

LAND USE PLANNING SPRING 2022
PROFESSOR MICHAEL ALLAN WOLF
SECTION 1, LAW 6460, CLASS 31577, 3 CREDIT HOURS

SYLLABUS AND CLASS PROCEDURES

OUR CLASS WILL MEET ON MONDAYS AND TUESDAYS FROM 1:15-2:40 PM, IN ROOM 270.

My office is Room 307, my email address is wolfm@law.ufl.edu, and my phone number is 352-273-0934. I am typically in my office Monday through Friday. I do not restrict my contact with students to a few hours per week. If I am not in the office when you want to meet, and you would like to set up an appointment, please send me an email message.

THERE IS ONE REQUIRED TEXT FOR THIS CLASS: CHARLES M. HAAR & MICHAEL ALLAN WOLF, LAND USE PLANNING AND THE ENVIRONMENT: A CASEBOOK (2010).

ADDITIONAL ASSIGNMENTS (INCLUDING NEW CASES) WILL BE POSTED ON THE CANVAS SITE FOR THIS COURSE OR DISTRIBUTED BY EMAIL.

COURSE DESCRIPTION (FROM WEB PAGE): *A study of the legal aspects of the allocation and development of land resources; private controls through covenants and easements; public regulation and control through zoning and subdivision regulation; social, economic and political implications of land regulations; eminent domain; selected current problems such as growth management, historic preservation, environmental regulations, and urban development.*

COURSE GOALS AND/OR OBJECTIVES: *By the end of this course, it is my hope that students will:*

- *gain an understanding of the interplay between government regulation of land use and the rights and responsibilities of property owners,*
- *be experienced in using cases as tools for advancing a client's interests,*
- *appreciate the many intersections between modern American land use regulation and environmental and sustainability law,*
- *write well-organized answers to essay questions that spot issues, relate the relevant law to the pertinent facts, and resolve those issues,*

- *understand the diverse and evolving local government toolbox for regulating land use.*

COURSE POLICIES:

ATTENDANCE POLICY: *The law school's policy on attendance can be found at: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies>. Each student is permitted five class absences during the semester. Within one week of missing class, you are responsible for reporting to me via email that you missed class. There is no need to explain your absence, as I do not differentiate between excused and non-excused absences. I reserve the right to reduce the grade for a student with excessive absences and to bar the student from taking the final exam.*

INTERNET USE IN THE CLASSROOM: *I expect that during each class all students will be prepared to conduct research on the internet (usually Lexis or Westlaw) using a laptop, tablet, or other means. Of course, students are not to use these devices (including smart phones) for any non-pedagogical purposes.*

ACADEMIC HONESTY: *Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>.*

GRADING POLICIES:

I expect that students will have done the assigned readings for each class. I will rely on student participation to facilitate the learning of challenging concepts. Students who participate at a consistently high level may be rewarded by a one-half grade bump (e.g., from B+ to A-). I reserve the right to lower the grades of students who disrupt the learning environment by a one-half grade bump.

THERE WILL BE TWO GRADED TESTS DURING THE SEMESTER: *The first test will be a multiple-choice, closed-book test in which you will be asked to identify cases we have covered to that point in the semester. The score on the first test will range from 0 to 20 points. The second test will be an unlimited-source, open-book final examination. You will be able to choose the day during the exam period on which to take your final examination. The score on the second test will range from 0 to 80 points.*

GRADING SCALE: *The Levin College of Law's mean and mandatory distributions are posted on the College's website and this class adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent in place:*

| Letter Grade | Point Equivalent |
|------------------|------------------|
| A (Excellent) | 4.0 |
| A- | 3.67 |
| B+ | 3.33 |
| B | 3.0 |
| B- | 2.67 |
| C+ | 2.33 |
| C (Satisfactory) | 2.0 |
| C- | 1.67 |
| D+ | 1.33 |
| D (Poor) | 1.0 |
| D- | 0.67 |
| E (Failure) | 0.0 |

The law school grading policy is available at: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies>.

WORKLOAD/CLASS PREPARATION:

It is anticipated that you will spend approximately 2 hours out of class reading and/or preparing for in-class assignments for every 1 hour in class.

