

Fall 2016

DCP 6730 (Section 2063)

Historic Preservation through Public Policy



Class meets: Tuesdays (Periods 07-09) **HOL 270, College of Law**
U.S. Capitol, Washington D.C. Florida Capitol, Tallahassee, Florida

SYLLABUS

1. Class Textbooks and Software/Required Texts

- a. Federal Historic Preservation Laws, The Official Compilation of U.S. Cultural Heritage Statutes, 2006 Edition. Cultural Resources, National Park Service, U.S. Department of the Interior, Washington, D.C. 2006.
- b. Additional required reading is reserved, on line or published by federal, tribal, state agencies and private organizations.

2. Instructor: **Dr. Janet Snyder Matthews**, Associate Scholar, DCP Historic Preservation Program
Office Hours: By appointment
Building: Architecture Building 461
Telephone: 352-294-1423

3. Introduction

The **National Park Service (NPS)** is the Federal manager of all national parks, national historic sites, national monuments, and natural and cultural properties designated with various purposes. It is a Bureau of the United States Department of the Interior, a federal executive agency whose head, the Secretary of the Interior, is a Cabinet officer nominated by the President and confirmed by the Senate. Most of the direct management of the NPS is delegated by the Secretary to the National Park Service Director, a Presidential nominee who also requires Senate confirmation.

The instructor of this course, Dr. Matthews, served for six years as Associate Director of the National Park Service for Cultural Resources and the Keeper of the National Register of Historic Places. She was responsible for determining the eligibility of Traditional Cultural Properties and the national significance for the Harriet Tubman Special Resource Study authorized by Congress. She administered our nation's cultural resource programs

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including, but not limited to, National Historic Landmarks, Native American Grave Protection and Repatriation, Tribal State Historic Preservation Offices, Historic American Building Survey, and Federal Rehabilitation Tax Credits. Prior to that, she was appointed Florida State Historic Preservation Officer by the Governor. Both in Washington and Tallahassee, she represented the agencies on federal and state commissions, councils and boards, such as Florida's Acquisition and Restoration Council, the Florida Tourism Commission, the Florida Trust for Historic Preservation, the National Trust for Historic Preservation, the National Council of State Historic Preservation Officers and the President's Advisory Council on Historic Preservation. This seminar is an opportunity for students to gain from personal and professional insights from a recognized expert. The course will consist of lectures, class discussion, research and presentations. Field trips to significant sites will complement class research work focused on preservation processes defined by law and administered through federal, state, tribal and local policy.

Guest Lecturers

- UF Distinguished Professor of Law Emeritus, Dean Roy Hunt (committed)
- Dr. William Marquardt, Curator, South Florida Archaeology Florida Museum of Natural History (committed)
- Dr. Kathleen Deagan, FLMNH Distinguished Research Curator Emeritus
- Dr. Darcie MacMahon, FLMNH Director of Exhibits & Public Programs (committed)
- Superintendent Gordie Wilson, Castillo de San Marcos National Monument, National Park Service (NPS) (invited)
- Dr. Paul Backhouse, Seminole Tribe of Florida, Tribal Historic Preservation Officer and Museum Director (scheduled)
- Marion M. Almy, Chair, Florida Historical Commission and President, Archaeological Consultants, Inc. (committed)
- Superintendent Pedro Ramos, Everglades National Park, National Park Service
- Dr. Sherry Hutt, program manager (ret.), Native American Grave Protection and Repatriation Act (NAGPRA) (NPS)
- FLMNH Collections bioarchaeology curator, lecturer and registrar (committed)

4. General Requirements/Expectations for Performance and Achievement

- The student is required to attend all course lectures. The **student is responsible** for knowing the lecture material, homework assignments, and announcements that are made in class. The student should be aware that there is a strong correlation between student performance and class attendance.
- The student is required to read the material in the text, directed by class lectures and presentations. See the table for reading assignments.
- Students will be expected to come to class, assignments completed and prepared to participate in discussion and/or presentation in class.
- The student is required to complete the homework, quizzes, projects, midterms, and final described below for his/her grade. Unexcused absences will be given a zero score.
- Active participation, discussion, assimilation, note-taking, analysis and communication.
- Development of knowledge base and learning tools.
- Timely completion of work.
- Contribution to the advancement of knowledge.

