

Reading Plats and the Complexities of Antiquated Subdivisions

Presented by: David W. Depew, PhD, AICP, LEED AP
Morris-Depew Associates, Inc.

Introduction

Plat is a term for a survey of a piece of land to identify boundaries, easements, flood zones, roadway, and access rights of way. It is the legal description of a specific piece of real property and is required if land is to be subdivided for building homes, creating parks, and setting aside rights of way. Any change to the plat creates a replat which is still a plat. While this makes it sound like every piece of land is platted, that is not the case. Platting only occurs in subdivided land and is used primarily as a mechanism to describe land that is being conveyed. If a deed describes the land by lot numbers within a subdivision, it has been platted. If the land is described using metes and bounds, it has not been platted nor subdivided.

When purchasing property, a title company typically includes a plat of the subdivision and parcel with the preliminary title paperwork. This title work is very important and subsequent surveys of a parcel are likely to require an update of the title information in order for the surveyor to prepare a proper survey with the assurances normally required for future title transfers.

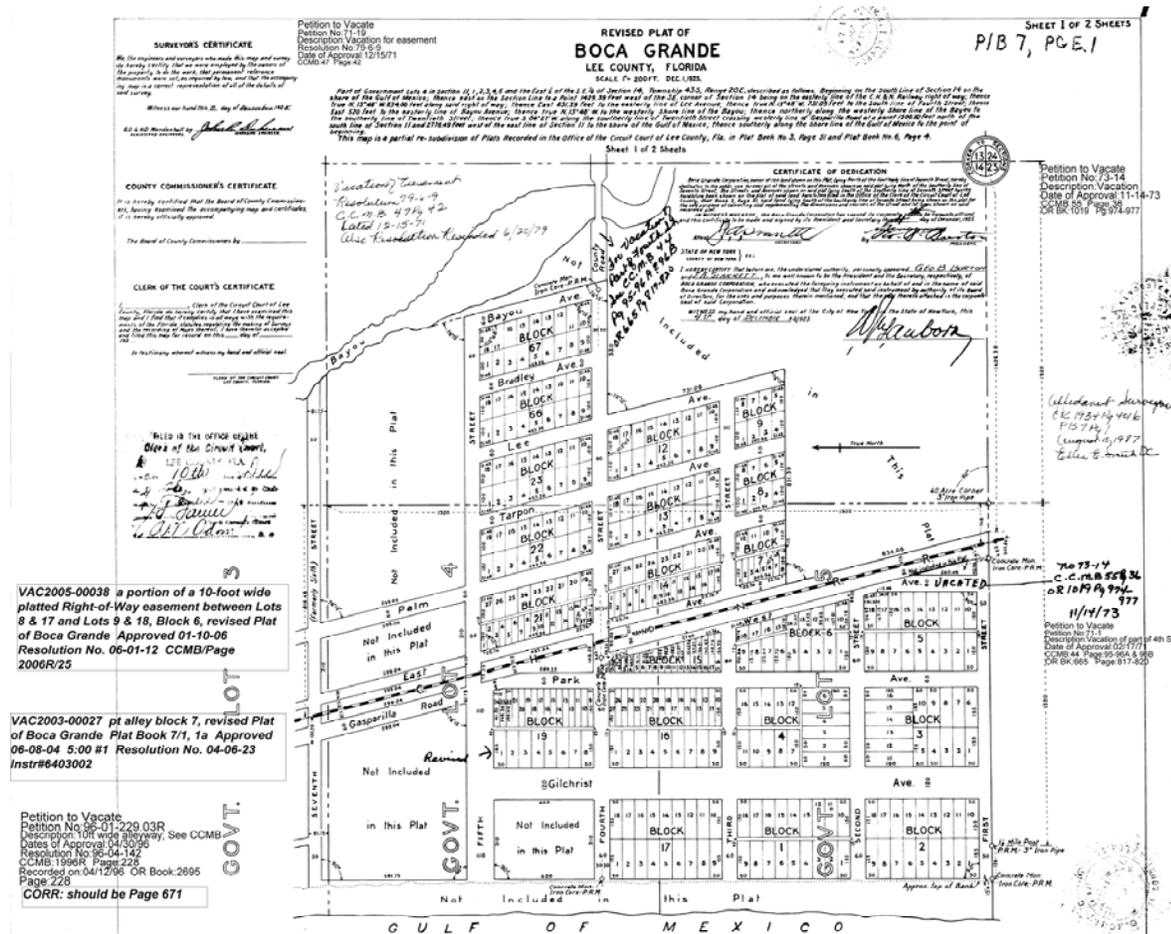
The plat map provides you with a tract number and probably the name of the subdivision itself. The lot numbers for each parcel in the subdivision will be shown along with the lot dimensions and bearings of the lot lines. The plat map shows you the shape of the parcel, an especially good piece of information if it is irregular. Pie shaped and many sided parcels may have been carved out depending on the shape of the original land.

