

Florida's Antiquated Subdivisions

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Antiquated Subdivisions

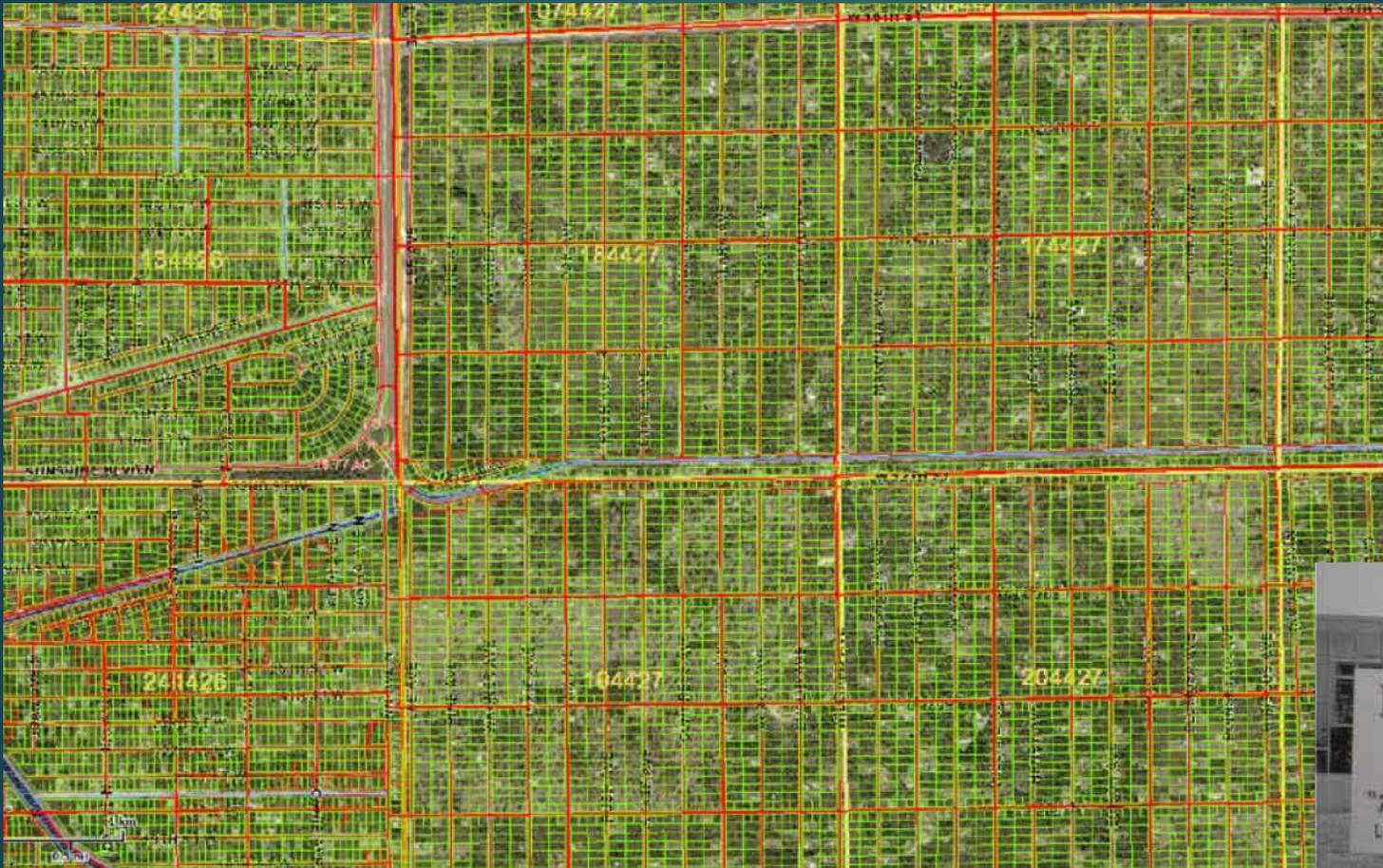
- ▶ Antiquated subdivision – a subdivision that:
 1. Was recorded or approved more than 20 years ago;
 2. Has substantially failed to be built;
 3. The continued build out of the subdivision in accordance with the subdivision's original approval would cause an imbalance of land uses;
 4. Would be detrimental to the local and regional economies and environment;
 5. Hinders current planning practices; and
 6. Leads to inefficient, fiscally irresponsible development patterns as determined by the respective jurisdiction in which the subdivision is located.
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Antiquated Subdivisions

