

# Deliberately Planned

## A Policy to Thwart Planning in the Palestinian Neighborhoods of Jerusalem



This publication was produced with the generous assistance of  
The Embassy of the Kingdom of the Netherlands in Tel Aviv;  
ifa (Institut für Auslandsbeziehungen),  
with resources provided by the German Federal Foreign Office;  
and the Moriah Fund.

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Kingdom of the Netherlands



Institut für  
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## A Policy to Thwart Planning in the Palestinian Neighborhoods of Jerusalem

February 2017

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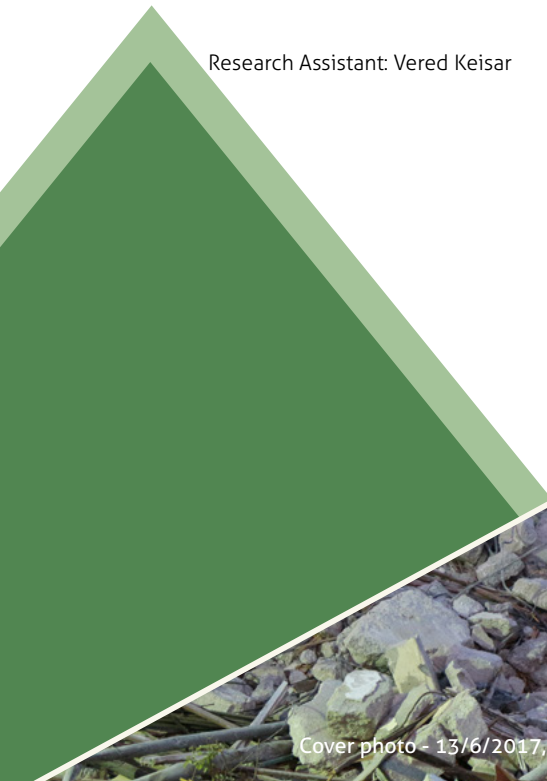
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Cover photo - 13/6/2017, Iftar on ruins, Sur Baher, Jerusalem, photo: Activestills

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# Introduction

Much has been written about how discrimination in planning adversely affects the Palestinian community in Jerusalem. Since 1967, Israel has confiscated over 38 percent of the area of East Jerusalem for the construction of neighborhoods/settlements<sup>1</sup> for Israelis. The outline plans for the Palestinian neighborhoods approved by Israel in the 1980s and 1990s included extensive open areas in which construction is prohibited. Today, only 15 percent of the area of East Jerusalem (and 8.5 percent of the area of Jerusalem as a whole) is zoned for the residential needs of the Palestinian population.<sup>2</sup> Building percentages permitted in these areas are particularly low. This discrimination in planning is the product of a policy driven by demographic considerations – in particular, the objective of increasing the Israeli population while reducing the Palestinian population, with the underlying goal of ensuring Jewish demographic superiority. At the end of 2012, the balance between the two populations was 63:37 (63 percent Israeli Jews and 37 percent Palestinian Arabs). Trends of natural growth and migration have led to a constant increase in the relative size of the Palestinian population – trends that are not expected to change in the foreseeable future. Thus planning policy in Jerusalem prioritizes demographic targets over professional considerations and Palestinian residents' needs. The planning system in

1 Although the Israeli neighborhoods constructed in East Jerusalem are situated beyond the Green Line, the Israeli public sees them as part of Israeli Jerusalem. The international community and the Palestinian community do not recognize Israel's annexation, viewing East Jerusalem as occupied territory, and in accordance with international law, consider the Israeli neighborhoods in East Jerusalem to be illegal settlements (hereinafter: neighborhoods/settlements).

2 Additional allocations for public needs are expected to be made from within this area.

Jerusalem has effectively been recruited as a tool in the demographic struggle, and plans in the city continue to be made in the shadow of this goal.

The outcome of this policy has a devastating impact at both the individual and community levels. Barriers to legal building push many Palestinians to build without permits. Each year, the Jerusalem Municipality (herein, Municipality) and the District Planning Bureau (formerly under the auspices of the Interior Ministry and now the Finance Ministry),<sup>3</sup> demolish dozens of housing units constructed without permits in the Palestinian neighborhoods of East Jerusalem; in 2016 alone, the authorities demolished 123 housing units. The psychological and economic ramifications of this reality are profound. Moreover, inadequate planning prevents the construction of schools and the development of public spaces and employment and commercial zones, thereby weakening the community as a whole.

Since 1967, no single outline plan has been approved for East and West Jerusalem as a whole. The Jerusalem Local Outline Plan 2000, approved for deposit for objections in 2009, was intended to change this state of affairs and might have provided the means for the Palestinian community to demand an appropriate response to its planning needs. Precisely because of the development possibilities presented by the plan in some of the Palestinian neighborhoods,

<sup>3</sup> Under the current government, planning and building mechanisms have been concentrated under the authority of ministers from the Kulanu party. As part of this process, the district planning committees (including the building inspection divisions) have been transferred from the Interior Ministry to the Finance Ministry.

it encountered fierce opposition from right-wing circles.<sup>4</sup> As the result of this pressure, then Interior Minister Eli Yishai froze the plan before it could actually be deposited for objections and the plan has remained frozen under subsequent interior ministers. In light of this situation, the District Planning Bureau and the Jerusalem Municipality act in accordance with the policy delineated by the stymied plan, as if it had been approved and granted legal validity. However, the absence of approval means that the plan is not binding; the planning authorities are therefore free to adhere to some provisions while ignoring others. This creates an extremely problematic situation as it denies members of the public the opportunity to submit objections or demand improvements to the plan.

The planning crisis, the housing crisis, and the burden of demolition orders have led many Palestinian residents of East Jerusalem to despair of any hope that the Municipality will plan their neighborhoods. As a response, they have organized within their communities to initiate their own detailed plans to submit to the Municipality. It might be expected that the Municipality would welcome a situation whereby others do its work. In fact, residents who have chosen to take this course of action, and consequently faced internal challenges from within their own communities, have encountered numerous bureaucratic obstacles, the most substantial of which is having to confront demographically driven Israeli planning policy.

<sup>4</sup> Eli Yishai, who was Interior Minister at the time, contacted the chairperson of the committee, attaching letters from the head of the Ma'ale Adumim Council and members of the Jerusalem City Council, demanding that he refrain from depositing the plan. (According to then legal advisor to the District Planning and Building Committee, as stated in [Administrative Petition submitted by Bimkom and ACRI](#) (in Hebrew). See also [criticisms raised by Nadav Shragai and the right-wing Jerusalem Center for Public Affairs](#). (in Hebrew)

Meanwhile, the Jerusalem Municipality has initiated the preparation of new master plans<sup>5</sup> for built-up and planned areas in the established neighborhoods of both East and West Jerusalem, while promoting outline plans for the expansion of the Israeli neighborhoods/settlements in East Jerusalem. The Municipality points to the master plans it has initiated in East Jerusalem as evidence of a change of policy and a commitment to confronting neglect and discrimination in the Palestinian neighborhoods. Contrary to their declarations, master plans have no statutory weight and therefore no real bearing on the planning crisis in East Jerusalem. In practice, the preparation of master plans actually delays the preparation of detailed outline plans – the only planning documents that can serve as a legal basis for granting of building permits. As the examples presented in this report will show, detailed planning in the Palestinian neighborhoods has been repeatedly blocked.

Since the beginning of 2009, under Prime Minister Benjamin Netanyahu and Jerusalem Mayor Nir Barkat, detailed outline plans for approximately 10,000 housing units have been approved for the Israeli neighborhoods/settlements in East Jerusalem. By contrast, only minor detailed plans have been approved in the Palestinian neighborhoods, in the range of hundreds rather than thousands of housing units. No broader outline plans have been approved for these neighborhoods.

5 Outline plans are statutory plans that, on approval, become legal documents that determine zoning and define permitted and prohibited actions in the area to which they apply. By contrast, master plans are not statutory and effectively constitute policy documents; the only semi-operative action they authorize is the preparation of detailed outline plans prompted and guided by the policies they delineate.