The creation of a subdivision plat is done by a land surveyor, who prepares an exact drawing which shows the divisions of the larger tract of land into smaller lots, showing the distance and bearings between each corner of land. In modern subdivisions, these maps may also include new roads that exist between the sections of land, where none did before. Plat maps help to exhibit that all properties have access to a public right of way, usually meaning a road. Without such access, a landowner would have no way to access their land without trespassing across others' properties. The subdivision platting process ensures that this does not happen.

Subdivision plat maps also include the setting aside of part of the property for easements, parks, areas needed for flood protection, or other public uses. Subdivisions that have been platted correctly ensure compliance with zoning regulations, which often restrict lot sizes or lot geometry.

In order for the plat to become legally valid, a local governing body such as a county commission must generally review and approve the plat map. Typically the staff will conduct a technical review and forward the plat to this board for formal adoption. After the plat is filed with the local clerk of courts, the legal description of each piece of land will then refer to block and lot numbers, rather than other surveying terminology such as portions of sections.

Not all plats, however, are modern and many local jurisdictions have used plats for multiple recordings of various actions taken on properties located within the confines of the plat.



Antiquated Subdivisions

In Florida, the term "antiquated subdivision" generally refers to a subdivision recorded or approved more than 20 years ago that has substantially failed to be built. Further, the build-out of the subdivision in accordance with the plat would create an undesirable set of land uses, detrimental to the local and regional economies and environment, hinder current planning practices, and lead to inefficient and fiscally problematic development patterns as determined by the respective jurisdiction in which the subdivision is located.

From the 1920's through the 1970's approximately 1.6 million acres were subdivided in Florida, resulting in over 2,600 antiquated subdivisions containing 2.1 million platted lots. Problems associated with the sheer number of lots have been further complicated because some plats were recorded in the public records, but not plat books, and none of the improvements depicted upon the plats were constructed. Governmental regulation in many instances was minimal, and lots were purchased by owners from all around the world. As comprehensive planning efforts evolved through the 1980s it became evident to local governments, state officials, and developers that many of these subdivisions were obsolete and an impediment to orderly, modern, fiscally responsible growth.

Antiquated Subdivisions are typically characterized by:

- Single use development for residential single-family or mobile homes;
- Location and/or design that does not consider environmental features or constraints;
- Inadequate infrastructure such as drainage, water and wastewater services, paved roadways and sidewalks;
- Limited sites for non-residential development or ancillary services such as sites for schools, parks and police or fire substations; and
- Non-conformance with local government's current comprehensive plan, zoning, and land development ordinances.

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, and eminent domain actions for the purpose of providing relief from the burden of these antiquated subdivisions have met with limited success.

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.

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.

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.

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.

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.

Conclusions

Antiquated subdivisions as originally created typically lacked a full appreciation of environmental, economic, and social interactions anticipated to occur as population density increased. The establishment of these ill-conceived development plans have caused service provision difficulties for local governments. There are no quick-fixes or absolute solutions to these situations, and all have legal, political and economic implications. 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.

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.