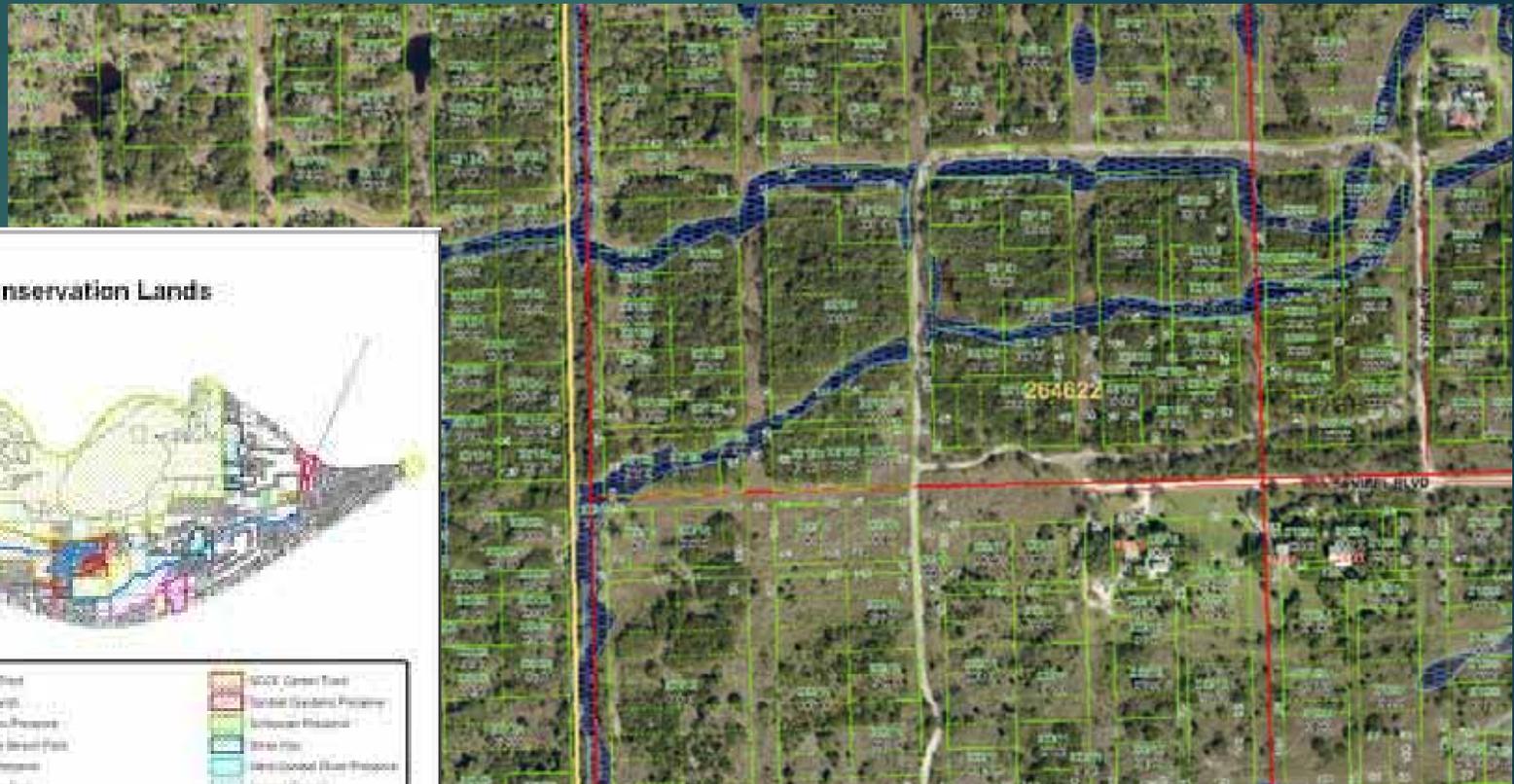
- ▶ Antiquated Subdivisions also referred to as "Antiquated Plats" or "Premature Subdivisions" are typically characterized by:
 1. Single use development for residential single-family or mobile homes;
 2. Location and/or design that does not consider environmental features or constraints;
 3. Inadequate infrastructure such as drainage, water and wastewater services, paved roadways and sidewalks;
 4. Limited sites for non-residential development or ancillary services such as sites for schools, parks and police or fire substations;
 5. Non-conforming with local government's current comprehensive plan and land use ordinances.

