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## Urban Land Use: Final Examination (May 24, 1971)

William & Mary Law School

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URBAN LAND USE

Mr. Anderson

(Final Examination)

May 24, 1971

1. Corppone bought a three acre tract of land in 1920 in a rural section and erected a house thereon out of scrap materials that were given to him. Corppone was so thrifty that he never disposed of anything. He stored and kept on his land everything that he acquired including various parts of old automobiles and farm equipment. Corppone kept pigs in one section of his land and permitted various garbage disposal companies to dump their refuse in his pig pen. The population of the City increased and by 1970 the land in this area developed into an expensive residential suburb. The neighbors tried to influence Corppone to clean up his property, and Corppone in a kind and courteous manner promised to do so, but he never did fulfill his promises. The neighbors consulted an attorney who advised them (1) that this area was zoned for single family residences, (2) that an ordinance prohibited the operation of a junk yard without a special permit from the governing body, (3) that the titles to all of the properties surrounding Corppone's three acres contained restrictive covenants which prohibited the use of the property for other than residential purposes, and (4) that a local ordinance prohibited the emission of noxious odors which would be unpleasant to the smell of an ordinary prudent person. Discuss the rights of the parties in appropriate proceedings to enforce each of the above provisions. What other advice would you give to the neighbors?

2. The following use is permitted in a Retail Business District in the Zoning Ordinance of City X: "Filling stations for servicing motor vehicles and public garages, provided that no gasoline or oil filling station shall be placed and operated within three hundred feet of any public school". The OK Filling Station was built and operated on a lot immediately across a fifty-foot wide street from The College, a state supported institution, many years prior to the adoption of the zoning ordinance. This area is classified Retail Business under the zoning ordinance. The owner of the OK Filling Station wants to tear down the present structures and erect new and improved structures in place of them, but the new structures will not be on the specific locations of the old structures. The Zoning Administrator of City X granted the OK Filling Station a permit to tear down the old structures, but refused a permit to build new structures. What should the owner of the OK Filling Station do? Result? Why?

3. Prior to the adoption of a zoning ordinance by City X, Owner built and operated a restaurant on a lot one hundred feet wide by two hundred feet deep. The building contained 10,000 square feet of floor area. The balance of the lot was used for parking and contained 20 parking spaces. Customers parked along side of the street when all of the parking spaces at the restaurant were full. On January 1, 1966, the owner stopped using the building as a restaurant and leased it to tenant for a five year term as an office building. On July 1, 1966, City X adopted a zoning ordinance and classified this area as Retail Business, which permitted uses for restaurants, office buildings, or any other retail business. The zoning ordinance required that a restaurant provide one parking space for each 100 square feet of floor space in the restaurant. When the lease expired, the owner found that no one wanted to use the building as an office building; therefore he proposed to resume use of the building as a restaurant. D, who owned and operated a restaurant across the street, had exactly the same size building

and the same number of parking spaces, but D had operated his restaurant continuously since June 30, 1966. (1) What should Owner do? (2) Assume that D opposed Owner, what result would be reached? Why?

4. Unpopular owned a five acre tract which adjoined a public street on one side and a one hundred acre tract, owned by Popular on the other side. Popular had successfully attempted to buy Unpopular's property, or an area sufficiently wide to make a street through the five acre tract to the one hundred acre tract. Popular's property was zoned residential and Unpopular's property was zoned commercial. Unpopular applied for a building permit to erect a skating rink on his property. Before the building permit was issued, the five members of governing board discussed the situation. Two members of the governing board were convinced that City X needed additional housing and that Popular's land was the most desirable to meet the needs for housing. Two members of the board hated skating rinks and were opposed to the building of any such thing in City X. The remaining member of the board was a personal friend of Popular's and wanted to see Popular make a financial success of the development of his land. The Governing Board therefore passed an ordinance authorizing the condemnation of a 100-foot wide strip through the middle of Unpopular's property for a city street. The remaining two parcels of Unpopular's property could be developed as two commercial sites, but were not suitable for a skating rink. Unpopular's application for a building permit was therefore refused. (1) What should Unpopular do? (2) The next day after Unpopular commenced the action you suggested, City X commenced a condemnation case. What should Unpopular do? (3) What would the outcome be? Why?

5. Discuss each of the following: (a) Spotting Zoning--Piecemeal Zoning, (b) The Geographical Description of the Boundaries established by a Zoning Ordinance, and (c) The Relation of Zoning to Planning.

6. (a) Explain the various methods that are used for determining fair market value of land in Eminent Domain proceedings. (b) Explain the significance of each of the following as an element of damages in Eminent Domain proceedings: (1) the establishment of a limited access line between the property being taken and the remaining property of the landowner, (2) the fact that additional traffic (or decreased traffic) will flow in front of the remaining property of the landowner, (c) City X owned the southern half of a lake and obtained its water supply from that lake. The owners of the northern half of the lake used it for boating and swimming. The public health department criticized the quality of the water and suggested that boating and swimming was causing contamination of the water supply. City X therefore passed an ordinance making it illegal to use the lake for boating or swimming. Discuss the validity of this ordinance. What standards can be used to determine the difference between a valid regulation and an illegal taking of private property for public use?