



Specificity of the parcelation study with the construction of a residential settlement

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UDK 528.441.2:711.58(497.5)

Abstract. This work shows the specifications of a parcelation study in the case of constructing the residential settlement »Odranska Zavrtnica«. An overview of the Law on alterations and additions of the Law on space management is made because of the inability of implementing parcelation without a location permit. This also presents a problem with the Law on ownership and other real rights which are stated in the work. The law on state measurements and the cadastre of real-estate is important, among other things, for the production of geodesic studies, and the Law on land records talks of the implementation of this in the land records.

Keywords: lot, lot elaborate, land office, land book.

1. Introduction

In spite of the great effort that has been invested into regulating the land records in the Republic of Croatia, the state of this is still fairly unregulated, while the problem with the real-estate cadastral is not to such a great extent. During large investments, the construction of large commercial, recreational centers, residential-business settlements, various types of apartment settlements, etc., we are coming upon permanent problems. These include the maintenance of the true state on the terrain with the one on the land

records insert, as well as the necessary time period for the implementation of the new changes on the real-estate. The new changes are determined on the terrain itself by geodesic measurements. This shows the changes in number, position, shape, the way it is used, the intention of use, the area of the cadastral plot and the position, shape, and way of usage of the building as well as the report that contains the signatures of the parties or their representatives that were present during the geodesic measurements. In most cases, in many constructed and not yet constructed cadastral plots, there

are two or more owners that are registered in the corresponding ratios, and we also see cadastral plots where there are several owners.

By bringing the Law on alterations and additions to the Law on space management (NN No. 100/2004), the implementation has been assigned for the parcelation of the terrain within the constructional area only in compliance with the location permit, the detailed plan of space management or a resolution on determining the constructional plot. This is issued by the legitimate office based on the previously drawn-up solution with a suggestion of par-

relation.

After the legally valid location permit is issued, the construction of the parcelation study based on the above stated permits and the implementation of the same in the cadastral documentation is then launched. In most cases it is still necessary to make a report for the correction of the area in the inventory list of the land records insert, or to modulate the land records with the cadastre.

2. Parcelation

Parcelation is a procedure where the following is done:

- Dividing one or more parcels based on urban conditions if the parcel is located within the construction zone
- Dividing one or more parcels on the basis of the true condition on the terrain if the plot is located outside of the construction zone. In this case a verification is necessary from the legitimate office of space management

Therefore, in order for the process of parcelation to be implemented in compliance with the location permit, we have to draw up a suggestion of parcelation which we deliver to the projector, which in line with this, draws up an idea for a solution which is prior to the location permit.

Practice has shown that it is always necessary to do a geodesic measurement on the terrain for large operations for the later project backgrounds, and for comparing the true state on the terrain with the state in the cadastre plans.

3. Parcel study

Parcel study is a sort of a geodesic study which is made according to geodesic regulations and in a way in which it can be used for the needs of the land cadastre, and to correspond with the purpose for which it has been made (NN No. 128/1999.). When the geodesic study forms new methods and other boundaries which are recorded on the terrain and which are defined by documents from the legitimate institutions such as the location permit, the detailed space management plan or the resolution on determining the constructional plot, this is when a procedure such as this is called the parce-

