



Antiquated Subdivisions — Improving Their Livability

Compiled by Bruce Ford, Senior Regional Planner

As pressures for growth increase, antiquated subdivisions create many land-use problems for local governments. Contrary to popular thought, the problems exist in Northeast Florida. While there are no quick fixes or absolute solutions, there are some planning and financing techniques that can improve their livability.

Antiquated subdivisions (also known as pre-platted subdivisions, obsolete subdivisions or platted lands) are subdivisions platted prior to the development of local Comprehensive Plans and Land Development Regulations. These subdivisions have similar characteristics including:

- Single use designs with no provisions for commercial or other types of non-residential uses.
- Designs that do not take into account environmental constraints, such as wetlands, flooding, environmentally sensitive lands, etc.
- Lack of supporting infrastructure, such as paved roads, sidewalks, street lights, drainage, water and sewer, as well as ancillary services, such as recreation, fire, police, EMS, and schools.
- No provisions to maintain roads and drainage.
- Location in rural areas far from existing infrastructure and services.
- Nonconformity to local government's current Comprehensive Plan.
- Original developer may have gone bankrupt leaving local government and taxpayers to foot the bills.

These subdivisions occur throughout the United States but are especially prevalent in Florida, where the phenomenon gained momentum in the 1950s when out-of-state companies mass-marketed lots to buyers nationwide. Many lots were purchased as potential vacation or retirement home sites, often sight unseen and with small or no down payment.

Growth in these areas has resulted in greater demands on local government for services, such as road maintenance and paving, street lights, water and sewer, garbage collection, parks, and police and fire protection. Many local governments do not

have the money or personnel to effectively provide these services.

Examples of the largest antiquated subdivisions are found in central and southern Florida where they cover thousands of acres and, in some cases, have more than 100,000 lots, many still vacant. Different degrees of antiquated subdivisions can be found in Northeast Florida, including Flagler Estates straddling the St. Johns/Flagler County lines, Pinecrest and Surfside subdivisions adjacent to Marsh Landing in St. Johns County, Interlachen Lakes Estates in Putnam County, Black Creek (Middleburg area) and High Ridge Estates (Keystone Heights area) in Clay County.

Palm Coast in Flagler County is another example, but it incorporated in 1999 and now has a Comprehensive Plan to address community growth and provide for services and maintenance of infrastructure.

Suggested Planning Techniques

Numerous planning techniques have been suggested to deal with antiquated subdivisions. Not all techniques are practical for local governments and each antiquated subdivision has its own unique set of problems and issues. One or more of the following techniques may be used.

A. Lot Consolidation

Lot consolidation refers to the requirement by some local governments to combine two or more lots in order to meet the minimum lot-size requirement of the local Comprehensive Plan and underlying zoning.

For example, the Comprehensive Plan might



require at least 1 acre for new residential development but lots in the antiquated subdivision may be platted in ½-acre sizes. An applicant would need to combine at least 2 lots to obtain a building permit. This technique reduces the overall number of dwellings in the subdivision as well as the demands on services. Variances can be allowed for lots that cannot be combined, such as a lot surrounded by houses on 3 sides. Lot consolidation can also be required by the local Health Department to meet the minimum size lot allowed for an onsite sewage disposal system (septic tank and drain field).

B. Plat Vacation

Plat vacation refers to the technique of voiding or vacating the original subdivision plat, usually at the request or approval of the land owner(s) in order to eliminate non-conforming lots.

If the developer has already sold many of the lots to private individuals, this technique is not practical due to competing interests and difficulty in negotiating with multiple owners. It works primarily when lots are vacant and still in single ownership, especially if still owned by the original developer. Ideally, the local government would work with the developer in redesigning the plat to meet current standards that would meet the developer's goals while also providing residents and local government with an acceptable development.

Related to the plat vacation concept is the idea of redesigning an antiquated subdivision. Vacant lots could be reassembled and a new plat developed to meet current regulations and market demands.

C. Incorporation

Another alternative is to incorporate as a municipality pursuant to Chapter 165.041, Florida Statutes. This option allows the entire development to be governed uniformly under one government, which could provide all the necessary services and infrastructure. It also helps to create an identity and sense of place for the subdivision.

