

## **RED 551: The Approval Process**

**Units: 4**

**Summer 2023, Tuesdays and Thursdays from 6:00 p.m. to 8:50 p.m.**

**Location:** RGL 101

**Instructors:** Nicole Kuklok-Waldman and Donna Shen Tripp

**Office:** Virtual (via Zoom)

**Office Hours:** By appointment. Please feel free to call or text!

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### **Course Description**

This course is designed to familiarize students in the Real Estate Development Program with the development project entitlement process, its land use component elements and considerations, and associated developer fees and exactions. Since most zoning and land use regulation is local, the course necessarily is focused on California, but the Instructors will distinguish between regulatory processes that are generally prevalent and those that are unique to California.

The course deals with the process that begins with the zoning due diligence, typical entitlement paths, and project entitlement application, and ends with issuance of a building permit. It focuses on four broad aspects of the project entitlement process: (1) the legal and bureaucratic procedures; (2) key environmental resources and land use policies which can affect the feasibility of a project; (3) the critical nature of community involvement and government relations; and (4) the negotiation required with community groups, government agencies and landowners. Specific topics include CEQA and the environmental review processes; typical land use entitlements; key zoning and land use legal cases; managing community and neighborhood opposition; governmental relations; and impacts arising from Federal Clean Air, Clean Water, and Endangered Species Acts.

The teaching approach is a mixture of lectures focusing on general structure, periodic guest lectures by practitioners in the field, a major project effort by student teams, and readings drawn from several disciplines including fiscal impact, infrastructure financing, land use, environmental review, community management, and negotiations.

A substantial portion of learning about the development approval process will come from the student projects, which examine the approval process for specific development projects. The Planning Commission and Final group projects both require a significant amount of time and effort. Students are encouraged to begin research early and ask questions during the course of their research and analysis.

### **Learning Objectives**

In this course, you will learn to:

1. Understand the applicability of federal, state, and local law/regulations to the planning and development processes;
2. Analyze municipal planning and zoning codes and General Plan/Overlays/Specific Plans to project sites for development feasibility purposes;
3. Understand the breadth and depth of the police power and the limitations of the police power through takings and eminent domain;
4. Understand how federal, state, and local laws, regulations and policies have impacted and continue to impact disadvantaged communities both directly and indirectly;
5. Apply the principles students have learned to fact patterns to issue-spot and discuss how the law and regulations apply to a given set of facts.

## Course Notes

The course will use Blackboard and PowerPoint slides and other materials will be posted online. Students will also be required to attend a public planning commission hearing at a City of their choice, off campus, as part of the course completion (Note: with Instructors' permission, a virtual hearing which can be viewed online may be permissible due to the ongoing pandemic) .

## Required Readings and Supplementary Materials

Guide to California Planning, William Fulton and Paul Shigley  
Solano Press Books (paperback), Sixth Edition (2022)

California Land Use and Planning Law, Cecily Talbert Barclay and Matthew Gray, Solano Press Books  
(paperback), 38th Edition (2022)

(Note: Kindle e-book versions of both of these textbooks are available via Amazon.)

Also, the Instructors will provide supplemental reading materials on Blackboard. Students are required to read all assigned material prior to the class session in order to prepare for the class discussions and Guest Lecturer presentation(s).

A reading list will be distributed at the first session and will be available by email approximately one week before the class begins. Outline formats for presentations will be posted on Blackboard.

## Description and Assessment of Assignments

Assignments are to be submitted as follows:

**Reading Questions:** Each week for which there is reading assigned, students are to submit one question from the readings with a citation to the readings via Google Documents link posted on Blackboard.

**Midterm:** A take-home midterm is scheduled to be completed and submitted to the Instructors on July 11<sup>th</sup> by the end of Class that day. Details will be provided in class prior to Midterm distribution.

**Planning Commission Assignment:** Students are required to attend one meeting of a local planning commission and prepare a brief report, to be submitted no later than 4:00 pm on the date scheduled for presentation. Students are "pre-approved" to attend a meeting of the Los Angeles County Regional Planning Commission or City of Los Angeles Planning Commission. Students may attend commission meetings in other jurisdictions if approved in advance by the Instructors. No more than one student may attend the same hearing, so post your selection on the spreadsheet which will be posted on Blackboard since it is first-come, first served!