Single Use Development

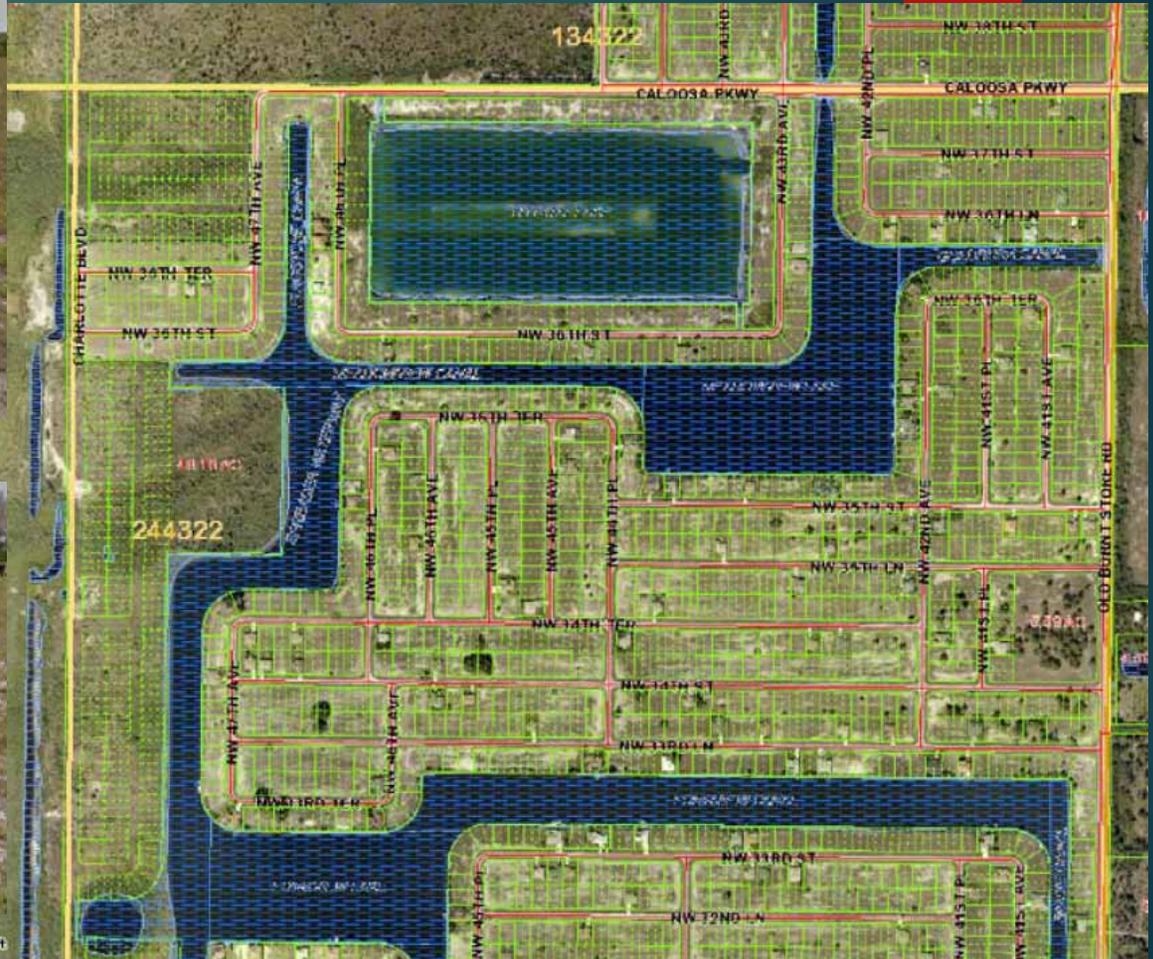
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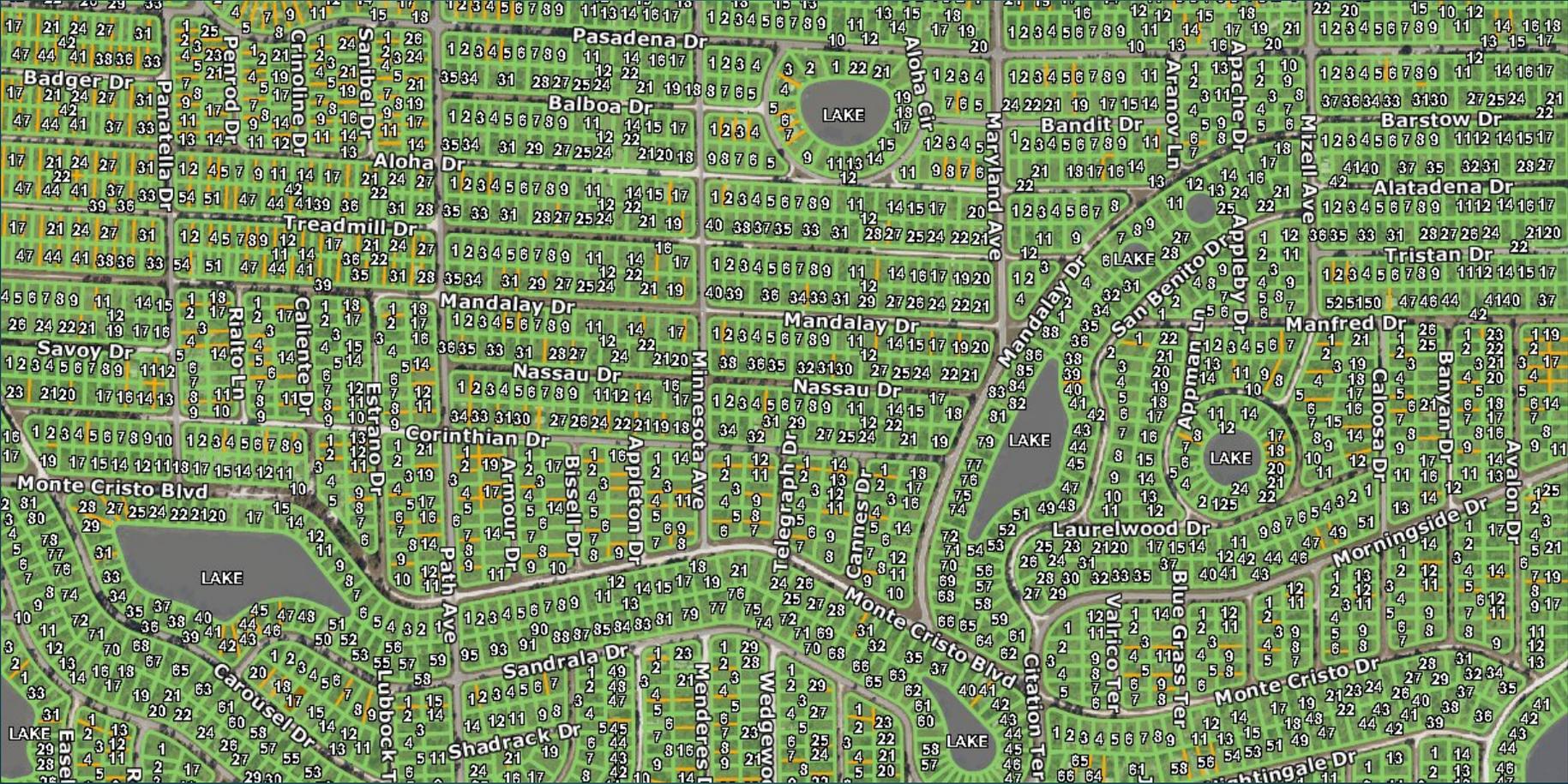
Lack of Environmental Constraints



Inadequate Infrastructure



Limited Non-Residential Development



Florida's Antiquated Subdivisions

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- ▶ From 1920 to 1970's
 - ▶ 1.6 million acres subdivided
 - ▶ 2,600 existing subdivisions created
 - ▶ 2.1 million platted lots
 - ▶ Plat Book subdivisions
 - ▶ Official Record Book subdivisions