Furthermore, in the last years only eight percent of all building permits in the city were issued in Palestinian neighborhoods in East Jerusalem. Palestinians face multiple obstacles in their attempts to secure a permit. For example, in order to obtain a building permit the applicant must first prove land ownership, as well as the capacity to satisfy the criteria of requisite access roads and other infrastructures often missing in Palestinian neighborhoods, thus creating a demand that cannot be satisfied by a private individual.<sup>6</sup>

Two years ago, the District Planning and Building Committee adopted Master Plan 30006 for the expansion of 'Arab a-Sawahreh (near Jabal al-Mokabber). To date, this is the only time the planning authorities have adopted one of the master plans prepared for the Palestinian neighborhoods. This is also the first time the Jerusalem Municipality has given its stamp of approval for a large-scale plan for a Palestinian neighborhood in Jerusalem since completing the partial and discriminatory planning process for these neighborhoods around the year 2000. The plan covers an area of 1,500 dunams,<sup>7</sup> outlining the initial framework for construction of 2,500 housing units, five schools, eight preschools, and additional public buildings. Initiated and promoted by the Jerusalem Municipality, the plan was adopted despite fierce opposition from right-wing representatives in the Municipality and government.<sup>8</sup> While the adoption of the plan constitutes

6 For more information, see; Bimkom, [Trapped by Planning](#), April 2015.

7 One dunam is equal to just under one-quarter of an acre or 0.1 hectares.

8 The plan was originally due to be discussed in 2011 but was removed from the agenda of the Local Planning and Building Committee. Discussions resumed in the summer of 2014. Members of the Jerusalem City Council claimed that they received requests from government ministers to vote against the plan. As noted, the pressure failed [and the plan was adopted](#). (in Hebrew)

a success, the arduous process through which it traveled reveals a much more complex picture: despite the fact that Jerusalem Mayor Nir Barkat declared 'Arab a-Sawahreh a flagship plan that would respond to the planning needs in East Jerusalem, opposition from right-wing elements blocked promotion of the plan for six years. During this period, planning authorities prevented the promotion of private plans initiated by landowners in the area of the plan on the grounds that approval of the master plan is a prerequisite to further steps. These residents were obliged to submit several court petitions to force the planning committees to discuss the plan.<sup>9</sup>

It is important to emphasize that the partial success of the plan for 'Arab a-Sawahreh is the exception rather than the rule. This report seeks to describe the rule: the blockage of any significant development plans in the Palestinian neighborhoods of Jerusalem. We will examine the recurring patterns and challenges that contribute to the delay and failure of these plans. The three chosen for this report represent different types of planning in terms of the plan type, the identity of its promoters, and the status of previously approved related plans. The details of the ways in which these plans were promoted and ultimately foiled represent the fate of many other substantial plans prepared for areas within the Palestinian neighborhoods over the last decade. On the basis of these examples, we will attempt to identify and define the primary obstacles that impede planning in East Jerusalem and offer our recommendations for improving the process.

<sup>9</sup> [Ruling in Sawalhi et al. vs. Jerusalem District Planning and Building Committee et al](#) (in Hebrew)

Three plans were selected as case studies for examining obstacles to approval of medium and large plans<sup>10</sup> submitted for Palestinian neighborhoods in East Jerusalem:

- 1 **Outline plan 12500 for the Khalat al-'Ein neighborhood in a-Tur**, initiated by local residents, the neighborhood committee, and the community at large. The plan includes areas that have not previously been planned but were zoned for development (for the expansion a-Tur) in the Jerusalem 2000 Local Outline Plan.
- 2 **Master plan for Beit Safafa**, initiated by the Municipality, applies to an entire neighborhood for which previous planning (also by the Municipality) proved inadequate.
- 3 **Detailed plan 10133 for the Qisan neighborhood in Sur Baher**, also initiated by residents, applies to areas that are already included in a general development plan but have never undergone detailed planning.

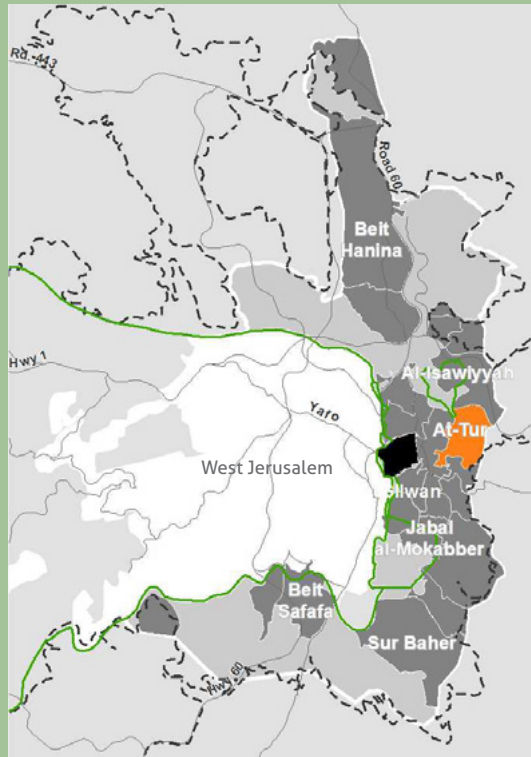
As noted, the first of these plans is a detailed plan initiated by residents for an unplanned area, included in the Jerusalem 2000 Outline Plan, to be established as a new urban area for neighborhood development. Palestinian residents in

<sup>10</sup> This report discusses plans that allocate new land for neighborhood development, as distinct from small, local private plans that are more readily promoted through the planning track, and many of which reach the approval stage. Local plans are submitted by an individual resident or members of the same family and relate to a small area under the family's ownership. Naturally, such individual plans cannot meet the broad based planning needs of the population as a whole. In recent years, the District Planning and Building Committee has approved hundreds of such plans. In most cases, they are examined on their own merits and those that meet the planning requirements are promoted to the approval stage. These small plans provide local solutions, particularly for residential purposes, but they do not contribute to the neighborhood as a whole or address unmet public needs.

various neighborhoods are currently trying to promote some five other detailed plans, attempting to realize the planning potential for development of their neighborhoods offered by the Jerusalem 2000 plan. The second plan is a master plan for an entire neighborhood, promoted by the Municipality. Here too, five similar plans are currently being advanced by the Municipality. The third plan is another detailed plan initiated by residents that illustrates the cumbersome, seemingly minor but in fact consequential bureaucratic obstacles that prevent plans from reaching the stage of final approval.

# 1

## Outline Plan 12500 for Khalt al-'Ein in a-Tur



## Background

As in the other neighborhoods annexed by Israel in 1967, the planning policy in a-Tur does not allow for proper development of the area. Most of the neighborhood's land, which totaled some 8,800 dunams in 1967, was confiscated by Israel or remained outside the city limits so that today, the neighborhood has an area of 1,747 dunams. A-Tur has a population of between 25,000, according to the Central Bureau of Statistics (CBS), 2014, and 35,000, according to the residents themselves.<sup>11</sup>

Plan EJ/9, approved in 1976, was the first Israeli plan to include the neighborhood of a-Tur. The plan covers most of the neighborhood while zoning just 360 dunams for development. The areas zoned for development were restricted to 160 dunams for a residential neighborhood, with a limited scope of construction (the remainder of the area includes church lands zoned for public buildings for the needs of the church). Subsequent plans – parts of Plan 3085 (1993), Plan 3092 (1990), and Plan 2733 (1985) – detail the land designations of the areas included in Plan EJ/9 and add some 140 dunams zoned for a variety of purposes, mainly residential. These plans provided some additional building rights in the residential areas but did not substantively change residents' ability to obtain building permits or address the comprehensive building needs of the neighborhood.

<sup>11</sup> For further details about the planning and development situation in a-Tur, see the [Bimkom website](#)

## Outline Plan for Khalt al-'Ein in a-Tur

The result is insufficient planning and development:

- The number of housing units theoretically allowed according to the approved plans is smaller than the number of existing housing units. In other words, the current planning situation does not even meet the current situation on the ground, let alone future needs.
- There is a grave shortage of public buildings: almost 50 percent of school students in a-Tur cannot find places in city schools in the neighborhood and there is a dearth of municipal kindergartens. One mother and child clinic serves more than 25,000 residents.
- There are almost no public parks in the neighborhood.
- The neighborhood plans allocate negligible areas for commerce and employment.

Moreover, only some 80 local private plans submitted by residents of a-Tur over the years have been approved by the planning committees. Many others have simply been rejected. Reasons include obstacles to proving land ownership, a planning policy that does not allow for requested additions to existing construction, and bureaucracy and protracted planning proceedings that drag on for years.

Following construction of the Separation Barrier, which disconnected the Palestinian neighborhoods outside and adjacent to Jerusalem from the city, large numbers of Palestinians who hold permanent residency status returned to the city from these surrounding Palestinian areas – many of them to a-Tur. The demographic growth precipitated by this migration dramatically exacerbated the shortage of housing units, public buildings, and infrastructures.

The potential development of a-Tur is blocked in most directions. To the northwest, the neighborhood borders on land belonging to the Augusta Victoria church and hospital; to the south it borders on the neighborhood of a-Shayyah; and to the east, the city limits and the Separation Barrier. The only significant land reserve that could be used for neighborhood development is located in Khalat al-'Ein in the north of a-Tur. This area borders the Mt. Scopus Tunnel Road, which feeds into the highway to Ma'ale Adumim.

Accordingly, in 2005 the residents initiated Plan 12500 for the Khalat al-'Ein neighborhood of a-Tur. After realizing that the Municipality had no intention of promoting neighborhood planning, the residents decided to assume responsibility themselves at their own expense. They established the Association for the Advancement of a-Tur in cooperation with the neighborhood community center, with the goal of promoting the economic and social welfare of the neighborhood. The residents hired Architect Simon Kouba to prepare the plan, which they submitted to the Municipality in November 2008.