**Student Final Project:** Students will be formed into teams of 4-5 persons. Each team will be asked to select a city in Southern California (outside of Southern California selections will need to be pre-approved by the Instructors). The students will be asked to identify a development project which: (1) has been fully approved by the city; (2) has a completed value over \$20 million (market value or sales revenues; and (3) is characterized by some measure of controversy in the approval process. The students will be required to compile a complete timeline of the approval process; assemble critical documents, including the CEQA Initial Study, Staff Reports, Site Plans, and Decision Letter; evaluate the process; and prepare a written and oral presentation. All team members must participate in the oral presentation. Outline formats and specific instructions/requirements for presentation and report will be posted on Blackboard.

## Grading Breakdown

Assignment	Points	% of Grade
Participation	10	10

Reading Questions	10	10
Midterm	20	20
Planning Commission Presentation	20	20
Final Project	40	40
<b>Total</b>	100	100

### Grading Scale

Course final grades will be determined using the following scale:

A	95-100
A-	90-94
B+	87-89
B	83-86
B-	80-82
C+	77-79
C	73-76
C-	70-72
D+	67-69
D	63-66
D-	60-62
F	59 and below

### Assignment Submission Policy

Printed assignments should be submitted at the beginning of the class at which they are due. Submittal by email prior to the beginning of the class on the day which they are due at which they are due is also acceptable.

### Grading Timeline

Assignments are typically graded and returned by the following class. Appeals of grade will be accepted by the Instructors only if accompanied by a coherent argument as to why the grading should have differed. Argue your case!

### Additional Policies

#### Attendance and Participation:

Students are expected to attend all classes and participate as requested and expected. If a class is to be missed, please notify the Instructors as soon as possible and obtain notes from a classmate to ensure you are up to speed with class material. Late assignments will be accepted with a 10% penalty. Please pay attention in class and minimize use of phones and the viewing on laptops of non-course-related content. It's just courteous. Additionally, much of what will be on the mid-term will have been covered during the in-class lectures.

Unless students provide an accommodation letter from USC's Office of Student Accessibility Services, attendance and active participation is expected in the classroom. Any student with such accommodations should submit their accommodation document to Instructors as soon as possible to discuss appropriate accommodations. Either classroom recordings or live remote access to the class via Zoom will be provided upon pre-arrangements with the Instructors.

Students who are experiencing illness should not attend class in person. Student must inform Instructors in advance of any class sessions they cannot attend for medical reasons and accommodations will be

arranged to view recorded lectures and submit alternatives to any missed class participation. Students will not be penalized for not attending class in-person under these circumstances.

Sharing of course materials outside of the learning environment:

USC has a policy that prohibits sharing of any synchronous and asynchronous course content outside of the learning environment.

*SCampus Section 11.12(B)*

*Distribution or use of notes or recordings based on university classes or lectures without the express permission of the instructor for purposes other than individual or group study is a violation of the USC Student Conduct Code. This includes, but is not limited to, providing materials for distribution by services publishing class notes. This restriction on unauthorized use also applies to all information, which had been distributed to students or in any way had been displayed for use in relationship to the class, whether obtained in class, via email, on the Internet or via any other media. (See Section C.1 Class Notes Policy).*

**Course Schedule: A Weekly Breakdown**

Date/ Instructor(s)	Topics
(Tues.) 06-06-2023 NKW & DST	<b>STUDENT INTRODUCTIONS, ISSUES AND LAND USE INTERESTS:</b> Review of syllabus and readings. Discussion of student projects and assignments. Using a form provided in Session and on Blackboard, students will provide some background on themselves; based on the initial reading assignment and the course overview presented in Session 1, students will also be asked to identify particular issues that interest them and what types of land use topics they would like to focus on. An introduction to the overall process and its components.
(Thurs.) 06-08-2023 DST	<b>INTRODUCTION TO ZONING AND LAND USE DUE DILIGENCE APPROACH/TYPICAL ISSUES TO SPOT:</b> A review of the evolution of zoning and land use regulations. An overview of common zoning and land use issues developers should consider when assessing the feasibility of a site for a development project.
(Tues.) 06-13-2023 DST	<b>ENTITLEMENT PROCESSING I - LOCAL GOVERNMENT STRUCTURE, APPROVAL PROCESS:</b> Administrative structure of cities and counties: Boards of Supervisors and City Councils; Regulatory Commissions (planning commissions, zoning appeal boards, design review boards); the Application Process (land-use applications, staff review, public hearings, and decision-makers); Public Hearings (notice and availability of documents, contacts with elected officials, and the Ralph M. Brown Act). Review of common discretionary entitlements.
(Thurs.) 06-15-2023 DST	<b>ENTITLEMENT PROCESSING II – THE DEVELOPMENT APPLICATION AND OVERVIEW:</b> Typical development applications and their corresponding entitlement timelines will be reviewed and discussed. Using an example application as a starting point, an overview of the process and additional documents and considerations involved in entitlements will be discussed.

