.
   - Dedications, Exactions, and Impact fees –
     - Nollan v. California Coastal Commission -- Mandelker, pp. 126-133 8th Ed.
     - Dolan v. Tigard -- Mandelker, pp. 706-728 8th Ed.
   - Misc. Issues
     - Inverse Condemnation Remedy – First English Evangelical Lutheran Church of Glendale v. County of Los Angeles – Mandelker, pp. 133-144 8th Ed.
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<tr>
<th>Week 8: February 27</th>
<th>Substantive and Procedural Due Process</th>
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<tr>
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<td>o US Constitution Am XIV (Blackboard)</td>
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<td>o Michigan Constitution Art 1, Sec 17 (Blackboard)</td>
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<td>o Crown Enterprises, Inc. v City of Romulus, Michigan Court of Appeals, May 20, 2010, No. 286525. (Blackboard)</td>
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<td>Substantive Due Process – Mandelker, pp. 188-194 8th Ed.</td>
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<th>Week 9: March 6</th>
<th>Equal Protection and Exclusionary and Inclusionary Zoning</th>
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<td>Exclusionary Zoning – Mandelker pp. 457-495 8th Ed.</td>
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<td></td>
<td>o Southern Burlington County NAACP v. Township of Mount Laurel (I)</td>
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<td>o Southern Burlington County NAACP v. Township of Mount Laurel (II)</td>
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<td>Inclusionary Zoning / Affordable Housing – Mandelker pp. 495-505 8th Ed.</td>
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<td>Discrimination Against Group Homes for the Handicapped – Mandelker, pp. 527-536 8th Ed.</td>
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| Week 10: March 13 | No Class – Spring Break |

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<th>Week 11: March 20</th>
<th>Site Plan Review / Planned Unit Developments / Subdivision Control</th>
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<td>Site Plan Review - Mandelker, pp. 638-655 8th Ed.</td>
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<td>The Structure of Subdivision Control – Mandelker –681-706 8th Ed.</td>
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<td>Planned Unit Development – Mandelker, pp. 747-765 8th Ed.</td>
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<td>o Waterford Township Special Approval Process (Blackboard)</td>
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<td>o Waterford Township Site Plan Review Process (Blackboard)</td>
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<th>Week 12: March 27</th>
<th>Partial Recap and Review and Introduction to First Amendment / Ethics / Open Government</th>
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<tr>
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<td>o City of Renton v. Playtime Theatres, Inc.*</td>
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<td>o Civil Liberties for Urban Believers, Christ Center, Christian Covenant Outreach Church v. City of Chicago*</td>
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<td>o Metromedia, Inc. v. City of San Diego</td>
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<td>o Lighthouse Community Church of God v. Southfield, 382 F.Supp.2d. 937 (2005) (Blackboard)</td>
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<th>Week 13: April 3</th>
<th>First Amendment and Open Government</th>
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<td>Open Government</td>
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<td>o Open Meetings Act, PA 267 of 1976; MCL 15.261 et seq. (Blackboard)</td>
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14. **Week 14 April 10 Growth Management**
   - Introduction to Growth Management – Mandelker, pp. 767-773 8th Ed.
   - Moratoria and Interim Controls on Development – Mandelker, pp. 773 8th Ed.
   - Growth Management Strategies
     - Quota Programs – Mandelker, pp. 773-774 8th Ed.
     - Facility-related Programs – Mandelker, pp. 784-827 8th Ed.
   - Preserving Agricultural Land – Mandelker, pp. 389-413 8th Ed.
   - Farmland Open Space Preservation, MCL (Blackboard)

14. **Week 15 April 17 Zoning and Planning Practical Issues**
   - Hessee, 61 Mich App 319 (1975) (Blackboard)
   - Materials will be posted on Blackboard.
     - Record on Appeal
     - Special Land Uses
     - Site Plans
     - Variances
     - Non-Estoppel
     - Depositions

16. **Week 16 April 24 Wrap Up and Review Session**

17. **Week 17 May 1 Final Exam – 5:30 p.m.**
Additional Non-required Reading


Federal System

The Judicial System