In Khalat al-'Ein, some 4,000 people currently live on approximately 200 dunams, mainly in homes built outside the borders of the current plans and without building permits. Although there is some construction in the area, it is mostly vacant. The residents' plan allocates numerous sites for public buildings in an attempt to meet the needs of a-Tur as a whole, which as noted does not have access to any other land reserves.

Advancement of the plan for Khalat al-'Ein only emphasizes the inadequacy of the Jerusalem 2000 Local Outline Plan, regarded by the planning committees as a guideline for planning policy in the city. It is therefore crucial that, at minimum, this area be included in the new master plan for the neighborhood.



## Failures in Promotion of the Plan

### High Costs and Bureaucratic Obstacles

The decision by the residents of a-Tur to undertake the planning of Khalat al-'Ein was a serious one entailing numerous and daunting challenges, the most significant of which was the leap of faith required to place their trust in the Israeli authorities. The Jerusalem Municipality green lighted the initiative and forwarded guidelines to the planning team. Clearly aware of the initiative's significance, it was reasonable to expect that it would do everything within its power to help ensure the plan's success.

The high financial costs presented an additional challenge. Residents were forced to cover the cost of plan preparation themselves. Over a period of eight years, they paid out approximately NIS 800,000 for the various stages of preparation. Also challenging was residents having to shoulder the onus of reaching agreement on the allocation of private land for the establishment of public buildings, the development of public areas, and the construction of roads, among other demands. This problem is not encountered by the authorities in the planning of land that is not privately owned.

Over the years, as the Association for the Advancement of a-Tur worked to prepare and promote the plan, the Municipality focused in particular on the question of the "blue line" marking the plan's boundaries,<sup>12</sup> frequently changing

12 The boundaries of plan areas are marked in blue in Israeli planning documents. Changing the blue line alters the plan's boundaries, and in this instance significantly reduces the area that can be planned for development.

guidelines. Instead of helping the residents manage the numerous questions raised by the complex challenge of multiple owners jointly planning private land, the Municipality heaped on bureaucratic barriers. As early as August 2005, it was agreed that “the Municipality’s representatives are responsible for forwarding the blue line of the plan to the planner as soon as possible.”<sup>13</sup> Despite this understanding, municipal representatives failed to forward the blue line until four years later. In September 2007, during a meeting at the District Planning Bureau, the applicants were instructed to make several changes before the District Planning and Building Committee’s discussion of the plan.

The Municipality repeatedly renege on agreements reached between the two sides. In September 2008, for example, a tour of the area was undertaken together with the city engineer. While emphasizing the need “to protect the dry river bed and the nature reserve,”<sup>14</sup> the city engineer expressed his willingness to permit the development of nearby areas for the purpose of public buildings and leisure areas. In April 2009, the city engineer reversed his position in a letter to the residents.<sup>15</sup> Once again, the Municipality demanded changes in the location of the blue line, further reducing the plan’s area. At the beginning of the process, in 2005, residents and municipal representatives had discussed positioning the blue line 100 meters from the Mount Scopus Tunnel Road. In 2009, the Municipality decided to shift the blue line south, increasing the distance from

13 From the summary of a meeting on the subject of a-Tur in the office of the director of the City Planning Division, August 2005.

14 Meeting summary dated August 20, 2008. In reality, there is no nature reserve in the area and the later plan for a national park was far from the approval stage at this point (see below).

15 Letter from the city engineer to the Khalat al-'Ein Committee, April 1, 2009.

the road and consequently shrinking the planning area; once again, in 2010, it further diminished the area by relocating the blue line.

Over the years, the residents repeatedly attempted to meet the Municipality's dictates. At the beginning of 2011, they presented their plan to the mayor, who welcomed it without reservation and with no demands for changes. In March 2011, the municipal planning division sent a letter to the residents in which the mayor requested that the residents submit the plan and promised that the Municipality would aid in its promotion. Soon after, the mayor's advisor for East Jerusalem informed the residents that contrary to such promises, a decision had been made to expand the area of the planned national park at the expense of the residents' plan – a change supported by the Municipality. In accordance with the Municipality's initiative, no new areas would be allocated for neighborhood development, a decision invalidating all of the work the residents had invested in their plan over a span of years.

### **A Breach of Trust: The Municipality Promotes a Contradictory Plan**

The Mt. Scopus Slopes National Park plan was submitted to the District Planning and Building Committee for approval in mid-2011. The plan (11092A) extends over an area of 730 dunams between a-Tur and al-'Isawiyyah. Despite the Municipality's promise to support the residents' initiative, it was revealed that the Israel Nature and Parks Authority and the Jerusalem Municipality had decided to extend the boundaries of the national park plan to include all of the vacant area in Khalat al-'Ein; the expanded borders would literally reach the edge of the built-up area. The planned national park is vast by comparison to other open areas around the city and utilizes the last land reserves available

to both neighborhoods. Clearly, a reduction in size would not pose a detriment to the national park plan but it would allow the planning authorities to meet an acute community need.

Work on the national park plan began in 2005, alongside (and possibly by way of a response to) the resident promoted initiatives to expand a-Tur (and al-'Isawiyyah). Work was undertaken with the assistance of the municipal planning division and an effort was made to coordinate between the national park planners and the neighborhood planning teams. Thus, even if it was apparent that the national park would limit the extent of development of a-Tur (and al-'Isawiyyah), the impression was created that the authorities still intended to facilitate neighborhood development.

After six years of intensive work with the Municipality, during which time the Municipality ostensibly recognized the need to develop Khalat al-'Ein and expressed support for the residents' plan, the Municipality's support for expansion of the national park rendered all of the work invested in the plan meaningless. After a plan for a national park is approved, the Interior Minister has the authority to announce the declaration of the park – essentially, an irreversible act. Even if, in the future, the authorities recognize the need to develop a-Tur and al-'Isawiyyah, such a change would require subtracting land from a declared national park – a process that requires approval from political echelons above and beyond the planning system. Unlike modifying other land designations, which can be changed in new outline plans, subtraction of areas from a declared national park requires the authorization of the interior minister, after consultation and with the consent of the minister of environmental protection.

In September 2012, in an attempt to preserve their rights, the residents once again submitted their plan (101-0113274), this time directly to the District Planning and Building Committee. The District Committee recently sought to shelve the plan but retracted its decision after residents filed a petition against the Committee.<sup>16</sup>

### **Subordinating Planning Considerations to Political Objectives**

The objective of establishing the national park reflects what has been consistent opposition to development of Palestinian neighborhoods on demographic grounds, as well as specific objections due to the geographical location of a-Tur and al-'Isawiyah, where residents also prepared an outline plan for the development of their neighborhood. The Israeli policy of preventing a continuum of Palestinian residential areas is a key factor in the authorities' opposition to the plans, which would allow the two neighborhoods to expand toward one another. Moreover, the area between al-'Isawiyah and a-Tur borders on the "E-1" corridor, a strategically significant strip of land connecting Jerusalem and Ma'ale Adumim.<sup>17</sup>

The authorities' determination to approve the plan for the national park underscored its political drivers. MK Amir Peretz, then Environmental Protection Minister (a position that includes responsibility for the Israel Nature and Parks

16 Admin.Pet. 16234-04-16 (at the Jerusalem Administrative Affairs Court).

17 For an explanation of the importance of the "E1" corridor between Ma'ale Adumim and Jerusalem, see: [Ir Amim Position Paper: The E1 Settlement is Not Ma'ale Adumim](#)