ACCOMMODATIONS:

Students requesting accommodation for disabilities must first register with the Disability Resource Center (<http://www.dso.ufl.edu/drc/>). Once registered, students will receive an accommodation letter, which must be presented to the Assistant Dean for Student Affairs (Dean Mitchell) when requesting accommodation. Students with disabilities should follow this procedure as early as possible in the semester.

The Exam Delays and Accommodations policy for the law school can be found here: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/forms-applications/exam-delays-accommodations-form>.

ONLINE COURSE EVALUATION PROCESS:

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give feedback in a professional and respectful manner is available at <https://gatorevals.aa.ufl.edu/students/>. Students will be notified when the evaluation period opens and can complete evaluations through the email they receive from GatorEvals in their Canvas course menu under GatorEvals or via <https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-results/>.

CLASS READINGS:

You will find below a list of the topics that I anticipate we will cover during the semester, along with a rough estimate of how many class hours per topic. Please note, however, that the pace at which we cover the materials in our reading list will depend on your pace of learning. I will not leave a topic until I believe that the students who are prepared for class have a good understanding of the material. In the event we are moving more slowly than anticipated, I will not speed up to cover all of these readings. Instead, I will make cuts in the assigned readings.

Class 1 Powell v. City of Houston, 628 S.W.3d 838 (2021) (through Part I of the majority opinion only)

Class 2 Chapter One: 4-14 (the idea of a comprehensive plan) and 26-44 (the legal effect of the plan, common ground, and the role of the attorney) (Chiavola, Shidel)

Classes 3-4 Chapter Two: 45-93 (private nuisance) (Amphitheaters, Rose, Rodrigue, Powell, Turner, Boomer, Prah)

Class 5 Chapter Two: 93-117 (public nuisance, the mixture of common law and regulation, and going "too far") (White and Ward, Gill, Mahon)

Class 6 Chapter Three: 119-32 (spread of zoning and power to zone) (Respublica, Kline)

Classes 7-8 Chapter Three: 132-47 (constitutionality of zoning) (Euclid, Nectow)

Classes 9-10 Chapter Three: 147-69 (early zoning in state courts) (Arverne Bay, Vernon Park, Rockhill, Eves)

Class 11 Chapter Three: 169-91 (use or ownership?, accessory uses and home occupations) (Clemons, Norwood Heights, Marchand, NEW short-term rental cases)

Classes 12-13 Chapter Three: 191-243 (Equal Protection, Due Process, and Takings Clause protections) (Ronda Realty, Belle Terre, Penn Central, Kelo)

Class 14 Chapter Four: 245-69 (nonconforming uses and vested rights) (Gage, Moon, Parkview)

Classes 15-16 Chapter Four: 270-295 (rezoning) (Kuehne, MacDonald, Fasano, Snyder)

Class 17 Chapter Four: 305-28 (variances and special exceptions) (Richard Roeser, Cleburne, Ames)

FIRST TEST

Classes 18-22 Chapter Five: 329-38, 355-400, 413-51 (regulatory takings) (Agin, First English, Nollan, Lucas, Dolan, Palazzolo, Tahoe-Sierra, Gove); EDITED VERSIONS OF: *Stop the Beach Renourishment, Inc. v. Fla. Dep't of Env'tl. Prot.*, 560 U.S. 702 (2010), *Koontz v. St. Johns River Water Mgmt. Dist.*, 570 U.S. 595 (2013), *Murr v. Wisconsin*, 137 S. Ct. 1933 (2017), *Knick v. Twp. of Scott*, 139 S. Ct. 2162 (2019), *Cedar Point Nursery v. Hassid*, 141 S. Ct. 2063 (2021).

Classes 23-24 Chapter Six: 453-66, 484-505 (exclusionary zoning in state and federal law) (Mount Laurel, Warth, Arlington Heights, Cuyahoga Falls)

Class 25-26 Chapter Six: 505-14, 523-37 (excluding uses) (Young, Westchester), EDITED
VERSION OF *Reed v. Town of Gilbert*, 135 S. Ct. 2218 (2015)