Incorporation requires a charter to be adopted by a special act of the Legislature. In addition, Chapter 165.061 Florida Statutes (Standards for Incorporation, Merger, and Dissolution) requires that incorporation of a new municipality, other than through merger of existing municipalities, must meet the following conditions:

- Be compact, contiguous, and amenable to separate municipal government.
- Have a total population—as determined in the latest official state census, special census, or estimate of population—of at least 1,500 in counties with 75,000 or less, and of at least 5,000 in counties with more than 75,000.
- Have an average population density of at least 1.5

persons per acre or have extraordinary conditions requiring the establishment of a municipal corporation with less existing density.

- Have minimum distance of any part of the proposed incorporated area from the boundaries of an existing municipality within the county of at least 2 miles or have an extraordinary natural boundary which requires separate municipal government.
- Have a proposed municipal charter.

D. Acquisition

Acquisition can take several forms. Vacant lots that have defaulted on their taxes can be acquired for non-residential uses—such as retail or office uses, park sites, utilities, government uses, or storm water retention areas—that will benefit the entire community. Government entities can attempt to secure these lots through tax deed sales, and once secured, lots can be used as is or be traded to other land owners who may own lots located in an area the community is seeking as a retail or office site.

Lot owners could be approached to trade their lot(s) for ones located closer to the center of the subdivision, thus reducing the subdivision's total size and the cost of providing services to outlying areas.

Subdivisions containing environmentally sensitive lands may be of interest to private conservation groups or public conservation agencies, such as the Water Management Districts or the Department of Environmental Protection, who may purchase all or portions of these lands. These areas could be used for conservation and/or as part of larger

ecosystem restoration plans. This type of activity is occurring in Collier County's Golden Gate Estates, where the State is purchasing individual lots on a mass scale. This subdivision is adjacent to existing Federal conservation lands and contains habitat for the endangered Florida Panther.

E. Graduated impact fees

Another planning technique for counties that have impact fees is a higher fee for new development located within antiquated subdivisions. This serves a two-fold purpose: An economic disincentive that may slow growth in these areas, and compensation to local government for the higher costs of providing services. The disadvantage of this technique is that it requires staff to administer and collect the fees.

Methods of Financing Capital Improvements

Many antiquated subdivisions have special financing problems. Most of these subdivisions are located in unincorporated areas far removed from the services normally provided by the counties. This makes the provision of services more expensive due to the time and travel needed by county personnel and equipment.

Planning Techniques

include

**Lot consolidation, Plat
Vacation, Incorporation,
Acquisition, and
Graduated Impact Fees**

In addition, some subdivisions have a large percentage of mobile or manufactured homes. Combined with the homestead exemption and low assessed values, the ad valorem taxes on these lots are low compared to their demand on services. Those with private roads are responsible for maintaining these roads and in some cases the drainage too.

A number of alternative financing methods for these subdivisions are described below:

A. Creation of an Independent Special District, Chapter 189, F.S.

Creating an Independent Special District pursuant to Chapter 189, Florida Statutes, provides a new entity, other than the County, which is able to provide a wide range of services. By definition, special districts are units of local special-purpose government.

This option provides for a governing board with policy-making powers to operate within limited boundaries, such as those of an antiquated subdivision. The governing board maintains authority to levy ad valorem taxes and non-ad valorem assessments, and to issue bonds to provide necessary capital infrastructure, facilities and services.

The Department of Community Affairs Special District Information Program must review an Independent Special District to verify its independent status. Once confirmed by DCA and approved by the Legislature, the District follows effective Florida Law in electing a separate governing body.

Advantages: A way for the residents to pay for the capital infrastructure, facilities, and services necessary for the preservation and enhancement of their quality of life.

Disadvantages: Substantial increase in resident taxes and fees; Extensive start up costs; Process is tedious and complex, involving legislative action (unless a Community Development District form of Special District is created); Homesteaded properties may pay little, if any, ad valorem-based taxes depending on their assessed value.

B. Creation of a Municipal Service Benefit Unit (MSBU) , Chapter 125.01, F.S.

Pursuant to Chapter 125.01, Florida Statutes, an MSBU could be established for all or part of an antiquated subdivision as a mechanism that allows the levy and collection of assessment(s) on properties within the MSBU to fund the cost of providing,

operating and/or maintaining services (including debt service) and facilities available to and for the properties assessed.

Such costs may include the estimated costs to be incurred during any fiscal year for the collection of the assessments—including any service charges of the clerk or tax collector—and amounts necessary to offset the maximum discounts available for early payment of non-ad valorem assessments pursuant to applicable law.

