**Introduction to Law for Planners**

*DCRP PLAN 724 (3 credits)*

Spring 2022

**SYLLABUS**

**Version 1, 1/5/22**

**INSTRUCTOR**

Adam Lovelady

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Office Hours: Generally 9:00 to 5:00,Mondays to Fridays (call or email for appointment)

**TEACHING ASSISTANT**

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**CLASS MEETINGS:** Mondays and Wednesdays, 11:30-12:45, January 10 – April 27

[Dey 305](https://hotline.unc.edu/public/?classroom3&room=Dey%20305)

Also available by zoom: <https://zoom.us/j/92448862265?pwd=UWIwaFRZOERXOHAxTU0zRnM5aG9EZz09>  
Meeting ID: 924 4886 2265  
Passcode: PLAN724

**Spring 2022 Course Delivery:** As long as it is possible to do so safely, we will be meeting in person this semester. I understand the ongoing COVID-19 pandemic may require changes to this plan and will be monitoring the situation closely. If I need to change the format of the course temporarily due to outbreaks of illness, I will announce this via email and the course Sakai site.

**COURSE WEBSITE:** The course will use UNC Sakai, listed as PLAN724.001.SP22

**COURSE COVERAGE:** This course covers the legal authority for land use regulations, the basic structure of zoning ordinances and other development regulations, legal requirements for adopting, amending and repealing ordinances, and legal requirements for making quasi-judicial land use decisions. Given the importance of state-enabling authority and caselaw for the rules of local land use, this course focuses on North Carolina law with occasional comparisons to other states. Particular attention will be given to spot and contract zoning, conditional zoning, vested rights, nonconformities, and statutory and constitutional limitations on land use regulations (particularly regulatory takings). Subdivision regulations, historic district, and environmental regulations are reviewed. While the focus of the course will be local land use regulation, state and federal programs are also addressed to some extent. The course is designed to provide a grounding in relevant principles of likely interest to those involved in real estate development, land use planning, representation of local governments, and community activists.

**COURSE LEARNING OUTCOMES**: This course is designed to assist students in achieving the following learning outcomes. Students will be able to

* Explain the conceptual and legal framework underlying traditional and modern land use planning techniques including zoning, subdivision regulation, development agreements, and specialized strategies for dealing with aesthetic, historic preservation, environmental, and growth management issues, with an eye to both national and North Carolina trends
* Explain key constitutional principles (including due process, equal protection, regulatory takings, and the First Amendment) pertinent to land use regulation and apply them in areas of considerable uncertainty relating to land use regulation
* Engage in effective problem solving to address common land use problems through deployment of relevant cases, statutes, ordinances, and other documents and strategies.
* Communicate effectively orally and in writing, using plain English to provide relevant legal advice regarding land use issues to government officials, colleagues, and supervisors

**COURSE REQUIREMENTS:** This course is designed to provide students with hands-on experience that should allow them to feel better prepared to research, write, and speak on topics of land use law. To that end, the course requirements are as follows:

* 20% Participation (Memo 1 (due **1/18**), attendance, quizzes, and contributions)
* 20% Memo 2 Ordinance Review (3-5 pages); due **1/26**
* 20% Memo 3 Hearing Comparison (4-6 pages); due **3/9**
* 30% Memo 4 Problems (4-6 pages); due **4/6**
* 20% Memo 5 Final Memo (4-6 pages); due **4/27**

**ATTENDANCE POLICY:** Regular and punctual class attendance is required by accrediting authorities and is part of each student’s required work in classes. Students are expected to attend all classes, except in cases of emergency or prior approval from the instructor, and in no event shall a student miss more than twenty percent of classes. For purposes of this class, “attendance” in class means that students have read the required material and are prepared to engage in discussion. Attendance will be taken through Sakai. Failure to satisfy this minimum requirement may lead to a decision by the professor to drop the student from the course or impose a lower grade. In addition, students who miss class or fail to participate (even if meeting the minimum threshold) may fail to gain available points for class participation. Please email the instructor in advance if you plan to be absent.

Given the ongoing pandemic and the inevitable challenges of in-person attendance, even when we meet in-person I will attempt to provide a remote participation option through zoom. Additionally, I will make every effort to record class sessions and make them available for review.

These are strange times. Please take care of yourself and communicate about attendance.

**COURSE RESOURCES/MATERIALS:**

*Required Texts:*

All required readings will be available through the course site on Sakai. The primary reading text will be David Owens’ Land Use Law in North Carolina (3rd edition, 2020). A pdf version of the text is on the Sakai site. Required cases, statutes, and additional readings also will be posted there.