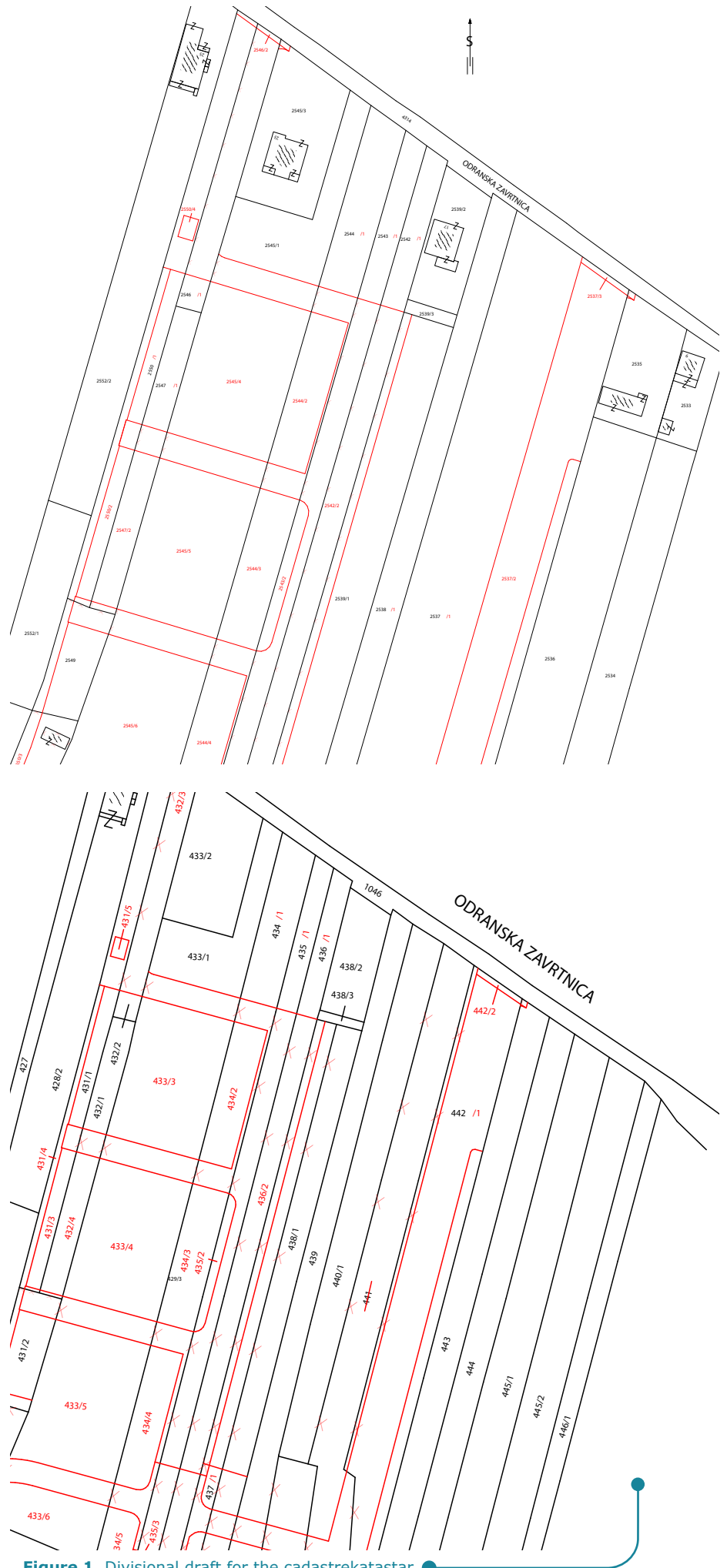


Figure 1. Divisional draft for the cadastre

lation of the land, or a parcel study.

Before starting to make the parcel study, as well as in other geodesic studies based on the request of the client, it is necessary to collect all relevant information that is necessary for the making of the same such as:

- Transcript of the cadastre information
- The last draft for the plot
- Network of geodesic basics
- Land records exerts

After the client has obtained the location permit, he can start drawing up the parcel study.

Problems and the drawing up of the location permit will try to be presented through an example on the construction of the residential settlement "Odranska Zavrtnica".

The technical part of the study did not present such a problem as the ownership-legal part. Namely, since the client had a contract with the bank on financing the project in phases, only the pre-contract for the purchase existed. This was sufficient legal interest for issuing a location permit, the construction and implementation of the parcel study, as well as forming new cadastral plots, while the ownership stays unchanged. In accordance with this fact, a great number of plots not in compliance with the land records and cadastre, the number of owners and their entered ownership ratios, the differences between information such as the name and address of the owners, as well as forming an even greater number of plots, it was necessary to correct the related ownership ratio in these plots. After the calculation of the area in the newly formed plots from coordinates by detailed points using an analytical method of calculation, the below stated operations by the principle parts of the study follow.

