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LAND USE REGULATION

FINAL EXAMINATION

December 11, 2000

Professor Peter M. Malaguti

Your Social Security Number: _____

Your Social Security Number: _____

INSTRUCTIONS

Please put your answers right onto this exam booklet. There is no blue book.

You have one hour (60 minutes).

All of the following questions must be answered within the lines provided after each question. All portions of answers exceeding the lines will not be counted. There is no need to use up all the space provided if you can answer the question with just a few words. Please also remember that I can only correct that which I can read. So please try to keep it neat.

I generally give five (5) lines per question even if the question can be answered in one word.

Assume that the general legal concepts we studied this semester apply unless the question calls for the application of Massachusetts law.

QUESTIONS

1. What is the rational planning process?

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2. In Massachusetts, why is it a good idea to file a preliminary plan for a subdivision rather than going straight to a definitive plan?

3. In Massachusetts, what is required for a person to be “aggrieved?”

4. List the three categories of “takings” with a very brief description of each one.

5. Is Massachusetts an “early-vesting” state or a “late-vesting” state? Circle the correct answer.

EARLY

LATE

6. In Massachusetts, how does one determine whether a required payment is a lawful impact fee or an unlawful municipal tax?

7. Please define "police power."

8. What is "coming to the nuisance?"

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9. Why isn't a physically handicapped person entitled to a variance that would allow him to build an additional single story house on an already-nonconforming lot?

10. Why doesn't a special permit constitute unlawful "spot zoning?"

11. Which of the three takings categories described in your answer to Question 4 is the easiest to sustain from the perspective of the property owner?

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12. The Fifth Amendment takings clause allows private property to be taken for “public use.” How does one determine whether there is an appropriate public use?

13. Why is it so difficult to make out an equal protection violation when large lot sizes drive up the cost of real estate to prevent minorities from moving into certain communities?

14. How does Massachusetts deal with the question of “exclusionary zoning?”

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15. Assume that Adam has run a grocery store for 30 years prior the passage of a new zoning law which sets up the district as a residential district. He is able to continue his grocery store as a pre-existing non-conforming use after the passage of the new zoning ordinance. He desires to expand his grocery operations to cover both the first and second floors. This will double the size of his operation and will most likely increase traffic in the area substantially. State why Adam should be permitted to expand his grocery operations.

16. Explain the difference between an “as applied” and “facial” constitutional challenge.

17. In general terms, what is the “interstate land sales act?”

18. When is a developer entitled to an “approval under the subdivision control laws not required” (ANR) plan?

19. As we discussed in the last few classes, what is the conflict that permeates land use law?

20. Name at least two forms of security that local planning boards require of developers when granting subdivision approval.

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21. What is the difference between a nuisance “per se” and a nuisance “per accidens?”

22. State at least one policy reason in support of requiring developers to obtain subdivision approval from local planning boards.

23. Zoning by-laws consist of various “parts,” as we saw when we examined a couple of samples early in the semester. State at least two of the “parts” contained in the typical zoning by-law.

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24. What happens if a local planning board does not approve or disapprove a definitive plan within the required time period (either 45 or 90 days)?

25. Please answer any one of the following extra credit questions:

a. If you are a neighbor of a proposed development, and you want to stop the development, what kind of an animal will you make sure environmentalists find on the site?

b. In Shirley Graham's own words, please describe one of her newspaper articles.

c. What European city did Richard Clark recently visit, and what is its most significant contribution to world culture?

d. Name at least two maps or plans that are on the walls in our classroom.

END OF EXAM

HAVE A GOOD HOLIDAY!