*Optional Resources*

Recommended Resources focusing on North Carolina (available at Knapp Sanders Library at the UNC School of Government

* David Owens and Adam Lovelady, *Quasi-Judicial Handbook: A Guide for Boards Making Development Regulation Decisions* (2017) (copy on reserve)
* Adam Lovelady, *Land Subdivision Regulation in North Carolina* (2015) (copy on reserve)
* UNC School of Government Planning and Land Use Development Resource Page:

<https://www.sog.unc.edu/resources/microsites/planning-and-development-regulation> (includes summaries of key issues, reports of surveys of NC practices, litigation and legislative summaries, and links to NC and national planning sites)

Treatises: single volume, hard copy

* Mandelker, *Land Use Law*
* Jurgensmeyer & Roberts, *Land Use Planning and Development Regulation Law*

Treatises: multi-volume

* Rathkopf, *Law of Zoning and Planning*
* Salkin, *American Law of Zoning*
* Williams, *American Law Planning Law*

Blogs

* Coates Canons (UNC School of Government): <http://canons.sog.unc.edu/>
* Law of the Land (Dean Patricia Salkin, Touro Law School): <http://lawoftheland.wordpress.com/>
* NC Legal Landscapes (Tom Terrell): <http://nclegallandscapes.wordpress.com/>
* Womble Carlyle, North Carolina Land Use Litigator: <http://nclanduse.blogspot.com/>

Specialized Journals

* *The Urban Lawyer*

Other Websites

* American Planning Association: [www.planning.org](http://www.planning.org)
* Lincoln Institute of Land Policy: <http://www.lincolninst.edu/>
* Planetizen: <http://www.planetizen.com/>
* SmartGrowth: <http://www.smartgrowth.org/>

**HONOR CODE OBLIGATIONS**: The University of North Carolina at Chapel Hill has had a student-led honor system for over 100 years. Academic integrity is at the heart of Carolina and we all are responsible for upholding the ideals of honor and integrity.  The student-led Honor System is responsible for adjudicating any suspected violations of the Honor Code and all suspected instances of academic dishonesty will be reported to the honor system. Information, including your responsibilities as a student is outlined in the Instrument of Student Judicial Governance. Your full participation and observance of the Honor Code is expected.

The Honor Code is in effect in this class and all others at the University. I am committed to treating Honor Code violations seriously and encourage all students to become familiar with its terms set out at <http://instrument.unc.edu>. If you have questions, it is your responsibility to ask me about the Code’s application. All written work and other projects must be submitted with a statement that you have complied with the requirements of the Honor Code in all aspects of the submitted work.

**ACCOMMODATIONS:** The University of North Carolina at Chapel Hill facilitates the implementation of reasonable accommodations, including resources and services, for students with disabilities, chronic medical conditions, a temporary disability or pregnancy complications resulting in difficulties with accessing learning opportunities. All accommodations are coordinated through the Accessibility Resources and Service Office. See the ARS Website for contact information: <https://ars.unc.edu> or email [ars@unc.edu](mailto:ars@unc.edu). Relevant policy documents as they relation to registration and accommodations determinations and the student registration form are available on the [ARS website under the About ARS tab](https://ars.unc.edu/about-ars/policies).

**READING ASSIGNMENTS.** Below is a table outlining the topics and reading assignments for each class. I will update this calendar as the semester progresses. All readings will be on Sakai or linked from this table. “LUL” refers to David Owens’ *Land Use Law in North Carolina*. “CC” refers to the Coates’ Canons Local Government Law Blog. “GS” refers to the General Statutes of North Carolina (copy GS Chapter 160D provided on Sakai). Readings that are noted in (parenthesis) are for extra context, but a secondary priority for class preparation.