	<b>**Planning Commission Project Selections are Due Today**</b>
(Tues.) 06-20-2023 NKW	<b>PROPERTY AND LAND USE LAW 101:</b> Legal Framework: Development Agreements; Takings; Exactions; Dedications; Impact Fees; Nexus; Mitigation Fee Act; U.S. Supreme Court Nollan, Dolan, and other key land use decisions.
(Thurs.) 06-22-2023 NKW	<b>ENVIRONMENTAL REGULATION (CEQA) -- INTRODUCTION TO THE ENVIRONMENTAL REVIEW PROCESS:</b> Principles of California Environmental Quality Act (CEQA), the various CEQA clearances for development projects, and specifically Environmental Impact Report (EIR) requirements from preparation of Initial Study to Certification.
(Tues.) 06-27-2023 NKW	<b>SUBDIVISIONS/AFFORDABLE HOUSING:</b> Subdivisions: Tract Map, Vesting Tentative Tract Map, Parcel Map, and Final Maps; California Subdivision Map Act: Lot-Line Adjustment; Certificate of Compliance; Map Processing; Conditions of Approval, Exactions, Dedications, and Findings. Airspace lots including Condominium Maps. Affordable Housing 101.
(Thurs.) 06-29-2023 NKW & DST	<b>Planning Commission Projects Individual Coaching Sessions (Via Zoom)</b>
(Tues.) 07-04-2023	<b>**NO CLASS (4<sup>TH</sup> OF JULY HOLIDAY)**</b>
(Thurs.) 07-06-2023 NKW	<b>ENVIRONMENTAL REGULATION II:</b> Federal and State Environmental Issues and Permits, and Regional Planning Issues: Federal Clean Air, Clean Water, CERCLA, Endangered Species Acts.
(Tues.) 07-11-2023	<b>**MID-TERMS DUE BY END OF CLASS TODAY!**</b>
(Thurs.) 07-13-2023 NKW & DST	<b>PLANNING COMMISSION PRESENTATIONS PART 1 of 2</b>  NOTE: PLANNING COMMISSION ASSIGNMENTS DUE BY EMAIL PRIOR TO CLASS
(Tues.) 07-18-2023 NKW & DST	<b>PLANNING COMMISSION PRESENTATIONS PART 2 of 2</b>
(Thurs.) 07-20-2023 NKW	<b>COMMUNITY AFFAIRS STRATEGIES AND TACTICS:</b> Negotiation with Community Organizations. The approval process has evolved in ways that make negotiation and communication with community organizations as important, if not more important, than negotiation with municipalities. The sources and management of this developer-community engagement process are the subject.  <b>**Final Project Updates Due via Email to Instructors**</b>

<p><b>(Tues.)</b> 07-25-2023 NKW</p>	<p><b>URBAN DESIGN GUIDELINES AND FORM BASED ZONING; HISTORIC PRESERVATION:</b> The regulation of land use and development is evolving beyond traditionally defined zoning both in regard to parallel urban design guidelines and the emergence of form- based zoning which considers the building form in a more important way than traditional zoning which focuses on building use. How the approval process changes in redevelopment areas and historic districts.</p>
<p><b>(Thurs.)</b> 07-27-2023 NKW &amp; DST</p>	<p><b>Project Coaching for Final Project Small Groups (via Zoom)</b></p>
<p><b>(Tues.)</b> 08-01-2023 DST</p>	<p><b>TRAFFIC AND PARKING ISSUES:</b> Of all environmental impacts and politically charged issues, none is more prominent and ubiquitous than traffic impacts, the measurement of which is the topic along with parking analysis. There will also be a discussion of the changing standards by which traffic impacts are measured in light of broader policy issues of sustainability and greenhouse gas emissions.</p>
<p><b>(Thurs.)</b> 08-03-2023 DST</p>	<p><b>THE CALIFORNIA COASTAL COMMISSION:</b> Overview of the Coastal Zone, Coastal Commission and key Coastal Act policies and processes.</p>
<p><b>(Tues.)</b> 08-08-2023 DST</p>	<p><b>RETAINING THE RIGHT CONSULTANTS:</b> Lawyers, planners, lobbyists, technical consultants (Architectural, engineering, environmental, etc.). Coordination of “team” based approach to securing entitlement approvals.</p>
<p><b>(Thurs.)</b> 08-10-2022 NKW &amp; DST</p>	<p><b>FINAL PROJECT PRESENTATIONS IN CLASS</b></p>