5. Background

Our national network of historic preservation law and policy has evolved over a century and a half. Today's distinctive federal, state, tribal and local levels reflect the population's increasing diversity and sense of whether cultural resources "matter"—along with how, by and for whom they should be preserved. Complementing other

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policy course offerings, students will explore in depth today's relevant laws and policies including the responsibility of State Historic Preservation Officers (SHPO) and Tribal Historic Preservation Officers (THPO), certified local governments (CLGs) and private-sector Cultural Resource Management (CRM) corporations to survey, identify and determine eligibility and significance of cultural resources. The purpose of this course is to prepare students to recognize capabilities in underlying law and policy through a combination of specific case studies, field exercises and the unique regulatory perspective of the NPS, SHPO and THPO as to how regulations and laws are actually put into effect. Lectures will be supplemented with selected field trips, providing students with the opportunity to meet and learn from active cultural resource professionals, regulatory officers and site managers. Through onsite meetings and orientation to historic properties, state or national park units, tribal lands and sites, students will gain additionally, an awareness of current issues in preservation administration.

6. Course goals and objectives

Upon completion of the course, students will have a broad understanding of the function of historic preservation at the federal, state, tribal and local levels in both the private and public sectors through the agency perspective as well as an understanding of the critical role of public advocacy in current legal issues as they relate to preparation of the professionally qualified graduate.

7. Homework and Assignments

All homework assignments are due at the beginning of the class on the assigned due date. All solutions sheets must be properly collated and stapled in the upper left hand corner. Do not use crimped edges or paper clips. Homework assignments turned in after the beginning of class will lose 20% of the total points possible for each day it is late. No credit will be given for an assignment turned in later than 5 days after the date it is due. The students are responsible for materials presented and discussed in class, lab period and in assigned readings. Exams, projects and exercises are written with the assumption that individual students are keeping up with the reading assignments and attending all the lecture and lab sessions.

8. Attendance and Unexcused Absences/Makeup Work Policy

Students are expected to attend all classes and to take notes on class lectures. Students who miss class may acquire notes only from their colleagues.

Class attendance is a requirement. No more than one absence may be excused during the semester.

9. University Excused

Authorized absences must be approved by the instructor in advance of the absence, unless you have an emergency or illness. Make-up work must be completed outside of normal class hours within ONE WEEK following an excused absence. It is your responsibility to contact the instructor and make arrangements for make-up work.

10. Student with Disabilities

In accordance with University policy, if you have a documented disability and require accommodation to obtain equal access in this course, please contact the instructor at the beginning of the semester or when given an assignment for which an accommodation is required. Students with disabilities must verify their eligibility through the Disability Resource center in the Dean of Student office located in 0001 Building 0020 (Reid Hall), Te1. 352-392-8565, fax 352-392-8570, e-mail at accessuf@dso.ufl.edu.

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11. School Policy

As a reminder, the University of Florida is a tobacco-free campus. The use of cell phones etc, is prohibited during scheduled class meeting times. Students are expected to **quiet cell phone** ringers. In summary, students are required to maintain the class area in conformance with fire, safety, and health regulations and codes and to maintain a "professional working environment."

12. Evaluation

*Individual Presentation and Final Scholarly Research Paper on a selected and approved topic. Maximum 30-minute PowerPoint Class Presentation and a Scholarly Research Paper relying upon primary sources (minimum 10 page, double-spaced 12 point, plus citations in an accepted scholarship standard with reflective, annotated bibliography). Paper due by final Class meeting.

Grade Values for Conversion May 11, 2009 and After												
Letter Grade	A	A-	B+	B	B-	C+	C	C-	D+	D	D-	E, I, NG, S-U, WF
Grade Points	4.0	3.67	3.33	3.00	2.67	2.33	2.00	1.67	1.33	1.00	.67	0.00

An option for law students only (availability TBD).

In addition to the 10-page paper mentioned above, law students may enroll in an additional *Independent Study* with Visiting Assistant Professor Nathaniel Amdur-Clark that will allow those students to expand the paper they prepare for this class to meet the law school's **Advanced Writing Requirement**. Law students would follow the process for enrolling in an "**Independent Research – Advanced Writing Requirement, Course Number LAW 6917 Credits: 1**". The additional 1 credit hour will be graded pass/fail by Professor Amdur-Clark. In addition to attending some additional meetings with Professor Amdur-Clark, students will be required to produce an additional, non-duplicative 25 pages of double-spaced, 12-point text or the equivalent in a paper they produce under close faculty supervision. In order for the paper to be certified as completing the advanced writing requirement, it must show evidence of original systematic scholarship based on individual research and drafts must be submitted for review by Professor Amdur-Clark.

