Daniel Mandelker, the Howard A. Stamper Professor of Law, is not the teacher he used to be. He started out at as an amateur at the age of nine who taught at the encouragement of his teachers at the Milwaukee State Teachers’ College training school. Nor, having traded his lectern for the Web, is he the same professional teacher who started 50 years ago at Drake University in Iowa.

He is also not the same lawyer. Mandelker turned to law to continue his interest in politics. Though he describes himself as “an old-fashioned Wisconsin lawyer with mud on my feet,” he’s not the “police-power hawk,” he once was, according to his colleagues. These colleagues joined co-authors, friends, and former students in honoring Mandelker for his life’s work through a Festschrift published in January 2001 by Washington University’s Journal of Law and Policy. With 30 articles running on 888 pages, the Festschrift covers the very subjects—land-use law, takings issues, fair housing, zoning, and billboards—that Mandelker has been writing casebooks about, lobbying for, lecturing on, drafting model statutes about, and researching or assigning research for during his evolving career.

Mandelker’s own Festschrift article represents a recent interest: due process so landowners have access to federal courts in decisions concerning use of their lands.

Michael Berger, JD ’67, with Berger & Norton in Santa Monica, California, also contributed an article on this issue for the Festschrift. He has taken three such cases to the Supreme Court of the United States.

“I learned more constitutional law in Dan Mandelker’s class than in con law,” Berger recalls. “What we studied in Dan’s class hit regular people every day—it wasn’t just theory. For me that was a more integrative way through the concepts.”

Over the years Berger has stayed in touch, sending Mandelker articles that Berger has written in the field they share—though on opposite sides of the fence. “We rarely agree substantively on anything,” Berger says. “Dan defends the government’s use of regulatory power, while I focus on defending property owners against the excessive use of government power.”

About 10 years ago, however, the two men finally found grounds for agreement. By that time, each had a high-enough profile in the field that they thought friends and colleagues would be amused to see their shared byline on “A Plea to Allow the Federal Courts to Clarify the Law of Regulatory Takings,” published in the Land Use Law and Zoning Digest.

“THE TIME OF THE OLD-FASHIONED LECTURE IS PAST, ESPECIALLY IN LAND-USE LAW. THIS IS A VISUAL AREA, SO I CREATED A WEB SITE FOR STUDENTS TO BECOME INVOLVED IN SUBSTANTIVE ISSUES. LAND-USE LAWYERS AND TEACHERS ALL ACROSS THE NATION ALSO USE IT.”

Daniel Mandelker

by Martha Baker
Berger and Mandelker also serve together on panels at land-use institutes held annually by the American Law Institute–American Bar Association. At a recent conference in Utah, Berger wrote on the history of land-use laws. He said that Mandelker presented “cutting-edge problems, some I’d never heard of before—and I do nothing but land-use litigation!” In turn, Berger adds, “I like to think Dan picked up something from me.”

Mandelker has been picking up information since he was a boy. Field trips to Works Progress Administration projects during President Franklin Roosevelt’s New Deal kindled his interest in public housing. Attending meetings with his father, a lawyer and one-time adviser to Milwaukee’s mayor, and even speaking for his father at times fueled Mandelker’s political enthusiasm. At the University of Wisconsin, he and his fellow political science majors reorganized classes into a social science curriculum. Later he and his fellow law students—for fun, not credit—lobbied the state legislature in Madison; his area was integration of estate and inheritance taxes. “We introduced a whole phalanx of issues,” Mandelker recalls.

A mentor’s advice to combine his interests in politics and teaching by becoming a law professor was instrumental.

Today Mandelker teaches and provides expert consultation. As a consultant, he practices what he teaches. A chief consultant to the American Planning Association (APA), he has worked since 1994 on Growing Smart, a program to draft a series of model statutes for planning and zoning laws. He has also testified several times before congressional committees on legislation that would make it easier for federal courts to hear land-use cases.

“Some weeks I talk to him more than I do my mother,” says Stuart Meck, an APA senior researcher in Chicago who pointed out the many citations of Mandelker’s work in state supreme courts and in the Supreme Court of the United States, including 1995’s City of Edmonds v. Oxford House, Inc.

Meck admires Mandelker’s ability to see patterns where no one else does and to combine scholarship and teaching with practicality. “Dan is not a one-trick pony. His interests are diverse—affordable housing, local government, free speech, planning and zoning, signage—but he doesn’t pigeonhole. He produces.”

Mandelker is a proponent of making city planning more effective and making it mandatory, not just advisory. He used to work with municipalities on their plans, but in the last decade he has become one of the few experts in the country on litigation and legislation on the aesthetics of signs and billboards. That means writing initiatives for ballots, researching hundreds of ordinances, and revising his book, Street Graphics and the Law. “We learn in law school to be persistent. Planners don’t learn that,” he explains.

Mandelker gives students extra credit for reporting on proceedings of a zoning board or a city council or for developing a home-rule charter. He posts zoning laws on his Web site. “It’s the first time some students read those laws,” Mandelker says. “The time of the old-fashioned lecture is past, especially in land-use law. This is a visual area, so I created a Web site for students to become involved in substantive issues. Land-use lawyers and teachers all across the nation also use it.” The Jurist named law.wustl.edu/Academics/Faculty/Mandelker/Land_Use/ its Site of the Week in February 1999—an accolade Mandelker appreciated.

“The continuing thread in Dan’s life is his passion for teaching,” Berger observes. “You can’t come away doubting he feels strongly about process.”

APA’s Meck describes Mandelker as “a locomotive” when he presents talks: “People need to appreciate his influence in the field of land-use law. He was writing about it when no one else was, and he elevated it to a national status as a legal and public policy issue.”

“This is a tough field,” Mandelker says, “I tell students on the last day of class that they can go into some other area and be bored, or go into land-use law and make a difference.”