

The Old City Master Plan (TPS 13538): From Professional Planning to Political Execution

February 2013

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On December 19, a master plan for the Old City came under discussion by the Jerusalem Local Planning and Building Committee. The plan's declared objective is to facilitate coherent development of the Old City while addressing the housing needs of its 35,000 residents. From the onset of discussions in the planning committee, its right-wing members have voiced strong objections to the plan and made vigorous efforts to substantively change it. Within weeks, concerted pressure by right-wing city councilors and members of the Ateret Cohanim settler organization has resulted in the removal of key plan components, with the likelihood that the plan will effectively serve as another instrument for Israeli takeover of Palestinian neighborhoods in the Old City basin.

Ir Amim is monitoring developments, with its eye on the possibility that the Old City master plan may constitute another example of a professional plan intended to address Jerusalem's overall planning needs being gutted at the municipal level by a political agenda that promotes Israeli exclusivity in the city.

a. Background

On December 19, 2012 Plan No. 13538, "Conditions for Issuing Building Permits for the Old City of Jerusalem," was raised for discussion at the Jerusalem Local Planning and Building Committee after its submission by the Jerusalem Development Authority (JDA), which maintains administrative authority over the plan.

Professor Mike Turner, former chairman of UNESCO in Israel, served as an advisor in the plan's preparation, the stated rationale for which is that the existing master plan, מ/9 (ain mem/9), does not allow for issuance of building permits for the Old City without the submission of detailed plans. Because the process for preparation of detailed plans in the Old City is an extremely complicated, time consuming and expensive one, it is virtually impossible to obtain a building permit. In fact, most of the new construction in the Old City over the past several decades, including infrastructure works and the development of public spaces by the JDA and the Municipality, have been carried out without permits and therefore in violation of the law. According to Ir Amim's investigation, due to the onerous process required to prepare detailed plans, since 1974 only six applications for building permits in the Muslim quarter have been submitted to the planning committees. Five of those were submitted by Israeli institutions or individuals and only one by a Palestinian resident. As a result, there is a proliferation of unlicensed construction conducted in the absence of comprehensive planning, with Palestinian families consequently living under the constant danger of home demolitions.

It is also important to note that the plan will not apply in the Jewish Quarter, for which a separate detailed master plan is being developed. Plan 13538 notes that it applies only to places for which there is no detailed plan.

b. The Plan As Submitted to the Jerusalem Local Planning and Building Committee

The original purpose of Plan 13538 was to address obstacles to obtaining building permits. The plan was directed to facilitate:

- Works in public spaces
- Enlargement of existing apartments
- Establishment of a procedure to streamline the issuance of building permits

According to its original intent, as articulated in its prospectuses, the plan was to include a process for public participation through which residents of the Old City would be presented with the plan and have a role in shaping it.

As the plan's name—"Conditions for issuing building permits for the Old City of Jerusalem"—indicates, creating the conditions for the receipt of building permits is the essence and substance of the plan. Indeed, the plan, as presented by the city engineer at the end of 2011,¹ provides for several primary building classifications, as described below.

In the public domain:

- Infrastructure and maintenance works
- Restoration and conservation of monuments (from a list of monuments attached to the plan)

The plan would allow property owners in the Old City to:

- Obtain building permits without the preparation of detailed plans
- Add up to 30 square meters to existing apartments
- Demolish buildings or parts thereof, subject to detailed specifications
- Utilize subterranean spaces
- Make sanitary improvements

Because of its historic and cultural significance, the Old City has been recognized as an official UNESCO World Heritage Site. The outline plan must therefore set terms to guarantee that development in the Old City does not compromise its unique character. The plan imposes various limits on construction, similar to restrictive principles instituted

¹ Meeting between city engineer and JDA officials, and representatives of various organizations, on September 20, 2011.

under the British Mandate which also appear in the currently valid plan for the Old City, מנ/9 (ain mem/9):

- A limit on building height (the footholds of the Old City walls may not be exceeded)
- A prohibition against building within 10 meters of the Old City walls or within close proximity to the walls around the Temple Mount
- A prohibition against building that blocks specified views of conservation areas