13. Grading

As this course is taught as a seminar, and active discussion and critique is expected at each meeting based on readings and assignments, a high percentage of your grade will be based on participation.

Grades will be based on the following distribution of importance:

Participation in class discussions	20%
Attendance	30%
Individual Class Presentation of Scholarly Paper	25%
*Scholarly Research Paper (No Final Exam)	25%

14. University of Florida Honor Code

<https://www.dso.ufl.edu/sccr/process/student-conduct-honor-code/>

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Refer to the University policy regarding the use of copyrighted materials. If quoting directly, attribute to the source in scholarly standard form. Consult the graduate catalog <http://www.dso.ufl.edu/stg/> for further information.

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15. Tentative Schedule

Week 1. Overview of Course. Distribution of syllabus and introduction to *Federal Preservation Laws (FPL)*. Student introductions including academic fields of study and professional experience. Discuss assignments: select and discuss one *FPL* of particular interest and identify policy areas for next class meeting.

Week 2. Class discussion and identification and coordination of field trip opportunities and scheduling to include potentially: state-owned historic properties in St. Augustine managed by UF and privately owned Fountain of Youth and Mission Nombre de Dios, where 80 years of site study have revealed details of Native American and Spanish Colonial interactions.; State Historic Preservation Officer and staff and Native American sites such as Mission San Luis in Tallahassee. Class assignment discussion. Lecture: Policy at the level of local or state or federal or tribal administration.. Assignment for next class meeting: tie selected *FPL* to a site and discuss site and current policy in place relevant to each student's professional interests.

Week 3. Class discussion regarding assignments. Lecture and discussion: Contact, creation and provisions of the National Historic Preservation Act of 1966; constitutions of Seminole and Miccosukee tribes; and Chapter 267 *Laws of Florida* and local ordinances. Discuss assignment for next class meeting.

Week 4. Class discussion regarding assignment. Lecture: case study focused upon identification of resources through contract with a Cultural Resource Management firm (CRM). Discuss assignment for upcoming class meeting.

Week 5. Class visit to Florida Museum of Natural History with curators regarding permanent exhibit design, tribal agreements and fabrication of "South Florida People & Environments." Discuss assignment for upcoming class meeting.

Week 6. Field Trip I, to be arranged.

Week 7. Class discussion regarding assignment. Lecture: case study focused upon the role of advocacy. Discuss assignment for upcoming class meeting.

Week 8. Class discussion regarding assignment. Lecture: case study re the role of State institutions in legislatively defined preservation programs. Discuss assignment for upcoming class meeting.

Week 9. Class discussion regarding assignment. Lecture: case study focused upon the role of legislative bodies in creating law and federal, tribal, state and local policymakers in administering the law. Prospectus due. Discuss assignment for upcoming class meeting.

Week 10. Class discussion regarding assignment. Lecture: case study focused upon intersection of public and private sectors in the realm of Native American Grave Protection and Repatriation Act. Discuss assignment for upcoming class meeting.

Week 11. Class discussion regarding assignment. Lecture: case studies focused upon legal challenges relative to *Citizens to Preserve Overton Park v. Volpe*, 401 U.S. 402 (S. Ct., 1971) . Discuss assignment for upcoming class meeting.

Week 12. Field Trip II, to be arranged.

Week 13. Class discussion regarding assignment. Lecture: case study focused upon the role of the National Trust for Historic Preservation and National Association of Tribal Historic Preservation Officers in shaping federal, state and local policy. Discuss assignment for upcoming class meeting.

Week 14. Class discussion regarding assignment. Lecture: case study focused upon the critical role of grants and fundraising in private and public sectors. Discuss assignment for upcoming class meeting.

Week 15. Final Class Presentations, 1 of 2. Discussion.

Week 16. Final Class Presentations, 2 of 2. Discussion. Final Papers due.

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19. Bibliography and On-line Sources, Tentative

Advisory Council on Historic Preservation.

<http://www.achp.gov/>

American Institute of Architects:

<http://www.aia.org/>

Backhouse, Paul N., Brent R. Weisman and Mary Beth Roseborough, eds.

We Come for Good: Archaeology and Tribal Historic Preservation at the Seminole Tribe of Florida, University Press of Florida, Gainesville. Forthcoming, 2017.