The principle parts of the parcel study are:

- Divisional draft (picture 1) with the parcel
- Draft of measurements (picture 2)
- Location description of the geodesic points
- Computation of polygon trains
- Draft of the polygon network
- Tachometric record
- List of coordinates of permanent points of geodesic bases and detailed points

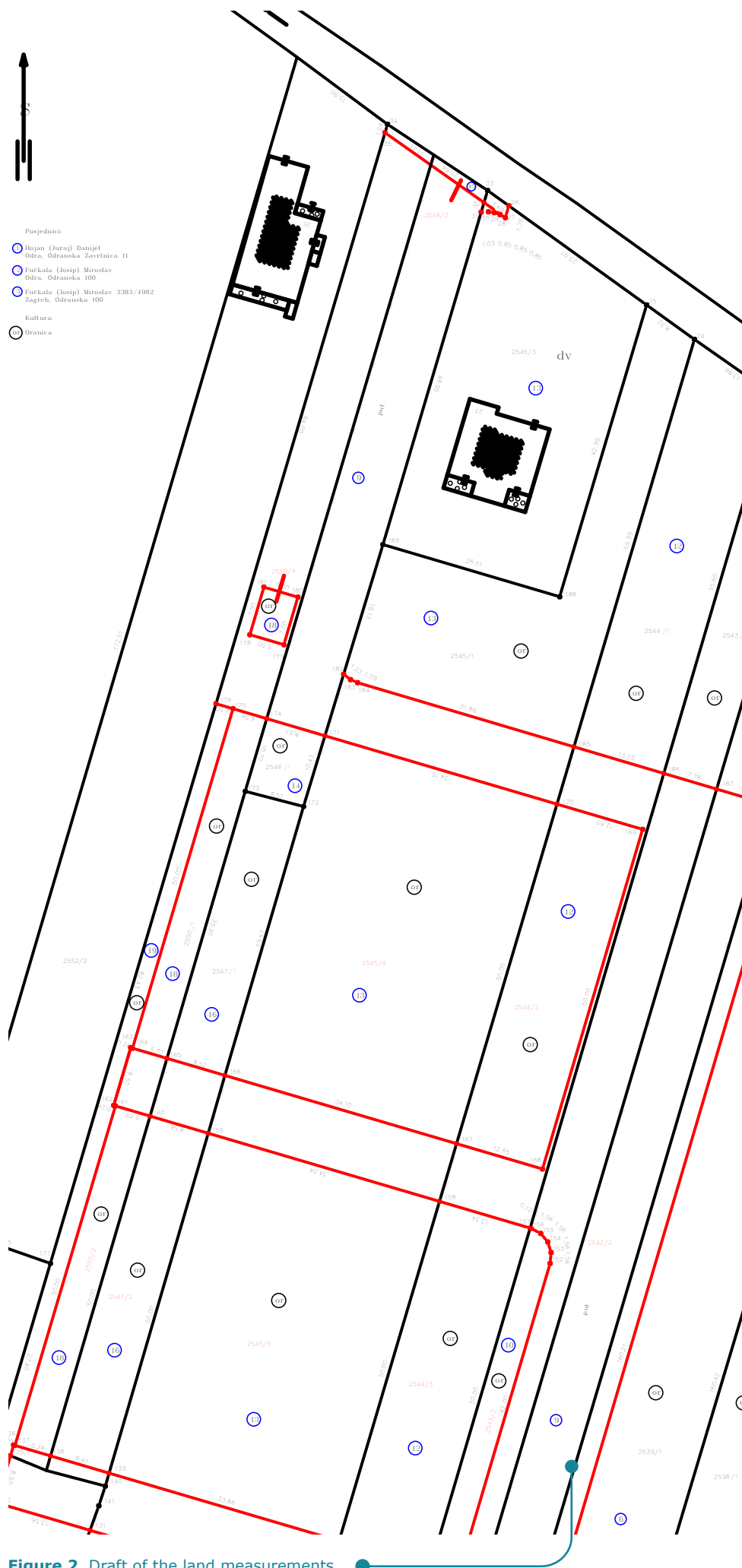


Figure 2. Draft of the land measurements

- Computation of the area of cadastral plots from coordinates of detailed points
- Calculation of plot area
- Submission list for the cadastre
- Submission list for the land records
- Technical report with the stated geodesic equipment and programs used for measuring, data processing and cartography
- Reports on determining the existing borders, other boundaries and new boundaries
- Request on implementing the study.

