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بمكوم
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FROM PUBLIC TO NATIONAL
National Parks in East Jerusalem

From Public to National

National Parks in East Jerusalem

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- Foreword -

Developments of the recent years have exposed to plain view the various mechanisms by which the State of Israel has maintained state-owned land for national ends, frequently at the expense of those who are not partners to the national ethos. These mechanisms include the manifold ways in which access to state-owned land is rendered off-limits to Palestinians (citizens and residents). In some cases, even the realization of land rights in lands owned by Palestinians is prevented by means of interventions by public and quasi-public bodies, such as the IDF (firing zones), The JNF, the Jewish Agency, and others.¹

It is a well-known fact that planning processes in Israel are exploited by the state (through the work of the planning authorities *inter alia*) as a means to realize a political agenda centered on Jewish holding of the land. Moreover, this policy is openly declared, and is publicly recognized as legitimate (e.g., the Judaization of the Galilee, maintaining the demographic targets of a Jewish majority in Jerusalem, etc.). Within the frameworks of such policies, open spaces, which are an essential component of any plan, are frequently enlisted to further national-political goals. Nature and landscape preservation also serve the authorities, in many cases, as a means for seizing land and Judaizing the territorial space.

Thus, despite the fact that the process of planning and declaring national parks presents the semblance of a purely professional and a-political process, the actual state of affairs is more complex than it appears. In certain cases, and in certain places, the process of planning and declaring national parks and nature reserves seems not only to further the protection of nature and heritage as well as high quality open spaces, but also to serve as an instrument for limiting the development of the built environment in Palestinian communities. As this report will show, this phenomenon is widespread, and it is particularly acute in the Palestinian neighborhoods of East Jerusalem. Moreover, this planning trend contradicts the prevalent trends in

¹ Yossi Yona and Yizthak Saporta, "Land and Housing Policy: the limits of the discourse of citizenship", Yehouda Shenhav, ed. Space, Land, Home, Jerusalem: Van Leer Institute, 2003.

sustainable planning, which seek to preserve the connections between the built environment and open spaces for the benefit of the resident population.

The goals of this report are to examine the process of planning, promoting and declaring national parks in East Jerusalem, to closely scrutinize the actual planning, legal and administrative mechanisms, and to analyze the implications of the creation of these national parks for the surrounding environment and the local residents.

- Introduction -

The complex planning reality in East Jerusalem has been previously described in "The Planning Deadlock: Planning Policy, Land Arrangements, Land Permits, and Home Demolitions in East Jerusalem."² According to this report, many homes in East Jerusalem are slated for demolition because they were built without a permit, even though Palestinian residents have little possibility to legally build their homes.

East Jerusalem suffers from extraordinary problems and planning challenges which are a result of the city's unique planning, legal, and administrative situation, including the situation of the territories it incorporated after 1967. As the abovementioned report details, this situation arises from a combination of planning restrictions, bureaucratic hassles, political biases and cultural differences to boot. Additional problems arise due to the fact that the registration of land ownership has never been completed.³

One of the most salient aspects in current plans for East Jerusalem's Palestinian neighborhoods is the multiplicity of "green areas"⁴ intended as open space – a total of 35% of the entire planned area.⁵ The areas intended as open landscape, in which construction is prohibited, were determined in disregard of the *existing* built homes in those very same locations. Moreover, some of these open landscape zones are agricultural lands, which are actively cultivated in the present. The retroactive zoning of agricultural land as open landscape imposes limits on farmers and prevents them from constructing agricultural facilities. It should be noted that the Jerusalem

² Nati Marom, *The Planning Deadlock: Planning Policy, Land Arrangements, Building Permits and House Demolitions in East Jerusalem*, Jerusalem: Ir Shalem and Bimkom, 2004.

³ Proof of land ownership is crucial for receiving a building permit. In the absence of systematic registration of land ownership in the majority of East Jerusalem territory, this becomes a difficult if not impossible task. For further discussion, see Marom, *ibid*, p. 60.

⁴ A "green area" is an area on the plan that is designated as open space, and in which construction is prohibited. In the planning realm, there are a number of different types of open spaces – open public areas, open private areas, open landscape areas, agriculture areas, parks, national parks, etc. Each definition carries different meanings in terms of ownership rights, permitted uses, as well as in terms of who is responsible for development, etc.

⁵ Note 2, above, page 25. A "planned area" is an area to which ordinances of outline plans apply. Some 20% of the areas in East Jerusalem are unplanned, and no valid outline plan applies to them.

municipality has never actively tended the areas zoned for open landscape, neither extensively, through preservation activities (cleaning, rehabilitating agricultural terraces, preventing the dumping of construction waste, etc.), nor intensively, by developing recreational areas for the welfare of the residents (e.g. developing playgrounds for the benefit of families).