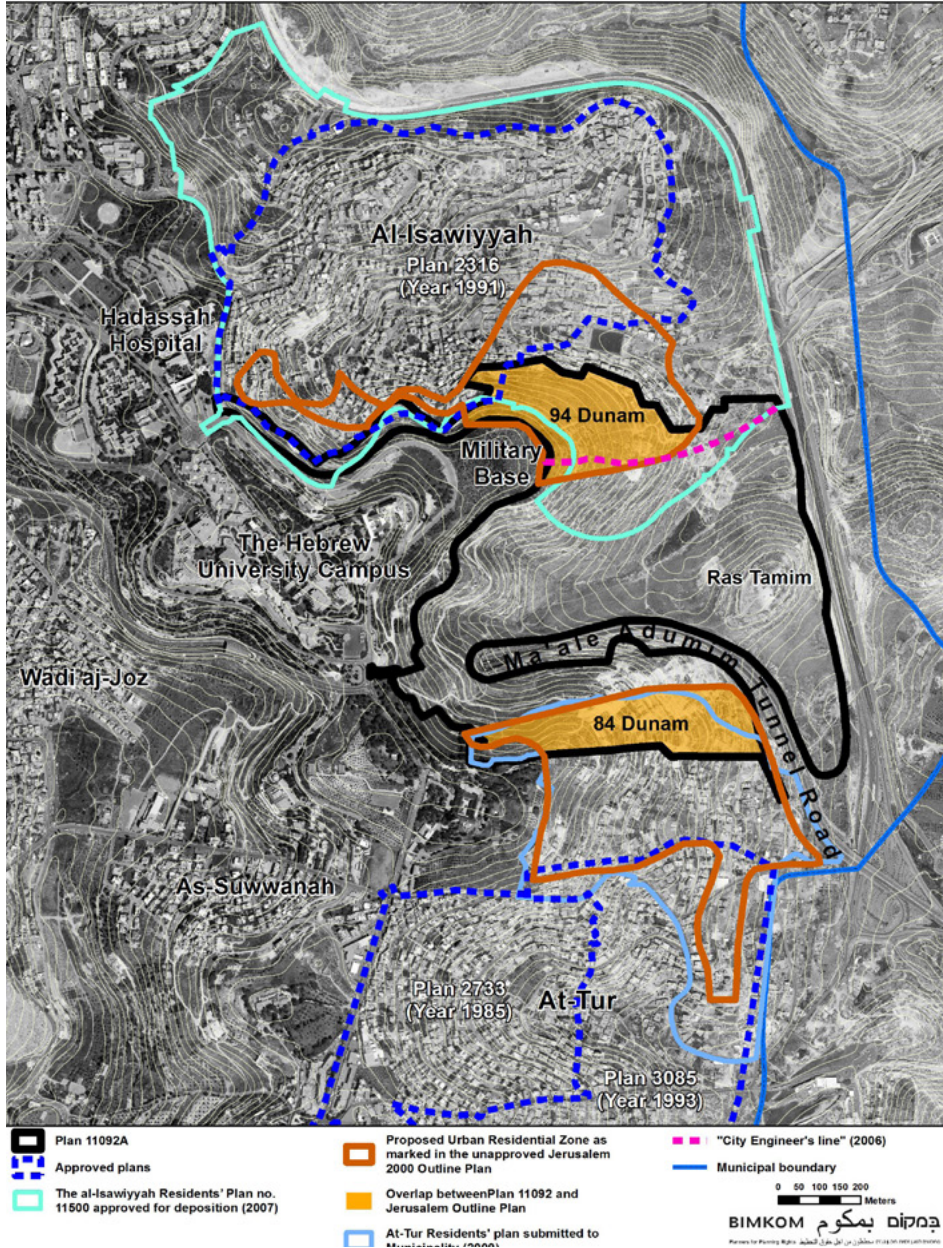
Authority), noted his desire to halt promotion of the plan in order to pursue discussions and reach agreement with the residents. In October 2013, Prime Minister Netanyahu instructed the authorities to promote the national park plan as part of a wave of construction over the Green Line following the release of a group of Palestinian prisoners.<sup>18</sup> A few weeks later, the District Committee held a discussion on approval of the plan. In opening the session, the representative of the Israel Nature and Parks Authority requested postponement of discussion in order to reach agreements with the residents of a-Tur and al-'Isawiyyah. The chairperson of the District Committee stated that the Jerusalem Municipality insisted on holding the discussion, thereby directly contradicting the request of the body that holds oversight for national parks in Israel. After a marathon nine-hour discussion, the District Committee approved the plan, rejecting numerous objections, including those submitted by residents of a-Tur (with the assistance of Ir Amim) and residents of al-'Isawiyyah (with the assistance of Bimkom).

As is customary, the minutes of the meeting and the committee's decision made no reference to political considerations. The documents ostensibly provide professional rationalizations for development of an extensive national park. In addition to the purported natural and archeological value of the area, the decision emphasized the view toward the Judean Desert and the need to protect it from obstruction by any future construction. The Jerusalem Municipality and the District Committee maintained that a sufficient examination had been undertaken regarding the a-Tur neighborhood's (and al-'Isawiyyah's) development needs, claiming that establishment of the national park would in no way impede development. However, as noted in the subsequent appeals

18 As part of Kerry's talks with Israel and the Palestinian Authority: [Recording Reveals East Jerusalem Park Is about Politics, Not Environment, Haaretz](#), September 30, 2013.



National Park Plan Retracts Potential Expansion Areas



submitted to the National Planning and Building Council against the District Committee's decision, an enormous gulf can be seen between the professional grounds cited and the actual reality on the ground.

In September 2014, the Appeals Committee of the National Planning and Building Council reviewed the appeals submitted by residents of a-Tur and al-'Isawiyyah (with the assistance, respectively, of Ir Amim and Bimkom) against the approval of the national park plan. During this process, it emerged that the Jerusalem Municipality and the District Committee had not undertaken any substantive examination of the neighborhoods' development needs, contrary to explicit claims made during discussion of objections to the plan. Despite this discovery, the Appeals Committee did not rush to disqualify the plan's approval, instead requesting that the sides attempt to reach agreement through talks overseen by the director general of the Ministry for Environmental Protection – a process that came to a halt after one meeting. Representatives from the Municipality and the Israel Nature and Parks Authority unequivocally declared that they were unwilling to change the borders of the national park and refused to resume dialogue. Subsequently, the Appeals Committee decided to accept the appeals and freeze approval of the plan for the national park, noting in its decision that while it is appropriate to establish a national park in part of the area, the park's precise dimensions must be determined with reference to a-Tur's and al-'Isawiyyah's development needs. Accordingly, the Appeals Committee ruled that once a comprehensive community needs assessment is undertaken, the District Committee could reopen discussion of the national park plan, weighing all resultant considerations in a genuine manner.<sup>19</sup>

<sup>19</sup> [Decisions of the Appeals Subcommittee](#) of the National Planning Council, September 2014. (in Hebrew)



## **The Municipality Ignores the Appeals Committee's Decision and Residents' Needs**

To the best of our knowledge, and despite the Appeals Committee's decision, the Jerusalem Municipality has not undertaken any community needs survey in a-Tur since September 2014 – certainly not in a manner consistent with the criteria for conducting a professional needs assessment. At the beginning of 2016, the Municipality appointed a professional team to prepare a new master plan for the neighborhood, determining the borders of the plan in advance, without reference to professional planning considerations or to the neighborhood's development needs. The borders of the plan were presented to the residents, creating the illusion of negotiations; in practice, the Municipality rejected the residents' proposals for changes to the plan's borders – in particular, their demand to include the entire area of Khalat al-'Ein in the area zoned for development.

The blue line for the master plan had been set in advance and the Municipality only agreed to minor boundary changes, leading to the removal of only some 25 dunams from the area of the planned national park to allow zoning for public buildings. As a result, the borders of the master plan hardly include significant land reserves for expansion beyond the current built-up area. Instead of utilizing the opportunity offered by a new master plan to allocate substantial areas for the development of a-Tur, in accordance with a needs survey (as required by the National Planning Council), the Municipality relegated most of the vacant areas in Khalat al-'Ein outside the borders of the plan, thereby preventing any possibility of development.

As if not enough, while the residents awaited results of the needs assessment and were simultaneously obligated to cooperate with the municipal planning team, new obstacles arose. At the end of June 2015, residents discovered signs

posted throughout the planned national park bearing orders for “seizure of land for gardening purposes.” By remarkable coincidence, the orders included the entire area in which the authorities sought to establish the national park.<sup>20</sup> It later emerged that the Municipality had issued the orders at the request of the Israel Nature and Parks Authority – an unprecedented move completely inconsistent with the declared purpose of gardening orders. The Municipality and the Israel Nature and Parks Authority sought to circumvent the decision of the Appeals Committee, which obligated them to balance the objective of establishing a national park with the rights and needs of the residents of a-Tur and al-'Isawiyah.



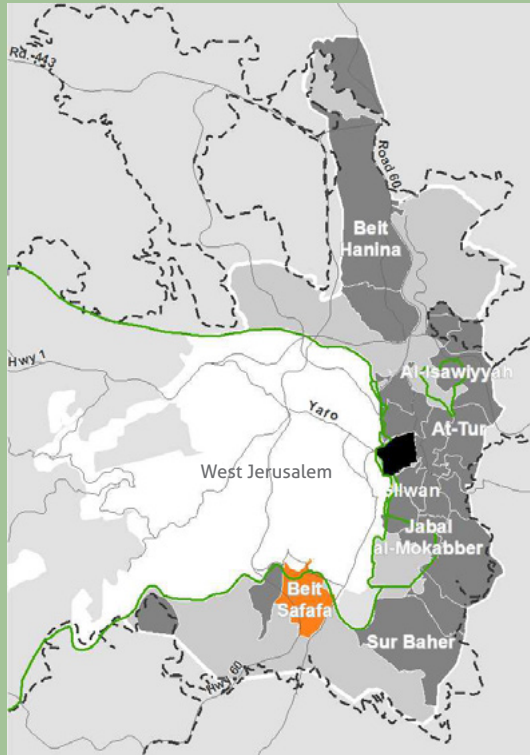
A-Tur lands in the proposed national park

20 The orders were issued by virtue of the Vacant Plots Law, which empowers the local authority to use a plot not under its ownership for the purpose of gardening or parking. The purpose of the law is to maintain the integrity of the plot and prevent nuisances, to remove trespassers, discourage the dumping of refuse, and prevent unlawful construction. It was not intended for the purpose of developing parks.