4. Implementation of the study

This type of parcel study is subject to inspection and approval by the legitimate Office for cadastres and geodesic affairs (in other places it is the DGU branch). Since the technical part of the study is correctly drawn up and during the inspection no mistakes were found, it is followed by further approval from the legitimate city office for space management, for environmental protection, urban development, and the development of communal affairs and traffic in which the parcel study is produced according to the idea that is the principle part of the location permit. In order for the study to be implemented, it is necessary furthermore to make a divisional draft. Since these are legal matters, it is necessary to engage a lawyer and in cooperation with him, correctly draw up a divisional contract which is recorded, along with the registration list for the land records, the approved divisional draft and a suggestion for filling, in the land records department of the Municipal court for the implementation of the same. The result implemented study with the supporting divisional contract will have to be identical to the one that is shown in the described plots and as such, is to be registered in the ownership sheet of the land records inserts.

5. Conclusion

In this conclusion, we will look back on some of the problems that arise when implementing studies. One of

the problems is slowness, sometimes also the ineffectiveness of bureaucracy, as well as the long time period needed for the implementation of the management procedure on simple studies and especially on larger ones.

Practice has shown that the dynamic of the implementation is fairly slow and it is impossible to wait for it because the dead lines have been set and there is an entire series of chain operations that need to be implemented and made. Because of this, it often happens that the studies are repeatedly added to studies that have not yet been implemented and several years later when it is time for them to be implemented in the land records, it often happens that this is impossible because of some minor administrative mistake.

When it comes to regulating land records and solving ownership-legal issues, it is visible that the Law on alterations and additions to the Law on space management has brought certain confusion in solving the same. Through this example, there were no faults with this Law because it was about forming new parcels. Namely, according to previous legal regulations, it was carried out in the same way, so the constructional parcels were formed according to the valid urban conditions. We are faced with large problems and even the inability for a final solution that would satisfy the client when it is necessary to separate the same from the ownership community. The situation is additionally complicated if the parcel is located partly on the constructional, and partly in the green zone of the urban plan, or in the constructional zone but under a detailed plan that has waited for several years or when a part of the parcel that is the subject of the transfer or bestowal does not satisfy the criteria of the space management according to the area, dimensions, etc.,

We treat these cases specially, while in some cases, if they are about the urban part of the party, we direct them to the production of a flooring study – flooring. The problems start with the old cadastral map 1:2880, which is relatively a small measure for urban planners and it is difficult to form new

parcels according to the urban rules on such poor quality backgrounds while not disturbing the existing condition on the terrain which would be in total contrast with the parcel. Of course, the client with the other owners enters a collision with his suggestion of formed plots because the multi-generation benefits are completely different. This leads to the inability of solving the procedure or temporarily postponing it. There are many similar examples where the owners want to solve the non-transparent state in the land records and to achieve their ownership rights on their special parts of the parcel according to the Law on ownership and other legal rights (NN No. 91/1996). For this they need a geodesic study for solving ownership-legal issues (which by alterations and additions of the stated Law is substituted by the parcelation law), which they are not able to solve to their benefit and to make their own ownership rights on the newly formed cadastral plots.

However, with better cooperation within the profession, the bureaucracy and legal regulations, it is possible to alleviate the process of making, inspecting, and implementation for the parties involved. This in return would fulfill their acquired rights.

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Picture from the article headline: Project residential-business construction Odranska Zavrtnica, author Ura2, made in 2006. ♦