Bell, James. 1883 Mounds in Alachua County, Florida. *Smithsonian Annual report for 1882*, pp.635-637.

Center for Environmental Excellence by AASHTO

Historic Preservation/Cultural Resources

http://environment.transportation.org/environmental_issues/historic_cultural/recent_dev_archive.aspx?year=2010

Chapter 267 *Laws of Florida*, known as the "Florida Historical Resources Act."

Chapter 267.1735, *Laws of Florida*,

Access:http://www.flsenate.gov/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=Ch0267/SEC1735.HTM

Chapter 872, *Laws of Florida*. Florida's Unmarked Burial Law.

Constitution and Bylaws of the Seminole Tribe of Florida, 1957

<https://www.loc.gov/law/help/american-indian-const/PDF/58060124.pdf>

Constitution of the Miccosukee Nation, 1962

<http://www.indigenouspeople.net/micconst.htm>

Corporate Charter of the Seminole Tribe of Florida, Bureau of Indian Affairs, U.S. Department of the Interior, 1957, U.S. Government Printing Office, 1958.

<https://www.loc.gov/law/help/american-indian-const/PDF/58060123.pdf>

Economic Impacts of Historic Preservation in Florida: <http://www.law.ufl.edu/cgr/pdf/Tech-Exec-Summary.PDF>

Final General Management Plan and Environmental Impact Statement, Castillo de San Marcos National Monument, 2007.

<http://staugustinegovernment.com/the-city/featured-stories-archive/documents/CastilloNPSGeneralManagementPlan.pdf>

Florida Master Site File, Burials & Human Remains Revista Project, 2003. 8AL297, Law Burial Mound, 46 pages:

https://uflorida-my.sharepoint.com/personal/jsmatthews_ufl_edu/_layouts/15/guestaccess.aspx?guestaccesstoken=MWsFavcU4j2VhNj4Vs7mPYXNTWDrDBN2CzDqpw9aBrU%3d&docid=01de08d001f6746a0bb914d8e3414453a&expiration=2016-12-15T19%3a41%3a33.000Z

Florida Master Site File website: <http://dos.myflorida.com/historical/preservation/master-site-file/>

(Contact VBirdsong@dos.state.flus [850 245 6329] for password to access state inventory.)

Example: Joaneda House Florida Master Site File document: <http://ufdc.ufl.edu/UF00095525/00001>

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Fradkin, Arlene and Jerald T. Milanich. 1977. Salvage excavations at the Law School Mound, Alachua County, Florida. The *Florida Anthropologist* 30(4):166-178.

(<http://ufdc.ufl.edu/UF00027829/00068?search=florida+=anthropologist.>)

Friends of Florida State Parks. www.friendsoffloridastateparks.com/

Historic Sites Act of 1935: <http://www.nps.gov/history/local-law/hsact35.htm>

Internal Revenue Code, Section 47, Rehabilitation Credit.

http://www.cr.nps.gov/history/online_books/fhpl/ircode_section47.pdf

<http://www.irs.gov/businesses/small/industries/article/0,,id=97599,00.html>

<http://www.nps.gov/tps/tax-incentives/taxdocs/about-tax-incentives.pdf>

George B. Hartzog, Jr. 1920 – present (1991), Biographical Vignettes, National Park Service: The First 75 Years. By Robert Cahn. https://www.nps.gov/history/history/online_books/sontag/hartzog.htm

Gettysburg Cyclorama lawsuit ruling and response, 2010.

http://www.gettysburgtimes.com/news/blogs/article_fb588195-4d77-5f75-98d8-c5e0e619488c.html

House Bill 774 (1959); Senate Bill 381 (1959); Chapter 59-521 *Laws of Florida*, p. 1758-1762, establishing the Historic St. Augustine Preservation Commission.

Hunt, E.L. "Property Rights and Wrongs: Historic Preservation and Florida's 1995 Private Property Rights Protection Act." *Florida Law Review*. 48, 4 (September) 709.

Hunt, E.L. Roy et al. *Historic Preservation in Florida*. Clearwater, FL: D&S Publishers, 1988.

Hutt, S., & Tarler, D. (Eds.). (2010). *Yearbook of Cultural Property Law 2010*. Walnut Creek, CA: Left Coast Press.

Hutt, Blanco and Varmer, *Heritage Resources Law, Protecting the Archaeological and Cultural Environment*, National Trust for Historic Preservation, 1999.