## Outline Plan for Khalt al-'Ein in a-Tur

With the assistance of Ir Amim and Bimkom, the residents appealed to the Jerusalem Court for Local Affairs to revoke the gardening orders. Their case is still pending before the court. Ten years after they embarked on their planning journey, and after paying out hundreds of thousands of shekels from their own pockets, the residents are unacceptably close to the starting point. They are now considering future steps to challenge the authorities' actions and realize their rights.

# 2 Master Plan for Beit Safafa



### Background

The Master Plan for Beit Safafa is a plan initiated by the Jerusalem Municipality, which hired the firm of planner Motti Kaplan to prepare it.

Beit Safafa is situated in the southern part of East Jerusalem. Together with the adjacent neighborhood of Sharafat, it is disconnected from the geographical continuum of the other Palestinian neighborhoods. Beit Safafa borders on the Israeli neighborhoods of Pat and Katamonim to the north, and the neighborhood/settlement of Gilo to the southwest. The neighborhood has maintained its traditional character, with relatively low-rise construction and agricultural areas between homes. Since the 1980s, Beit Safafa has become the preferred place of residence for Arabs coming from the north of Israel to live in Jerusalem, due to its proximity to Israeli neighborhoods/settlements, which means access to vital infrastructure and services; the nearby industrial, employment, and commercial zone of Talpiyot; and the relatively high socioeconomic status of the residents. This demographic trend has contributed to the increase in the neighborhood's population.

The neighborhood first underwent municipal planning in the 1980s and 1990s, initially through a general outline planning process and later via several detailed plans. The Municipality originally conferred only limited building rights, later allowing for some improvements but only in a small part of the neighborhood. Following planning of the Israeli neighborhoods/settlements of Gilo and Givat Hamatos, adjacent to Beit Safafa – and in part on land confiscated from the neighborhood – Beit Safafa has been left with virtually no land reserves and with no solution to its housing shortage.

## Failures in Promotion of the Plan

### **Planners Restricted to Current Zoning**

The planning team hired by the Municipality began preparing the new plan in 2011. The team drafted a report on the existing planning situation, prepared a needs assessment, and formulated a planning vision in cooperation with residents of the neighborhood. Public participation included meetings between the planning team and community representatives, meetings with the residents' planning committee under the auspices of the community center, and the direct submission of comments from residents.

Despite this progress, in instructions presented to the planning team, the Municipality demanded that existing land designations from previous plans remain unchanged. The demand restricted the planning team's leeway, effectively defeating the purpose of re-planning, which implies amendment of existing zoning. By way of example, if there is a network of roads passing through a dense and convoluted section in the center of the village, re-planning could change the course of the road in exchange for part of an open area, or even in place of an area zoned for residential use. Without the possibility of rezoning the land, it is impossible to correct most of the distortions in previous plans. Accordingly, it becomes more difficult to improve the planned area and respond to the needs of local residents<sup>21</sup>.

21 We should note that the Municipality has given a similar instruction to the planning team currently preparing a master plan for Sur Baher (which is not included in this report).

## **Insistence on Building Rights Inappropriate to Neighborhood Needs**

In contrast to the Israeli neighborhoods/settlements, which are built primarily on state land, Palestinian construction is undertaken on privately owned land in accordance with the needs of the landowners and their families. Accordingly, building takes place over a period of generations, and in the short-term, families sometimes opt not to immediately utilize the full scope of construction approved in the relevant outline plans. The planning team therefore included a larger number of housing units in the plan than the actual figure required for the target year in order to satisfy planning requirements while ensuring that the plan would meet the long terms needs of the community.

The building percentages in the plan were coordinated with the planning division of the Jerusalem Municipality and approved based on the above-mentioned consideration. Nevertheless, at a relatively late stage of planning the mayor personally charged that the percentages were too high and ordered that they be reduced, arguing that the permitted scope of construction was not supported by the stock of public buildings and areas zoned for public needs in accordance with the plan. This argument ignores the gulf between the planned building percentages and actual realization, as previously explained. Moreover, it highlights the Municipality's refusal to allow flexibility in rezoning and increases in areas zoned for public development in Beit Safafa beyond those defined in the old plans. Had such flexibility been afforded, it would have been possible to plan additional areas for public buildings; for example, to rezone open areas for public buildings, which would at least partially resolve this particular planning problem. Similarly, an increase in infrastructures would have allowed for higher residential building percentages. Comments by various senior officials in the Municipality suggest that the demand to reduce the percentages for residential building was actually a response to demographically driven motives.

The instruction to reduce building rights not only negated the work invested in the plan but also damaged the already fragile trust the residents had placed in the Municipality. After agreeing to certain building percentages, which required compromises and concessions on the residents' part, the Municipality reneged on its decision and cut the percentages.

## **Lack of Trust between Authorities and Residents**

Working with the residents was a far from straightforward process. Problems emerged due to the complex task of planning private land and the need to reach agreement between the landowners, all of whom were motivated by their own independent interests. Moreover, the setting of varied building percentages, which allowed for a higher concentration of construction in some areas than in others, created the possibility of inequitable land distribution. In response to all of these dilemmas, the planning team attempted to develop a "bank of rights" to achieve a fair division of building rights among all the landowners – unfortunately, without success.

Another challenge was the prevailing lack of trust in the Municipality and the state after years of discrimination, land confiscation, and restrictive planning policies. As an example, the planners suggested that an area on the margins of the neighborhood earmarked for residential use in accordance with the Jerusalem 2000 Outline Plan be left free of construction because of the attractive natural environment in the area. The residents responded with suspicion, fearing that if they conceded, the land would ultimately be confiscated for Israeli infrastructural or residential purposes.



## **Subordination of Planning Considerations to Political Considerations**

Dov Yosef Road, which crosses Beit Safafa and leads to Gilo, was constructed on a raised embankment above the surrounding land. As a result, rather than being accessible to the neighborhood, it is detached and soars over residents' homes. The road, which was built on the neighborhood's land in the 1970s, effectively disconnects Beit Safafa from Sharafat to the west, at the expense of both villages' agricultural lands. To correct this problem, the planning team suggested that construction along the raised road be allowed to exceed the level of the road so as to create connections between the road and the neighborhood. This approach was consistent with the intention of transforming Dov Yosef Road from a major thoroughway to a commercial urban road serving the neighborhoods along its route. However, the Municipality refused to permit a connection between the Palestinian neighborhood of Beit Safafa and the main road leading to the Israeli neighborhood/settlement of Gilo.

In addition, in the midst of the complex planning process, a severe crisis erupted in Beit Safafa as work began on construction of "Begin South," a six-lane highway that now bisects the heart of Beit Safafa across a section of some two kilometers. The highway primarily serves residents of the Gush Etzion settlements located south of Jerusalem and the Israeli neighborhoods/settlements of Gilo and Har Homa located along the southern perimeter of East Jerusalem in the vicinity of Beit Safafa. Ir Amim and Bimkom have reported at length on the severe damage to Beit Safafa caused by the highway, as well as the impressive civil campaign

local residents waged against its construction.<sup>22</sup> In the context of our discussion here, it is important to note that as soon as the Municipality realized the planning team it had appointed supported the residents' position and refused to accept the highway in its proposed form, it shut the team out of discussions and forbade the planners from expressing their positions in public forums, including in a court petition against construction of the highway. The Municipality effectively sidelined the team it had appointed from any participation in the debate surrounding a highway project that had enormous ramifications for the planning area under the team's purview. Despite being thoroughly familiar with relevant community needs and planning options, it was unable to present alternative solutions to minimize damage from the highway.

The Municipality's refusal to delay construction of the highway long enough to identify a better solution – or, at minimum, one that would significantly contain damage – is an example of the gulf between the way the Municipality relates to its own interests and residents' interests. Despite Begin South being a large-scale complex project, the Municipality refused to adhere to the normal procedure of detailed planning, based on the rationale that construction of the highway could not be delayed. Building permits for construction were issued

22 The damage caused by the highway include the splitting of Beit Safafa into four enclaves almost entirely disconnected from one another; the disconnection of residents from the educational, commercial, and social services concentrated in the nucleus of the village; and air and noise pollution due to the increased passage of vehicles through the heart of the residential area. The community center and the residents of the village fought an impressive civil campaign against the highway, even developing a proposal that would limit damage to the village through the construction of a tunnel over a longer section of the road. The Municipality rejected the residents' proposals and insisted on rapid implementation of highway construction as planned, with only a short section of 180 meters passing underground. For further details, see Ir Amim website and Bimkom website.

without prior preparation of a detailed plan, thereby denying residents an opportunity to submit objections to the planning authorities. This process contrasts sharply with the Municipality's approach to development of residential areas in the Palestinian neighborhoods, where it insists on a long and arduous planning process, only at the end of which is it even possible to prepare detailed plans. Even the partial covering of a short section of the highway was not located where residents claimed it would be most critical and requests to move or lengthen the mini-tunnel were not adequately answered. Rather, the short tunnel was planned and constructed to allow for the future construction of yet another road that will cut through the neighborhood (Road 10, see below).