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|  | **Framework and Perspectives** |  |
| 1/10 | 1. Development Regulations Overview  (basic regs, types of decisions) | CC: [Types of Decisions](https://canons.sog.unc.edu/2021/08/types-of-development-decisions/)  Ordinance Excerpt  LUL: Ch. 2 & 6 |
| 1/12 | 1. Legal Documents, Research, and Property Basics   *Memo 1 Assigned (Legal Research Worksheet)* | How to Read a Legal Citation  Legal Research in a Nutshell, Ch. 1  Property Law Basics Video  (Szypszak, Real Estate and NC Law (excerpt)) |
| 1/18 | *Memo 1 Due* |  |
| 1/19 | 1. Governance and Jurisdiction (federal, state, local; preemption; annexation; ETJ)   *Memo 2 Assigned* | LUL: Ch 4 & 5 |
| 1/24 | 1. Land Subdivision Authority and Site Plan Review | GS 160D-801 to -808  LUL Ch 7 |
| 1/26 | 1. Individual and Community   *Memo 2 Due* | *Euclid*, 272 US 365  *Aydlett*, 201 NC 602  LUL: Ch 3 |
| 1/31 | 1. Race and Zoning   *Memo 3 Assigned (Public Meetings)* | Rothstein, Color of Law, Ch. 3  *Clinard v. City of Winston-Salem*, 217 N.C. 119 (1940)  *Village of Arlington Heights*, 97 U.S. 555 (1977) |
| 2/2 | 1. Participation and Politics  (growth machine, homevoter) | Been, et al, Are Homevoters Overtaking?  Zoning Disagreements Pit Nhbhds against Developers |
|  | **Types of Decisions** |  |
| 2/7 | 1. Plans and Planning | CC: [Comprehensive Plans](https://canons.sog.unc.edu/2021/08/comprehensive-plans-and-land-use-plans-required-for-zoning/)  G.S. 160D-501 to -503  Lewyn, (Somewhat) False Hope of Comp Planning |
| 2/9 | 1. Administrative Decision-Making   ***Travis Crane*** | LUL: 377-388  GS: 160D-401 to -405  *County of Lancaster*, 334 NC 496 |
| 2/14 | 1. Quasi-Judicial Decision-Making  (Variances)   ***Jim Joyce*** | *Humble Oil*, 284 NC 458  LUL: 231-259; 283-295  GS: 160D-406 & -705 |
| 2/16 | 1. Legislative Decision-Making  (Rezoning)   ***LeAnn Nease Brown*** | LUL Ch 11  GS 160D-601 to -605  *Heaton*, 277 NC 506  (CC: [Procedures for Legislative Development Decisions](https://canons.sog.unc.edu/2021/10/procedures-for-legislative-development-decisions/),  [Considerations for Leg Decisions](https://canons.sog.unc.edu/2021/10/considerations-for-legislative-development-decisions/),  [Illegitimate Considerations](https://canons.sog.unc.edu/2021/10/impermissible-considerations-for-legislative-development-decisions/) ) |
| 2/21 | 1. Discretionary Approval  (Conditional Zoning & SUPs) | LUL 215-218, 265-269, 321-332  Example Approvals and Questions  (CC: [Conditional Zoning](https://canons.sog.unc.edu/2021/11/what-conditions-can-be-included-in-conditional-zoning/)) |
| 2/23 | 1. Form-Based Codes   ***Corey Liles*** | Blue Hill Form District  Ch 4 in A Legal Guide to Urban and Sust Dev |
|  | **Land Use Administration** |  |
| 2/28 | 1. Inspections and Enforcement | LUL: 388-401  Zoning Practice: Enforcing the Zoning Code |
| 3/2 | 1. Interpreting the Ordinance and Appeals of Staff Decisions | CC: [Interpreting the Zoning Ordinance](https://canons.sog.unc.edu/interpreting-zoning-ordinance/)  GS 160D-405  Interpretation Problems |
| 3/7 | 1. Permit Choice and Vested Rights | CC: [Permit Choice](https://canons.sog.unc.edu/2021/12/permit-choice-rule-for-development-regulations/)  LUL: Ch 19  Discussion Problems |
| 3/9 | 1. Nonconforming Situations and  Changes to Approvals   *Memo 3 Due (Public Meetings)* | LUL: Ch 20  Discussion Problems  CC: [Major Amendments](https://canons.sog.unc.edu/2021/11/major-amendments-to-approved-developments/) and [Minor Modification](https://canons.sog.unc.edu/2021/11/administrative-minor-modifications-of-development-approvals/) |
| 3/14 | *UNC SPRING BREAK* |  |
| 3/16 | *UNC SPRING BREAK* |  |
|  | **Protections and Limitations** |  |
| 3/21 | 1. Spot Zoning | LUL: Ch. 12  *Chrismon*, 322 NC 611 |
| 3/23 | 1. Constitutional Limits | LUL: 569-588 CC: <https://canons.sog.unc.edu/sign-litigation-a-brief-analysis-of-reed-v-town-of-gilbert/> |
| 3/28 | 1. Statutory Limits   ***David Owens*** | LUL: 415-424 |
| 3/30 | 1. Eminent Domain and Takings  ***LeAnn Nease Brown***   *Memo 4 Assigned* | LUL: Ch 24 *Finch*, 325 NC 352 |
| 4/4 | 1. Exactions | GS: 160D-804  *Lanvale,* 366 N.C. 142 (birthdays July-December)  *Dolan* (birthdays January-June) |
|  | **Change and Reform** |  |
| 4/6 | 1. Missing Middle Housing   *Memo 4 Due* | --Zoning Practice: Housing Reform Through State Legislation and Local Zoning  --Durham Staff Memo on Expanding Housing Choice  --Portillo, Single-Family Zoning Is Still the Crux . . . |
| 4/11 | 1. Sprawl and Growth Management | LUL: Ch 9  Barnett & Blaesser, Reinventing, Ch 1 |
| 4/13 | 1. Participation and Engagement | --Einstein et al, Nbhd Defenders  --Holder, Raleigh Wants to Raze . . . |
| 4/14 | *UNC MENTAL HEALTH DAY* |  |
| 4/18 | 1. Environmental Law   ***Jim Joyce*** | LUL Ch 10 |
| 4/20 | 1. Resilience and Local Land Use   ***Amanda Martin***  *Memo 5 Assigned* | --NCORR, Resilience Quick Guide  --Garvin, Putting Sust Zoning Into Practice |
| 4/25 | 1. Historic Preservation | *ASP* 298 N.C. 207  LUL: 436-441 Discussion Problem |
| 4/26 | *Memo 5 Due* |  |
| 4/27 | 1. Flex Day   *Last Day of Class* |  |
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