Judicial Commission – Seminole Tribe of Florida

<http://www.semtribe.com/Government/TribalCourt/Forms/STOF%20Judicial%20Commission%20Code.pdf>

McLendon, Timothy and JoAnn Klein, Ed. *Economic Impacts of Historic Preservation in Florida*. Study by Center for Governmental Responsibility, University of Florida and Center for Urban Policy Research, Rutgers and funded by Florida Department of State, Division of Historical Resources, 2002. Revised 2010. Available on-line.

----- and others, "Contributions of Historic Preservation to the Quality of Life in Florida." Technical report includes chapters on sites, museums, legal framework, economic indicators, tourist-related expenditures and survey findings by. University of Florida and Florida Trust for Historic Preservation and funded by Division of Historical Resources, bureau of Historic Preservation, Florida Department of State, 2006.

National Conference of State Historic Preservation Officers: <http://www.ncshpo.org/>

National Association of Tribal Historic Preservation Officers. <http://nathpo.org/wp/about-nathpo/what-is-nathpo/>

National Historic Landmarks: www.cr.nps.gov/nhl

Note particularly recent listings, such as: (1) Rosebud Battlefield, Where the Girl Saved Her Brother (Big Horn county) and (2) Wolf Mountains Battlefield, Where Big Crow Walked Back and Forth (Rosebud County). Both in Montana.

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National Historic Preservation Act of 1966: <http://www.nps.gov/history/local-law/nhpa1966.htm>

National Register of Historic Places Publications: www.cr.nps.gov/nr/publications

National Trust for Historic Preservation. Legal Department:
<http://www.preservationnation.org/about-us/programs/law.html>

Preservation Action: <http://www.preservationaction.org/>

Sand Creek Massacre National Historic Site, National Park Service, U.S. Department of the Interior.
<https://www.nps.gov/sand/index.htm>

Seminole Tribe of Florida Tribal Historic Preservation Office Laws
<http://www.stofthpo.com/Laws-Seminole-Tribe-FL-Tribal-Historic-Preservation-Office.html>

Seminole Tribe of Florida Cultural Resource Ordinance (CRO) No. C-01-116, signed February 19, 2016. The CRO, adopted by the Tribal Council in 2013, was approved by the Advisory Council for Historic Preservation (ACHP) in March, 2016. The CRO allows federal projects taking place on Seminole Tribe of Florida lands to be reviewed under the Tribe's own CRO, rather than outside regulators.
<http://stofthpo.com/Cultural-Resource-Ordinance.html>

STOF Judicial Code – Seminole Tribe of Florida
<http://www.semtribe.com/Government/TribalCourt/Forms/STOF%20Judicial%20Code.pdf>

Tribal Historic Preservation Office Grant Program - National Park Service
<https://www.nps.gov/thpo/grants/>

Tribal Historic Preservation Program - National Park Service
<https://www.nps.gov/thpo/>

Tribal Historic Preservation Offices, Historic Preservation Grants funding history.
<http://nathpo.org/wp/wp-content/uploads/2015/03/NATHPO-One-Pager-20151.pdf>

UNESCO World Heritage Centre
<http://whc.unesco.org/>
Tentative Lists. <http://whc.unesco.org/en/tentativelists/>

U.S. Department of the Interior – Organization Chart. www.doi.gov/secretary/officials_orgchart.html

U.S. Department of the Interior, Bureau of Indian Affairs, Federal Register Notice of Federally Recognized Tribes, 2015.
<https://www.loc.gov/catdir/cpsob/iaind.pdf>

U.S. National Park Service Organization. Headquarters Organization www.nps.gov/aboutus/organization.htm

U.S. Supreme Court, Citizens to Preserve Overton Park, Inc., et al. v. Volpe U.S. 401 402 (1971):

With Heritage So Rich: A Report of a Special Committee on Historic . . . April 29, 2008 . . . AIA (Director, Department of Information, National Trust for Historic Preservation); Carl Feiss, FAIA, AIP. . .
www.mywingsbooks.com/inventory/01572-With-Heritage-S.shtml

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With Heritage So Rich (1960s). With Introduction by Richard E. Moe, President, National Trust for Historic Places, Preservation, 2002.

Working with Tribal Historic Preservation Officers, National Park Service.

https://www.nps.gov/history/tribes/Tribal_Historic_Preservation_Officers_Program.htm