Construction of the highway with Beit Safafa homes in background. July 2015.

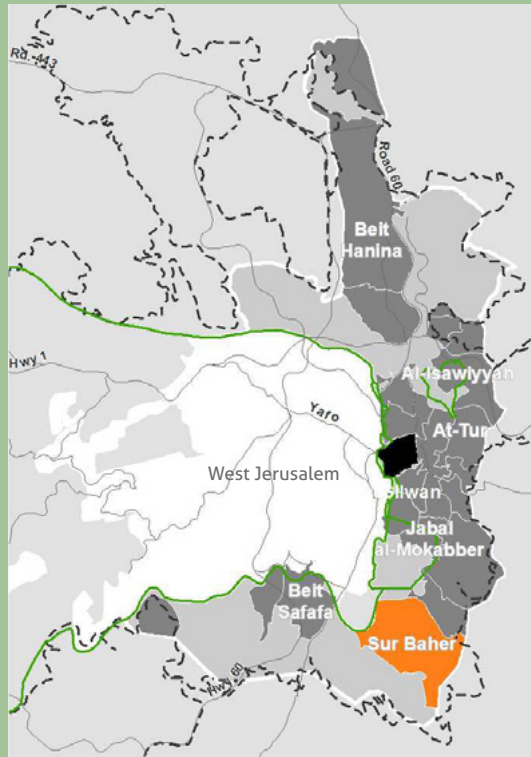
There are four existing or planned traffic arteries that contribute to the division of the neighborhood while primarily serving residents of other areas: the Dov Yosef Road to Gilo; Begin South; and two planned roads: interurban Roads 39 and 10, the latter of which is intended to connect the neighborhoods/settlements of Gilo and Givat Hamatos.<sup>23</sup> The preparation of a new master plan for the neighborhood should have been used as an opportunity to reexamine road infrastructure needs and consider ways to limit the impact of the planned roads on the neighborhood. The Municipality instead refused to include this objective in the planning team's mandate. One set of changes to existing plans the Municipality did authorize involved the network of internal roads in the neighborhood. The team managed to reach agreement with the Municipality's Transportation and Public Infrastructures Division on widening of roads and enhancing their adaptation to neighborhood topography and existing construction. Eventually Moriah – the infrastructure development company under the auspices of the Jerusalem Municipality – began paving internal roads without any coordination with the planning team, ignoring its work and already negotiated agreements.

After extensive delays, the master plan was discussed at the Local Planning and Building Committee in the summer of 2015, but to date has yet to be discussed by the District Planning and Building Committee.

23 For further information about the Begin South Highway as part of the road system bisecting Beit Safafa, see Bimkom's site.

# 3

## Detailed Outline Plan 10133 for the Qisan Neighborhood in Sur Baher



## Background

Work on Outline Plan 10133 for the Qisan neighborhood, in the southeast of Sur Baher, began in 2003. Local residents who formed the Committee for the Development of Sur Baher initiated the plan themselves, hiring and independently financing the architect and town planner Ayala Ronel.

Neighborhood Outline Plan 2302A, which was validated in 1999, defined Qisan as an area for future planning, half of which would be zoned for residential purposes. After the Municipality failed for years to promote planning, residents attempting to secure formal status for their homes and develop their land made the decision to act independently, out of their own pockets. The plan (10133) proposed by the residents covers an area of 226 dunams and includes 780 housing units.

In addition to the area for future planning demarcated in Plan 2302A, Plan 10133 includes land that was not intended for development according to the Jerusalem 2000 Outline Plan. This deviation was consistent with the “flexibility clause” included in the early version of the Jerusalem 2000 Plan, which permitted reasonable modifications to zoning.<sup>24</sup> Indeed, the Qisan plan was coordinated with the Ministry of Housing’s master plan for southeast Jerusalem, promoted during the same period; and because the Ministry’s planner did not deem slight digressions from the boundaries of the Jerusalem 2000 Plan to be problematic, it was possible to coordinate between the two plans.

24 The underlying rationale of the flexibility clause was that since the plan was drawn on a large scale (1:15,000), inaccuracies might emerge during the outline planning stage. An outline plan such as the plan for Qisan is the appropriate format for such corrections and adjustments.

## Failures in Promotion of the Plan

### **Last Minute Demands, Increased Costs, and Bureaucratic Obstacles**

In 2006, the plan met the necessary threshold conditions<sup>25</sup> to be examined by the District Planning Bureau. In 2007, the District Planning Committee held a discussion on whether to deposit the plan for objections. Despite prior coordination, the District Committee demanded that numerous changes be made to the plan, the most significant being reduction of the plan's area so as not to deviate from the boundaries established in the new outline plan for Jerusalem. The above-mentioned flexibility clause had been removed from the later versions of the Jerusalem 2000 plan.

It is important to understand the impact of the demand to restrict the plan in adherence to the borders dictated by the Jerusalem 2000 Plan. As noted, the plan for Qisan was prepared in the spirit of the flexibility clause and details were finalized through protracted negotiations held between the landowners from 2003 through 2007, together with the planner and in coordination with the planning authorities. The landowners determined the boundaries of planning and development areas in line with possibilities afforded on the ground, and in accordance with their ability to agree on allocations for public needs. Amendment of the boundaries meant that this extremely involved and time-

<sup>25</sup> Meeting the threshold conditions means that the plan had undergone an initial inspection and been found to include all the necessary documents and to be worthy of in-depth discussion at the Planning Bureau and the District Committee.

consuming process would have to be repeated. Moreover, the Jerusalem 2000 Plan was never actually deposited for public objections, meaning that the public – and specifically the residents of Sur Baher – never had a chance to submit objections and address problematic aspects of the plan such as the large scope of open areas at the expense of areas for development. Neither did they have an opportunity to challenge deletion of the flexibility clause.

Following discussion of the plan in the District Committee in 2007, the planning team and planning bodies in the Jerusalem Municipality held no fewer than 22 meetings. The need to change the planning boundaries was never raised despite discussion of various other changes required to promote the plan. The area zoned for public needs, for example, was increased to 54 percent of the total area of the plan. At one stage, the Municipality ordered preparation of a comprehensive traffic report for the entire area and despite the significant expense, refused to waive the demand, forcing residents to pay for the report themselves.

The proliferation of meetings and insistence on the traffic report without any mention of a demand to change the planning boundaries created the impression that the municipal planning bodies saw no need to change the boundaries and was thereby giving the green light for further processing of the plan within its proposed boundaries. The process of coordinating and obtaining authorizations from the Municipality for changes to the plan took several years, which the planning team attributes to procrastination by staff in the municipal planning division.



## Multiple General Plans that do not Permit Building

It is important to note the large number of general plans that had been prepared for the area – plans which, by themselves, lacked the statutory status to enable the granting of building permits to the residents of Qisan and instead delayed approval of Plan 10133. As mentioned, the point of departure was Outline Plan 2302A for Sur Baher as a whole, which earmarked the area of Qisan for future planning. The Ministry of Housing later prepared a master plan for southeast Jerusalem that included Sur Baher and the adjacent neighborhoods/settlements of Har Homa and East Talpiyot. Simultaneously, the Jerusalem 2000 Plan was being promoted for the city as a whole. At each stage, the planner working on the Qisan plan was required to coordinate with a different planning team working on a different scale, requiring new changes and amendments.



Qisan, January 19, 2017

In the winter of 2011, municipal representatives sought to delay the plan yet again following the Municipality's decision to prepare a new master plan for Sur Baher. The Qisan planner held several tours with the planner hired by the Municipality to prepare the master plan, in an effort to persuade him of the need to promote a plan for Qisan and to maintain plan boundaries acceptable to its landowners and plan promoters. However, to the surprise of the residents of Sur Baher, the District Committee shelved the residents' plan, purportedly due to the extensive amount of time that had passed since discussion of the plan.

During a subsequent discussion held in June 2013 at the request of the Qisan plan's initiators, in an attempt to block its cancellation, the Municipality's representative maintained he had never asked that the plan be delayed to allow for coordination with the new master plan. The chairperson of the District Committee claimed that the applicants had not taken steps to amend the plan in accordance with comments made by the committee in 2007 and rejected agreements the planner claimed to have reached with professionals in the Municipality – for example, on the issue of building density. Insisting "nothing has happened since 2007," the chairperson declared that she was unwilling to allow any further promotion of the plan. After unsuccessful attempts to appeal to the committee, and despite all the time and money they had invested in the process, the residents withdrew their plan.

# Conclusion

## Political, Planning, and Bureaucratic Obstacles

The case studies presented in this report include a master plan and two detailed plans. Two of the plans were initiated by residents and one by the Municipality. Despite the distinctions between the three, a clear pattern emerges of actions intended to impede – indeed block – meaningful planning of Palestinian neighborhoods. While the obstacles described relate to the political, planning, and bureaucratic spheres, it is important to emphasize that this differentiation is purely theoretical. In practice, planning and bureaucratic obstacles often serve the same overriding political agenda. When players within the planning system intend to delay a plan and prevent community development, the easiest way is to reference technical planning grounds. Achieving political ends through the planning process is best realized by setting seemingly technical and bureaucratic demands that are impossible to meet.