177.101, FS

- ▶ (3) The governing bodies of the counties of the state may adopt resolutions vacating plats in whole or in part of subdivisions in said counties, returning the property covered by such plats either in whole or in part into acreage. Before such resolution of vacating any plat either in whole or in part shall be entered by the governing body of a county, **it must be shown that the persons making application for said vacation own the fee simple title to the whole or that part of the tract covered by the plat sought to be vacated, and it must be further shown that the vacation by the governing body of the county will not affect the ownership or right of convenient access of persons owning other parts of the subdivision.**

Florida's Antiquated Subdivisions-Strategies

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Lot Merger

This occurs with the joining of two or more adjacent lots into one new lot. Often this approach is used when one or more of the affected lots do not meet current standards for sewage disposal and/or domestic water supply. In some instances lot mergers have been required for subdivisions which contain significant wetlands in order to achieve a buildable footprint. Some jurisdictions have required abutting under-sized lots under a single ownership to be combined into a single building site.

Florida's Antiquated Subdivisions-Strategies

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Vacating a Plat and Reconfiguration

Plat vacation can allow for the redevelopment of part or all of the subdivided land. It legally removes the force and effect of the prior plat (full vacation) or the designated lots (partial vacation) and all public rights in the streets, public grounds, and dedications. These lands can then be reconfigured to meet current development standards, including protection for environmental and habitat resources, adequate infrastructure and a mix of uses. Typically such re-platting effort requires common ownership in order to be accomplished.

Florida's Antiquated Subdivisions-Strategies

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Transfer of Development Rights

A transfer of development rights program is a mechanism by which the development potential of a site is severed from one parcel (sending site) and made available for transfer to another parcel (receiving site). Depending on how the program is structured, the owner of a sending site may or may not retain property ownership, but in either case all development potential is removed. The owner of a site within a receiving area may purchase transferable development rights and then develop at a greater density. TDR schemes have met with very limited success in Florida due to a variety of factors, not the least of which has been the questionable economic viability of most TDR programs that have been adopted by local governments.

Florida's Antiquated Subdivisions-Strategies

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Lot Acquisition

Established programs, run either by the local government or through a Land Trust, identify, assess and acquire subdivided lots. Characteristically these programs aim to protect environmentally sensitive open space and natural habitats, to protect farmland, and/or to provide recreational lands. These programs are undertaken with other state, federal and non-profit land acquisition programs and leverages funding from various sources. Another avenue for lot acquisition by local governments is to purchase the tax deeds. This strategy requires significant reservation of resources for a local government and has been a slow and difficult process during periods of economic distress.