The plan was prepared by a team of highly regarded professionals, including Mike Turner and Yisrael Kimchi, a senior researcher at the Jerusalem Institute for Israel Studies. The document demonstrates an admirable effort to be responsive to both development needs in the public domain—the preservation of the Old City’s invaluable architectural and historic heritage—and the housing needs of the residents of the Muslim, Christian and Armenian quarters. The plan’s emphasis on the public inclusion process is also commendable.

c. Planners' Intentions Meet Political Reality: Discussion within Planning Institutions

The plan was discussed by the Local Planning and Building Committee on December 19, 2012. The discussion primarily focused on severe opposition from representatives of right-wing parties in the city council, Yair Gabai and Didi Hershkowitz. Open to the public, the meeting was also attended by members of the settler organization Ateret Cohanim. It was evident that these agents of Ateret Cohanim were coordinated with the right-wing committee representatives and transmitting messages to them.

Hershkowitz and Gabai were fiercely opposed to the restrictions the plan imposed on higher level construction and proximity to the walls (as detailed above). These building restrictions will limit building plans by organizations like Ateret Cohanim, which owns a number of properties in the non-Jewish quarters of the Old City and has the intention to advance various building projects that stand in contradiction to the conservation guidelines for the Old City.

Most of the right-wing members’ vehemence was aimed at the plan's core: the intention to enable the residents of the Old City, most of whom are Palestinians, to obtain building permits. It should be stressed that unlike most of the Palestinians living in the Old City, Ateret Cohanim has the financial means and political connections to submit detailed plans and applications for building permits, even without the procedure the new master plan provides to facilitate receipt of building permits. As previously noted, only six applications for building permits for the Muslim quarter have been submitted since 1974. Five of those were submitted by Israelis (at least two by Ateret Cohanim) and approved by the planning committee. The one single application submitted by a Palestinian was rejected by the District Committee.

The Local Committee proceedings raise real concerns that demands by Ateret Cohanim, Didi Hershkowitz and Yair Gabai are being heeded by the JDA as well as by Mayor Nir Barkat. In response to the right-wing representatives' opposition, the deputy director general of the JDA, Anat Tzur, stated at the discussion:

- The plan will be changed so that it does not ease the issuance of building permits. The clause allowing the expansion of existing apartments has already been removed under the direction of Mayor Nir Barkat and the procedure for issuing building permits will also be deleted from the plan. The building appendix that was included in the plan will be canceled.
- Regarding height limits, Tzur added that according to the planners, height limits were merely "general instructions" and that if a plan is later submitted for a higher level building, its provisions could potentially outweigh the guideline limiting construction height. This statement is curious as height limitations are one of the primary conservation principles for construction in and around the Old City. The principle also appears in מנ/9 (ain mem/9) which is the valid plan for the area today. It is unclear why those submitting the plan are attempting to minimize the significance of that principle, which has been maintained since the time of the British Mandate and the importance of which has been upheld by the Israeli authorities since 1967. In response to the right-wing desire to cancel the building limit, the plan's submitters could have been expected to defend it to the planning committee and argue for its maintenance.

Furthermore, contrary to the plan's declared intentions, the public inclusion process never occurred. Plan documents were never translated into Arabic and, in direct contradiction to the emphasis the plan's framers placed on public participation, the plan was never presented to the residents of the Old City. When contacted by Ir Amim, Mr. Heriberto Winter, appointed by the JDA to oversee the public participation process, was astonished to hear that the plan was raised for discussion by the Local Planning Committee.

d. Evisceration of the Plan and Accommodation of Ateret Cohanim's Agenda

At the end of the Local Planning Committee hearing, it was agreed that committee members would meet the plan's architect, representatives of the JDA and representatives of the Municipality planning department to present their demands and receive further explanation of various plan elements. That meeting occurred on December 27, 2012, where the representatives of the right-wing parties on the city council, Didi Hershkowitz and Yair Gabai, presented a document detailing their demands. The document expresses "concern about a global planning policy that will bind the planning institutions' decisions", precisely the type of comprehensive and obligatory policy the Old City requires. Instead, Gabai and Hershkowitz demanded to:

- Annul any provision that sets limits on permitted construction
- Cancel or change the plan's building appendix so that it does not include less stringent regulations for submitting building permits

Although the meeting was presented as a forum for the planning committee, representatives of Ateret Cohanim attended and participated. The presence of Ateret Cohanim is reminiscent of events that occurred several years ago surrounding the master plan for the southern part of the Old City.² Representatives of the Elad settler organization were deeply involved in the plan and took part in internal Municipality discussions concerning its development. Their participation was strongly criticized by the Municipality's legal advisor and the plan was ultimately shelved.³

It is noteworthy that the open door treatment Ateret Cohanim enjoys at City Hall stands in stark contradiction to the JDA's and city representatives' staunch refusal to meet with members of Ir Amim. The deputy director general of the JDA and the city engineer have rejected several requests by Ir Amim to meet for an explanation of the plan and a recently scheduled meeting was canceled at the last minute.