## Political Obstacles

### **Planning Shaped by the Demographic Principle**

The demographic principle is an overarching priority that becomes the source of many of the other obstacles detailed below. Because government policy is designed to reduce the relative weight of the Palestinian population to satisfy

demographic objectives, the planning system does not provide the framework that might allow residents to develop and prosper; instead, it imposes additional procedures and bureaucratic demands.

Since Israel annexed Jordanian Jerusalem and additional areas of the West Bank in 1967, its planning and development policy in Jerusalem has been principally motivated by demographic goals. Both the government and the Municipality have engaged in obsessive discussion regarding the relative size of the Israeli and Palestinian populations in the city. Demographic considerations have become the primary yardstick used by those involved in the planning and development of the city. It is important to emphasize that discussion of the demographic question is not intended to maintain balance between the various population groups that form the Jerusalem mosaic; the overt goal is to maintain the demographic dominance of Jewish Israelis. In practical terms, this policy manifests in government intervention designed to influence the demographic ratio in the city. The planning system in Jerusalem has effectively been recruited to maintain the demographic ratio according to periodically updated targets. Plans in Jerusalem have been and continue to be prepared in the shadow of this policy.

Israel's discriminatory planning policy in East Jerusalem derives directly from its demographic policy. According to existing outline plans, the area planned for residential development in Palestinian neighborhoods comprises 8.5 percent of the total area of Jerusalem, while Palestinian residents account for more than 37 percent of the population of the city. Public buildings intended for Palestinians in East Jerusalem account for just 2.6 percent of the total land in East Jerusalem. As our review of the case studies demonstrates, discriminatory planning is not simply a matter of insufficient planning. Even when Palestinians in Jerusalem attempt to independently undertake what the authorities are obligated to

administer, the authorities do everything within their power to thwart planning that would provide solutions to the population's housing needs; and when the Municipality does promote planning, the process is fraught with problems and ultimately fails to reach completion. Any discussion of "illegal construction" in East Jerusalem must be based on this actual state of affairs, a direct result of residents being denied the power to build lawfully. It is the responsibility of the authorities to provide adequate opportunities for planning that can lead to legal construction in the Palestinian neighborhoods in East Jerusalem.

### **Municipal Planning Subordinated to Establishment of "Greater Jerusalem" Settlement Blocs**

Palestinian residents' acute need for housing, buildings for educational purposes, sufficient roads, parks and other public amenities are repeatedly disregarded in order to create facts on the ground designed to connect settlement blocs to the city or isolate East Jerusalem from the surrounding Palestinian communities in the West Bank. The planning team responsible for preparing the master plan for Beit Safafa was prohibited from raising the issue of the Begin South highway, constructed to connect the Gush Etzion settlement bloc to the city. Likewise, the plan for the Mount Scopus Slopes National Park was motivated by the intention of using the park to connect Jerusalem to Ma'ale Adumim through the E-1 corridor. Given these political obstacles, the Palestinian community has come to take for granted that Israel's planning policy will be wielded against them. Their lack of trust in the authorities, after decades of enduring denial of their planning rights, makes it exceedingly difficult to reach agreement and compromises.

## Planning Obstacles

### **Restrictive Planning**

As the case studies make clear, the planning authorities continue to restrict the scope of development in the Palestinian neighborhoods, and in some cases deliberately thwart plans in which considerable resources have been invested. The a-Tur and Qisan case studies (as well as al-'Isawiyyah, where the story is similar to that in a-Tur) highlight the authorities' fierce opposition to the use of open spaces for development of Palestinian neighborhoods and their intention to restrict Palestinian built-up areas to a minimum. Palestinian residents sometimes ironically suggest that the Israeli authorities consider the Palestinian neighborhoods like Switzerland, given the extensive green areas zoned in the neighborhoods – green areas whose sole function is to prevent construction. The restrictions placed on building percentages in various parts of Beit Safafa echo the longstanding demographic policy. As previously mentioned, approval of a plan for 'Arab a-Sawahreh is the exception to the rule; but even in this example, due to demographic drivers the District Planning and Building Committee approved half the number of housing units a plan consistent with purely professional considerations would have contained, with the right wing lobby claiming even this allowance was too high. The numerous hurdles the plan encountered before being approved represent the rule rather than the exception.

### **De Facto Delays in Construction under the Pretext of General Planning**

The Palestinian neighborhoods are in desperate need of detailed planning – the only planning instrument that provides a legal basis for the granting of building

permits – and development of road infrastructure, parks and schools. Despite this being the case, the Jerusalem Municipality does virtually nothing to promote detailed planning; instead, it repeatedly initiates the preparation of general plans. At best, these general plans are statutory outline plans, lacking detail and insufficient to the acquisition of building permits. At worst, and most common, they are master plans without any statutory status. The Jerusalem Municipality recently approved the preparation of master plans for all the neighborhoods of the city. In the Israeli neighborhoods, this process involves a logical progression that enables creation of a framework for the development of neighborhoods, planned from the outset according to professional considerations. In the Palestinian neighborhoods, where development has been frozen for decades, the insistence on preparation of master plans (again, insufficient for granting of building permits) translates into enduring delays before any construction can be launched. Moreover, the involvement of multiple private landowners who must consensually decide on how areas of hundreds or thousands of dunams (as is the case of master plans for entire neighborhoods) will be planned creates serious complications.

The result is that in Palestinian neighborhoods, master plans effectively constitute another tool for stalling planning. They delay the process of securing building permits by several years while allowing the Municipality to create a façade of progress and deflect arguments about the lack of planning in Palestinian neighborhoods. The protracted planning processes exhausts Palestinian residents, who are left with no recourse but to invest their own resources in planning proceedings that inevitably lead nowhere.

## **Incompatibility of the Israeli Planning System with Complex Planning on Privately Owned Land**

The Planning and Building Law and the Israeli planning system are best equipped to deal with the default situation in Israel: the planning of state owned land. It is a relatively straightforward process to plan areas of hundreds of dunams when the land is not under private ownership, as illustrated by the preparation of outline plans for Israeli neighborhoods/settlements over the Green Line in Jerusalem, which now hold more than 50,000 housing units.<sup>26</sup> The imposition of this system in the Palestinian neighborhoods of East Jerusalem creates enormous difficulties. Most of the land in these neighborhoods is privately owned, and each privately owned plot usually amounts to no more than a few dunams. Accordingly, when residents undertake planning by themselves, in the absence of any initiative by the Municipality, dozens or even hundreds of landowners are required to coordinate and cooperate, setting aside their personal interests in service to the collective needs of the community. The Municipality's refusal to address their planning needs doubly disadvantages the Palestinian residents of East Jerusalem: it forces them to assume the authorities' role and invest their own resources in the planning process; but unlike the authorities, residents cannot make decisions regarding conflicting interests if the various landowners are not in agreement.

<sup>26</sup> Most of the land on which these neighborhoods/settlements were built was expropriated from Palestinian owners. After expropriation, the land is considered to be state land.



## **The Demand to Plan Entire Expansion Areas (“Polygons”)**

The Jerusalem 2000 Local Outline Plan includes some 25 areas demarcated for the expansion of Palestinian residential neighborhoods. These expansion areas are marked with the designation of “new urban area” and are commonly referred to as “polygons.”<sup>27</sup> Some of the polygons have an area of a few dozen dunams, while others encompass many dozens or even hundreds of dunams. In accordance with the Jerusalem 2000 Plan, the planning authorities require the submission of general plans for entire polygons. While planning of this nature is feasible in the Israeli neighborhoods, which are built on state land, the requirement creates extensive difficulties in the case of private land, as discussed above. If the authorities permitted planning of parts of the polygons, the number of owners involved would be reduced and the planning process simplified.

## **Bureaucratic Obstacles**

### **Delays and Frequent Changes to Plan Boundaries (“Blue Lines”)**

An outline plan is a legal (statutory) document whose provisions apply to land included in a plan. The plan area is marked with a blue line. Delineation of the plan area has numerous ramifications, often leading to disagreements. It is impossible

27 In the past, the expansion areas or new urban areas proposed in the Jerusalem 2000 Plan were referred to as “densifications.” Today, the unofficial but more common term “polygons” is used. The polygons were the subject of particular attention in the plan and special planning restrictions were imposed on these areas.

to move forward with the planning process unless the boundaries of a plan are clearly defined. The Municipality is responsible for determining the blue line and can therefore expand, restrict, or delay planning. As explained, the Jerusalem Municipality uses its authority to set blue lines without taking Palestinian residents' needs and requests into account. In some cases, it procrastinates in setting the blue line or simply refrains from making a decision altogether.