Florida's Antiquated Subdivisions-Strategies

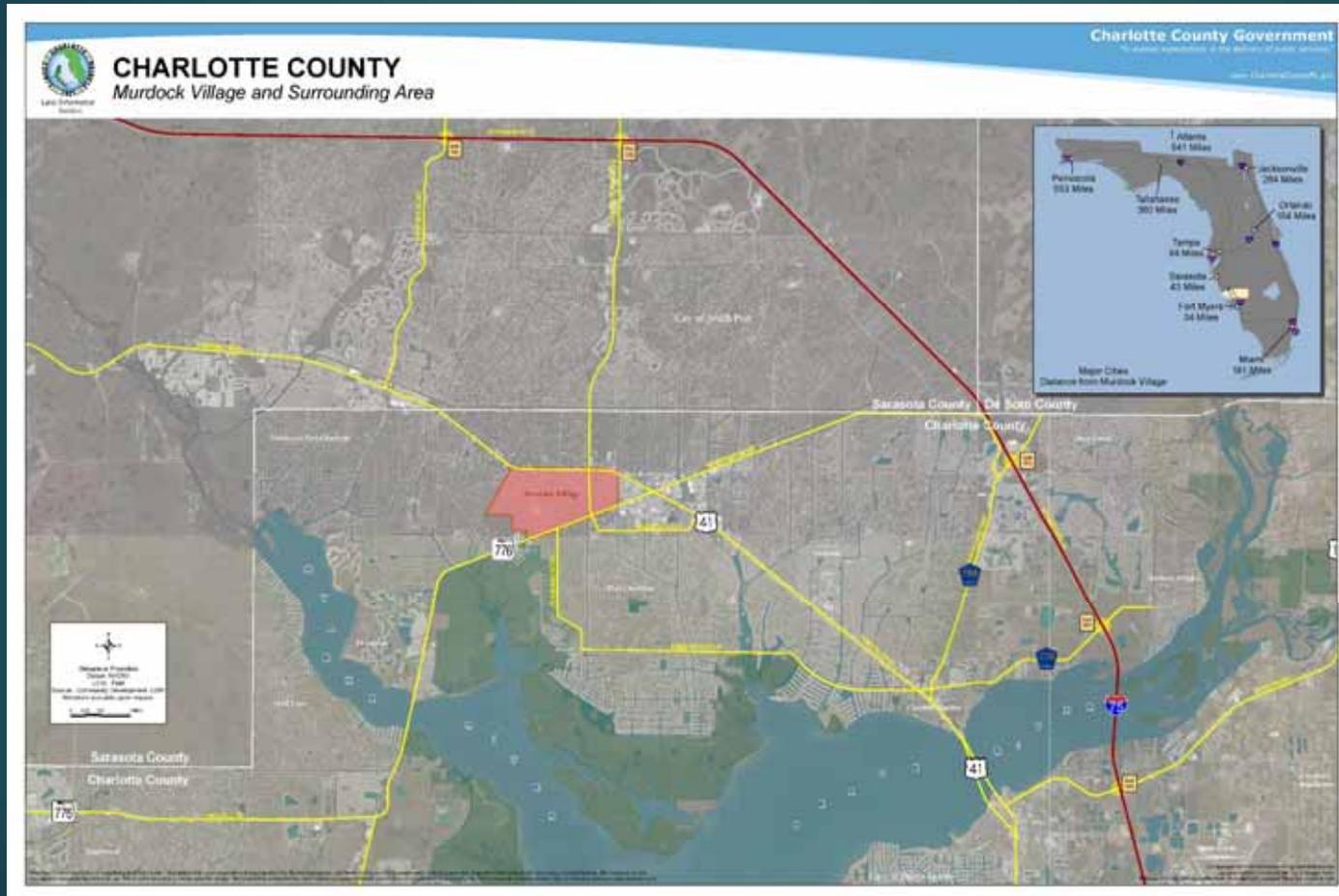
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Graduated impact fees

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.

Murdock Village

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Murdock Village

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- ▶ Charlotte County experienced massive platting of property beginning in the 1920s which continued through the 1960s.
- ▶ As of 1983, Charlotte County had over 260,000 platted lots on 75,642 acres (the second largest number in the State of Florida).
- ▶ The scattered ownership of the land and the lack of a master developer to complete the promised infrastructure resulted in little or no development in the area for decades and deterioration of the limited infrastructure provided.
- ▶ Urban services such as water, sewer, and proper drainage were too expensive and impractical to complete.
- ▶ Criminal activity and unsafe conditions developed along with code violations from illegal trash disposal and dumping to overgrown vegetation.
- ▶ The high cost of developing on the existing platted lot network would be competing with more efficient development of new subdivisions, leaving the platted land area stagnant and deteriorating.

Murdock Village

- ▶ May 2003: the Charlotte County Board of County Commissioners adopted a resolution authorizing and directing the use of consulting expertise to analyze whether an area in the unincorporated West Murdock area of Charlotte County constituted an area of slum or blight as defined by Statute
- ▶ Two weeks later, the Board held a public hearing at which it was presented uncontested evidence of blight by the manager of Charlotte County's Utilities Department, the County's supervisor of code enforcement, the County's transportation engineer, the County's director of real property services, and a private land planner
- ▶ After hearing from the public, the Board approved unanimously a resolution containing findings of blight, declaring the 1100-acre redevelopment area to be a blighted area
- ▶ Pursuant to section 163.356, the Board created the Murdock Village Community Redevelopment Agency (the Agency) to carry out the redevelopment purposes of the Act, **including exercising the power of eminent domain**
- ▶ The Board declared itself to be the governing body of the Redevelopment Agency, as it was authorized to do under section 163.357.
- ▶ The redevelopment area was first platted almost forty years ago. It now consists of approximately 3000 platted lots, roughly 77 residential homes, and 16 developed commercial properties

Murdock Village

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- ▶ Fulmore v Charlotte County
- ▶ 928 So. 2nd 1281
- ▶ "...there was substantial competent evidence presented by the Agency to support the trial court's findings that the respective blight factors were established. Thus, the trial court's findings of fact were not clearly erroneous. While some of the qualifiers used in section 163.340(8) could allow for arbitrary application of some of the blight factors, that has not occurred here in light of the overwhelming evidence supporting the respective factors. Accordingly, the application of section 163.340(8) to the particular circumstances of this case was not unconstitutional."