An MSBU allows the levy and collection of non-ad-valorem special assessments within the MSBU to finance ongoing services, such as road maintenance and drainage or one-time localized capital improvements projects, such as centralized water and sewer collection systems, street paving, or installation of sidewalks or street lights on properties benefiting from such services or improvements.

An MSBU is normally financed through issuance of bonds and revenue certificates, or other obligations of indebtedness. The Board of County Commissioners would normally be the governing body of an MSBU. For on-going services, the County adds the non-ad valorem special assessment fee to the annual property tax bill.

Advantages: An alternate funding mechanism for services and/or capital improvement projects; Governing board not required; Not ad-valorem based so not affected by low property values.

Disadvantages: County must expand services; County must administer MSBU; Increased property taxes to all the subdivision

residents; Only those properties receiving benefit can be assessed the fee.

C. Creation of a Municipal Service Taxing Unit (MSTU), Chapter 125.01, F.S.

Pursuant to Chapter 125.01 Florida Statutes, an MSTU could be established for all or part of a subdivision as a mechanism that allows the levy and collection of assessment(s) on properties within the MSTU to fund the cost of providing, operating and/or maintaining services (including debt service) and facilities available to and for the properties assessed. The Board of County Commissioners is the governing body of an MSTU.

An MSTU allows the annual levy and collection of ad valorem-based taxes within the MSTU to finance ongoing governmental services, such as road maintenance and drainage, but can also include other governmental services, such as police, fire, rescue,

Funding Techniques

**include creation of
Independent Special District,
Municipal Service Benefit
Unit, or Municipal
Service Taxing Unit**



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9143 Phillips Highway, Suite 350
Jacksonville, FL 32256
Tel: (904) 363-6350 • Fax (904) 363-6356
Web: www.nefrpc.org

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The millage levied on any parcel of property may not exceed 10 mills. Delinquent taxes are subject to the regular collection enforcement system (tax certificate and deed sales), which is primarily the responsibility of the County Tax Collector's Office.

Advantages: A funding mechanism for on-going governmental services or capital improvements; All properties within MSTU can be taxed regardless of direct benefit; Governing board not required.

Disadvantages: Homesteaded properties may pay little, if any, taxes depending on their assessed value; County must expand services; County must administer MSTU; Increased property taxes to all the residents within the MSTU.

D. Creation of a Community Redevelopment Agency

Another technique is the creation of a Community Redevelopment Agency (pursuant to Chapter 163.330 Florida Statutes) to undertake activities or projects within a designated Community Redevelopment Area for the following purposes: to eliminate or prevent development or spread of slums and blight, to reduce or prevent crime, to provide affordable housing in accordance with a required community development plan. Since this is a more limited option, we do not cover it in detail here. More details may be found in the Florida Statutes.

Conclusions

Antiquated subdivisions as originally created were typically ill conceived and have caused many land-use problems for local governments. There are no quick-fixes or absolute solutions to these problems, and all have legal, political and economic implications.

Without some sort of corrective action, however, these problems will not go away and will only worsen in time as growth pressures increase. Resolving these problems will require strong leadership on the

part of local governments and a commitment to solving or reducing the problems through the use of one or more planning and capital improvement financing techniques.


One tool for accomplishing a mix of non-residential uses is the creation of an additional Land-Use Category and accompanying zoning districts, known in the planning profession as an "Overlay Zone." The Land-Use and/or Zoning is imposed over existing Land-Use and/or Zoning districts, providing an additional layer of development standards to address special land-use needs. An Overlay Zone could be created specifically for non-residential

uses necessary to serve residents living in an antiquated subdivision. Such uses could be commercial (retail, wholesale and office), and institutional (churches, day care, schools, post office, parks, etc.).

In order for these types of non-residential development to be approved, they must meet certain standards, such as location, need, or design to ensure that the proposed use is compatible with adjacent land uses. The boundaries of the Overlay Zone must be approved by the local government

and the Department of Community Affairs. Once approved, all requests for non-residential uses within the Overlay Zone would require a public hearing just as with a typical rezoning request.

However, the reviewing body may be set up similar to a Board of Adjustment through which requests for a change are reviewed based on the adopted criteria being met.

Whatever is done within an antiquated subdivision, current and future residents of these communities must realize that some change is inevitable. While many of these areas provide a valuable need for affordable housing, the costs to live in these communities will most likely go up to some degree in order for the County to provide the services demanded by the residents and to maintain the public's health, safety and welfare. 

**Improving antiquated
subdivisions requires
strong leadership and a
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solving or reducing
the problems**