Following the meeting with Gabai, Hershkowitz and Ateret Cohanim, the JDA recently issued a summary in which it announced its intentions to:

- Split the plan to include only permits for construction in public spaces and monument conservation, while eliminating treatment of building permits
- Request that the Local Committee submit a new proposal for "guidelines for the preparation of detailed plans."

Ateret Cohanim and its representatives can note with satisfaction that their goal was wholly achieved: splitting the plan completely reverses any efforts to ease the current deadlock, as the plan was intended; in particular, it maintains a policy that ensures it is virtually impossible for residents/private people to obtain a building permit. This outcome completely refutes the plan's original title, "Conditions for issuing building permits for the Old City of Jerusalem" and its original intentions as articulated in the plan's highlights:

"As a living space with a population of more than 35,000 residents, it is necessary to create guidelines for issuing building permits in the Old City until planning is completed for areas that do not have approved detailed plans."

The vast majority of these 35,000 residents are Palestinians. Ateret Cohanim has the resources to navigate the complexities of the existing process and to pursue its building plans in the Old City so that unlike Palestinian residents, it does not require a change of procedures. Furthermore, because the plan will focus solely on monument conservation and works in public spaces, it is likely that it will not make any mention of recommendations to preserve the character of building in the Old City (prohibition against building above wall footholds, in proximity to the walls, etc.). As noted above, these restrictions appear in the plan valid today מ"מ/9 (ain mem/9) and are requisite to maintenance of the Old City's historic character. Deleting these protections opens the

² Plan No. 11555.

³ "Right-wing organization involved in planning building for the Old City," Haaretz, June 25, 2009, <http://www.haaretz.co.il/news/politics/1.1267785>.

door for approval of Ateret Cohanim's construction projects, despite their not being compatible with the Old City's conservation principles. Erecting large buildings in order to demonstrate Israeli control of the city's topography would injure the structural and historical integrity of the Old City. Blocking of the Old City's walls, the Temple Mount/al-Haram al-Sharif and views of other sites, and permitting building that is incompatible with surrounding structures, would permanently alter the appearance and ambience of one of the world's greatest architectural, cultural and historical treasures.

e. From a Pluralistic Old City to a Single Narrative

The picture that emerges from the discussions of Plan No. 13538 will be familiar to anyone who has followed plans for East Jerusalem in general and the Old City basin in particular. The initial planning stages appear to reflect a pluralist policy concerned with the welfare of Palestinian as well as Israeli residents, after which political pressure from the right successfully eviscerates the plan. Thus, in one single meeting, years of work invested by architects and senior professionals have been thoroughly obliterated.

The new format proposed by the JDA will enable the Municipality to conduct works in public spaces, mainly to serve tourism development. However, actions to address the plan's original intention to respond to residents' severe construction shortage will be delayed indefinitely. Considering the right-wing objection to such construction it can be anticipated that this part of the plan will in fact be permanently frozen, never to be considered for approval.

Plan No. 13538 is a professional plan guided by the need to offer a solution to the grave housing shortage experienced by more than 35,000 residents of the Old City while maintaining its character. The mayor makes the pretense of caring for the welfare of all of Jerusalem's residents. What we are actually seeing, yet again, is how a plan that addresses the needs of the city's Palestinian residents is being rendered meaningless by the mayor and the JDA colluding with Ateret Cohanim in support of their agenda.

This conduct could seriously undermine the conservation of the Old City—a World Heritage site. Needless to say, aggressive measures to change the Old City's character are also politically dangerous. Precisely because of its historic, religious and national value, the Old City must be managed out of a commitment to the needs and development of all of its communities, religions and nationalities, without destroying its historic and aesthetic values.

Thanks to Ury Eitan, Ir Amim, for his assistance in producing this paper.