### Statement on Academic Conduct and Support Systems

#### Academic Conduct:

Plagiarism – presenting someone else’s ideas as your own, either verbatim or recast in your own words – is a serious academic offense with serious consequences. Please familiarize yourself with the discussion of plagiarism in *SCampus* in Part B, Section 11, “Behavior Violating University Standards” <https://policy.usc.edu/scampus-part-b/>. Other forms of academic dishonesty are equally unacceptable. See additional information in *SCampus* and university policies on scientific misconduct, <http://policy.usc.edu/scientific-misconduct>.

#### Support Systems:

*Student Counseling Services (SCS)* - (213) 740-7711 – 24/7 on call

Free and confidential mental health treatment for students, including short-term psychotherapy, group counseling, stress fitness workshops, and crisis intervention. <https://engemannshc.usc.edu/counseling/>

*National Suicide Prevention Lifeline* - 1-800-273-8255

Provides free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week. <http://www.suicidepreventionlifeline.org>

*Relationship and Sexual Violence Prevention Services (RSVP)* - (213) 740-4900 - 24/7 on call

Free and confidential therapy services, workshops, and training for situations related to gender-based harm. <https://engemannshc.usc.edu/rsvp/>

*Sexual Assault Resource Center*

For more information about how to get help or help a survivor, rights, reporting options, and additional resources, visit the website: <http://sarc.usc.edu/>

*Office of Equity and Diversity (OED)/Title IX Compliance – (213) 740-5086*

Works with faculty, staff, visitors, applicants, and students around issues of protected class. <https://equity.usc.edu/>

*Bias Assessment Response and Support*

Incidents of bias, hate crimes and microaggressions need to be reported allowing for appropriate investigation and response. <https://studentaffairs.usc.edu/bias-assessment-response-support/>

*The Office of Disability Services and Programs*

Provides certification for students with disabilities and helps arrange relevant accommodations. <http://dsp.usc.edu>

*Student Support and Advocacy – (213) 821-4710*

Assists students and families in resolving complex issues adversely affecting their success as a student EX: personal, financial, and academic. <https://studentaffairs.usc.edu/ssa/>

*Diversity at USC*

Information on events, programs and training, the Diversity Task Force (including representatives for each school), chronology, participation, and various resources for students. <https://diversity.usc.edu/>

*USC Emergency Information*

Provides safety and other updates, including ways in which instruction will be continued if an officially declared emergency makes travel to campus infeasible, <http://emergency.usc.edu>

*USC Department of Public Safety – 213-740-4321 (UPC) and 323-442-1000 (HSC) for 24-hour emergency assistance or to report a crime.*

Provides overall safety to USC community. <http://dps.usc.edu>

*USC Policy Reporting to Title IX: <https://policy.usc.edu/reporting-to-title-ix-student-misconduct/>*

*USC Student Health Sexual Assault & Survivor Support : <https://studenthealth.usc.edu/sexual-assault/>*

*Homelessness and Food Insecurity*

Any student who has difficulty affording groceries or accessing sufficient food to eat every day, or who lacks a safe and stable place to live, and believes this may affect their performance in the course, is urged to contact the Trojan Food Pantry, which can provide food as well as help access state food grants. Furthermore, please notify the professor if you are comfortable in doing so. This will enable them to provide any resources they possess. No student should have to worry about homelessness, eviction or couch surfing when midterms, keeping your GPA up, and getting to work is already stressful enough. USC has resources to help you problem solve these and related issues. Go to <http://homelessness.usc.edu> for additional resources.