Murdock Village

Fla. Statutes: 163.358 Exercise of powers in carrying out community redevelopment and related activities.--Each county and municipality has all powers necessary or convenient to carry out and effectuate the purposes and provisions of this part, including those powers granted under s. [163.370](#). A county or municipality may delegate such powers to a community redevelopment agency created under s. [163.356](#), except the following, which continue to vest in the governing body of the county or municipality:

- (1) The power to determine an area to be a slum or blighted area, or combination thereof; to designate such area as appropriate for community redevelopment; and to hold any public hearings required with respect thereto.
- (2) The power to grant final approval to community redevelopment plans and modifications thereof.
- (3) The power to authorize the issuance of revenue bonds as set forth in s. [163.385](#).
- (4) The power to approve the acquisition, demolition, removal, or disposal of property as provided in s. [163.370](#)(4) and the power to assume the responsibility to bear loss as provided in s. [163.370](#)(4).
- (5) The power to approve the development of community policing innovations.
- (6) The power of eminent domain. (2006 addition)**

Lessons: Beyond Murdock Village

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- ▶ The Florida Supreme Court has specifically stated that the definition of blighted areas is not overly broad, it has held that open space and undeveloped lands can be considered blighted under the Act (Panama City Beach Community Redevelopment Agency v State of Fla. 831 So. 2d 662, 668)
- ▶ Florida courts have held that some of the statutory conditions for blight are quantifiable and therefore not facially unconstitutional as overly vague (Fulmore)
- ▶ The Florida Supreme Court has also found that eventual partial private ownership of a redevelopment area does not defeat the public purpose of eliminating slum and blighted areas (Holloway v. Lakeland Downtown Dev. Auth. 417 So. 2d 963)

Legislative Modifications after Murdock Village

- ▶ 163.335 Findings and declarations of necessity.—
- ▶ (1) It is hereby found and declared that there exist in counties and municipalities of the state slum and blighted areas which constitute a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of the state...
- ▶ (2) It is further found and declared that certain slum or blighted areas, or portions thereof, may require acquisition, clearance, and disposition subject to use restrictions...
- ▶ (3) It is further found and declared that the powers conferred by this part are for public uses and purposes for which public money may be expended and police power exercised, and the necessity in the public interest for the provisions herein enacted is declared as a matter of legislative determination...
- ▶ **7) It is further found and declared that the prevention or elimination of a slum area or blighted area as defined in this part and the preservation or enhancement of the tax base are not public uses or purposes for which private property may be taken by eminent domain and do not satisfy the public purpose requirement of s. 6(a), Art. X of the State Constitution.**

Florida's Antiquated Subdivisions-Conclusions

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- ▶ For over three decades Florida communities have implemented strategies and programs to address the development barriers associated with antiquated subdivisions.
- ▶ These approaches have met with varying success.
- ▶ Most local governments have found the most effective results from employing a combination of these planning techniques coupled with a structured acquisition programs.
- ▶ None of the strategies have been 100% successful
- ▶ Eminent domain actions for the purpose of providing relief from the burden of these antiquated subdivisions have met with limited success

Florida's Antiquated Subdivisions-Conclusions

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- ▶ Antiquated subdivisions as originally created typically filed to anticipate modern factors related to:
 - ▶ Current environmental regulations and awareness;
 - ▶ Viable economic necessities and infrastructure realities; and
 - ▶ Necessary social elements associated with increased population density.
- ▶ The establishment of such ill-conceived development plans have caused service provision difficulties for local governments.
- ▶ There are no quick-fixes, universal answers, or absolute solutions to these situations as the system that created the challenges is still evolving.
- ▶ All options have legal, political and economic implications.
- ▶ The certainty is that these problems will not go away and will worsen as growth pressures increase.



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