## **Coordination of Planning without Municipal Assistance**

Every plan interfaces with other plans and is influenced by diverse municipal and national systems. In order to ensure the integration of the plan in the broader scheme, coordination must be undertaken with numerous different bodies and functions. Here, too, power rests with municipal and national institutions, which can either ensure effective coordination between plans at different levels or use these plans to block progress. In the case of Khalat al-'Ein (in a-Tur) and Qisan in Sur Baher, the Municipality and the planning authorities have initiated "planning proceedings" with the primary effect of delaying and thwarting advancement to detailed outline planning – the only category of plan that enables the issuance of building permits.

## **Expensive and Convoluted Demands and Technical Inspections**

The planning system requires that those parties in charge of promoting a plan undertake various inspections, including an antiquities survey, tree survey, traffic survey, environmental impact survey, and seismic studies. These inspections are desirable insofar as they improve the quality of planning but they are also

expensive. When the promoter is a public body, such as the Israel Land Authority or the Ministry of Housing and Construction, such costs can easily be absorbed, but for private landowners it may be impossible to satisfy these demands. These obstacles are particularly difficult to surmount given the extraordinary poverty rate in East Jerusalem: some 79.5 percent of the Palestinian residents of the city live below the poverty line.<sup>28</sup> In some cases, by the time plan promoters are able to acquire funding, the plan is no longer relevant or has been shelved by the planning committees due to inactivity. Even after residents raise funds and undertake the necessary inspections, their plans are often rejected on other grounds.

28 National Insurance Institute, [Poverty and Social Gaps Report 2014, 21](#). (in Hebrew)

# Recommendations

Fifty years of discriminatory planning and house demolitions have brought the Palestinian neighborhoods in East Jerusalem to the verge of chaos. The crisis is not confined to housing; a shortage of some 2,600 classrooms and dilapidating infrastructures exacerbate the problems created by enduring poverty. In the neighborhoods beyond the Separation Barrier, which are home to between one-quarter and one-third of the Palestinian residents of East Jerusalem, experts warn that the planning crisis and threat of demolition have created a situation bordering on a humanitarian disaster.

Given the current political reality, Israel bears full responsibility for the welfare of East Jerusalem's residents and their surrounding environment. Poverty, neglect, and exclusion testify to the failure of the "united city" model, deepen hostility and mistrust between residents and the authorities, and fuel tensions in the city. So long as the current political reality endures, Israel bears an obligation to set aside its demographic and territorial approach and recognize its responsibilities. The transformation from a protracted policy of thwarting appropriate planning to one of implementable and sustainable planning must be systemic, extending to all branches of the planning system and involving all relevant decision makers. This process can only be successful with the full inclusion of Palestinian representatives identified by their communities, and in a manner responsive to residents' unique needs.

### **Ir Amim and Bimkom recommend the following concrete steps:**

#### **1. Development and construction as a preliminary step to trust building.**

The Jerusalem Municipality should take concrete steps toward building trust with Palestinian residents – at this point, contingent on the Municipality assuming responsibility for leading meaningful development in the Palestinian neighborhoods. Such development should be undertaken in consultation with residents, and in a manner that offers real answers to the need for public buildings, playgrounds, and other vital public spaces. It will not be possible to build trust so long as the authorities impose protracted planning proceedings that fail to result in actual construction. Actual development is the only way to generate trust.

**2. Freezing house demolitions pending the approval of detailed outline plans meeting residents' needs.** Given current planning conditions, many residents of East Jerusalem live under the daily threat of their homes being demolished and being left without shelter. They pay enormous sums in fines and are forced to endure endless legal proceedings with no hope of a solution. House demolitions should be frozen pending the preparation of detailed outline plans that provide a proper response to the needs of the Palestinian community in Jerusalem.

**3. Planning responding to the spatial needs of a living and developing community.** The Jerusalem Municipality and the District Planning Bureau should develop a planning framework designed to create a decent living environment capable of meeting the needs of a large and growing population. The planning institutions should execute planning in a manner that facilitates development and community welfare, including provision of additional areas (expansion) for congested neighborhoods.

**4. Preparation of public framework outline plans by the Municipality, in coordination with residents.** The Jerusalem Municipality should abandon non-statutory master plans, which do nothing to move the neighborhoods closer to development and construction. Instead, it should concentrate on preparing neighborhood outline plans focused on public areas to facilitate the issuance of building permits for the construction of roads, public buildings, and public parks.

**5. Detailed planning by residents and landowners.** Alongside its own planning, the Municipality and the District Committee should supervise, encourage, and adopt detailed medium and large sized plans initiated by residents and landowners. Groups of residents acting in cooperation would be able to negotiate with the authorities and consultants, as well as with their neighbors, thereby catalyzing community decision-making and identifying agreed upon solutions to uniquely complex local issues, and questions about land ownership and social structures. Sustainable planning in East Jerusalem must be grounded in planning by the residents themselves, in coordination with the planning authorities.

**6. A fast, flexible, and budgeted track for detailed plans by residents.** In addition, planning authorities should create a fast and flexible track for promoting detailed plans initiated by residents. This track should allow for significant relaxation of bureaucratic demands while providing budgetary and professional support to fund planning related expenses, e.g. surveys. Technical demands and inspections should be set aside until plans have been approved by the District Planning Committee. Many of the demands can be included in the list of conditions for the granting of building permits, which would prevent a situation whereby residents invest large sums of money for inspections for a plan that never reaches approval.

**7. Flexibility in planning expansion areas (polygons).** The Jerusalem 2000 Local Outline Plan should be regarded as a flexible policy document allowing, with due discretion, for deviations from the plan. In particular, a flexible approach should be adopted regarding the expansion areas (polygons) in order to enable partial planning and/or expansion within these designated planning areas.

**8. Significant allocation of earmarked resources for planning and implementation.** Considerable resources will be needed to bridge the gulfs created by decades of neglect and discrimination in planning. The government should earmark funds to enable the Municipality to meet this obligation. In September 2016, the state owned company Apartment for Rent published a call to local authorities requesting government funds in order to prepare large-scale outline plans for private land.<sup>29</sup> This initiative was launched as part of the government's efforts to combat soaring housing costs in Israel, not in the specific context of East Jerusalem. Such a scheme would be particularly applicable in the Palestinian neighborhoods of the city, where land is primarily privately owned. Although the Municipality did not initially act to take advantage of this opportunity, the planning division eventually prepared and submitted requests to fund outline plans in at least two Palestinian neighborhoods, one of which is the 'Ein al-Lawza neighborhood of Silwan. This is a prime example of how government funding can and should be invested in order to promote planning in East Jerusalem. At the time of writing, it is not yet known whether the Municipality's request has been approved.

<sup>29</sup> [Request for Proposals 01/2016](#), (in Hebrew) inviting local authorities to request financial assistance for promoting residential planning on private land

**9. Establishing a civil strategic planning body in cooperation with the Palestinian community of East Jerusalem.** After years of chaos and neglect, planning East Jerusalem requires comprehensive discussion and broad-based consensus. A joint civil planning body with an effective mandate should be formed to bring together professionals, decision makers, and diverse, self-identified Palestinian representatives reflective of differences within the larger Palestinian community. The proportion of resident representatives should be as high as possible and work plans with clear timeframes should be set.

**10. Making planning processes accessible in Arabic.** Arabic is an official language in Israel; consequently, the entire planning process must be accessible to residents whose mother tongue is Arabic. Planning documents relating to Palestinian neighborhoods should be available in Arabic. Meetings between residents and municipal officials (or professionals hired by the Municipality) must include proper translation. Summaries, minutes, and any other documentation relating to a plan's development must be expeditiously translated into Arabic. Only by taking these measures can the system ensure that any resident who elects to do so can understand and take part in the development of a plan.

**11. Provision of training for dedicated municipal officials and planners for Palestinian neighborhoods.** Assuming the adoption of these recommendations for a rapid and flexible planning track and a civil strategic planning body, we recommend that planners receive dedicated training to work within these tracks, including training to increase cultural competence in responding to language and other social considerations, and familiarization with the unique problems involved in planning and development in the Palestinian neighborhoods. Staff trained for this purpose should enjoy broad discretion and planning flexibility to enhance their ability to produce feasible planning solutions. Training should include tours of the neighborhoods and, if possible, Arabic language studies.





The mission of Ir Amim is to render Jerusalem a more equitable and sustainable city for the Israelis and Palestinians who call it home and to help secure a negotiated resolution on the city through sustained monitoring, analysis, public and legal advocacy, public education and outreach to re-orient the public discourse on Jerusalem. Ir Amim aspires to a sustainable political future for Jerusalem as the future capital of two sovereign states—achievable only through a negotiated Israeli-Palestinian peace process.

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Bimkom – Planners for Planning Rights is an Israeli NGO that was established in 1999 by planners and architects sharing a vision of strengthening the connection between planning and human rights. Drawing on values of equality, good governance, and community participation, Bimkom assists communities that are disadvantaged by economic, social, or civil circumstances, in exercising their planning rights, and strives to advance planning policies and practices that are more just and responsive to the needs of local communities.

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