It appears, rather, that to a large extent, planning is exploited as an instrument to restrict construction and development in the Palestinian neighborhoods of East Jerusalem, even though this policy has apparently not been effective over time. The increasing scarcity of residential land has led to construction in these very areas. Only a small portion of this construction has been carried out within the framework of ad hoc plans that rezone the land from open landscape to residential areas; the rest of it is carried out "spontaneously", in other words, without permits, and therefore these homes are continuously exposed to the risk of demolition.

In the past decade, one could discern an increasing use of the zoning category "national park" in East Jerusalem. It seems, from the point of view of the Jerusalem Municipality, that this zoning category has two advantages, if compared with the option of zoning an area as "open public land": declaring the area as a national park does not require expropriation of land, and therefore does not involve paying immediate compensation to its owners.⁶ In addition, responsibility for preservation, development and maintenance of such areas, as well as for law enforcement, is automatically transferred from the local authorities to the Nature and Parks Authority (NPA), which, according to the law, carries no obligations toward the residents.

As mentioned, the zoning category of "open landscape area" does not prevent construction. Conversely, the Jerusalem Municipality has refrained from developing, cultivating or turning open spaces into open public areas, for the benefit of the residents, while actively avoiding responsibility for these areas. This, together with the willingness of the NPA to assume those responsibilities, has led, in our opinion, to

⁶ A compensation lawsuit can be filed, in accordance with clause 197 of The Building and Planning Law.

the widespread and, in many cases, unjustified use of the definition "national park" in East Jerusalem.

As this report will show,⁷ national parks in East Jerusalem cause damages to the Palestinian resident of East Jerusalem, violate their human rights in general, and their planning rights, in particular. The damage is incurred both on the planning, legal, administrative, symbolic, and political levels.

⁷ The plans for national parks in East Jerusalem are being promoted in part by the NPA and in part by the Jerusalem municipality. Most of the parks have been included in one of the versions of the Jerusalem 2000 local outline plan, as will be detailed below.

- Chapter One -

National Parks and the National Parks Authority: The Legal Prism

The "National Parks, Nature Reserves, National Heritage and Memorial Sites, 1998" (henceforth, the "National Parks Law") defines the process of planning and declaring national parks, among other things. The declaration of a national park can only be done on the basis of an outline plan that zones land as such. According to the law, the NPA is responsible for initiating and promoting national parks, however, planning authorities can also zone land as national park as well when they are promoting a plan. The actual declaration is done by the minister of interior after consulting with the environment protection minister, by means of a declaration plan that shows the boundaries of the national park. Such a plan must be based on an approved outline plan that has zoned land for use as a national park.

The National Parks Law, which takes as its point of departure the preservation and protection of nature and heritage, accords areas zoned and planned as national parks a special and privileged status in every imaginable respect (planning, property, actual usage, etc). A parallel privileged status is accorded to the NPA. The importance of the law is clear and undisputed. However, the structure of the law, and the ways in which it is interpreted in practice by the planning authorities and the NPA, in many cases, violates the very delicate balance it sets out to achieve.

This balance ought to take into account the general needs of all the users of a designated space, and it ought to be guaranteed by proper planning. The formulation of the law permits expansive interpretation and grants broad discretion to the bodies which are appointed to execute it; yet it contains no effective checks and balances against its exploitation by extraneous motives that deviate from the spirit and purpose of the law.

Furthermore, the law grants special status to authorized plans and to the areas declared as national parks, but does not provide sufficient conditions guaranteeing the transparency of the planning process. It does not allow the public to monitor and influence the process in action, nor does it provide those who suffer damages from the process any recourse to defend themselves from or obtain compensation for any such damages.

In summary, the national parks law is designed to serve as a strict and irreversible barrier to prevent damage to open spaces of unique value. Under these circumstances, the declaration of a park, which is an extreme measure, should be applied only in unequivocal cases, in which natural heritage considerations take absolute priority over and against other needs. Other instruments for the protection of open spaces with additional qualities and characteristics exist within the framework of The Planning and Building Law; such instruments can be applied to advance proper and sustainable planning.

- Chapter Two -

National Parks in East Jerusalem: The National and Local Planning Prism

In the full report, this chapter relates to a number of national and local plans, the most important of which is the Jerusalem 2000 local outline plan.

The Jerusalem 2000 local outline plan is a planning framework, which is the first to include the municipal lands of both East and West Jerusalem. The formulation of the Jerusalem 2000 outline plan began during the first decade of the 21st century. The plan was approved for deposition for public review (henceforth: deposition) by The District Committee for Planning & Building (henceforth: The District Planning Committee), at the end of 2009, yet it has not yet been deposited in actuality.⁸ The plan, therefore, does not have statutory standing. In order to understand how this plan relates to the issue of national parks, we must first explain its underlying premises.

The point of departure for this plan is the establishment of a demographic objective that underlies and directs all urban planning in Jerusalem. The latest version of the report attached to the plan states that the population designation – 30% Arabs and 70% Jews – which was ordained by the government and adopted by the authors of the plan, is not attainable. According to recent estimations, the ratio of Arabs to Jews in Jerusalem in 2020 (the plan's target year) will be 40% Arabs and 60% Jews. Even this target, the plan's report states, will only be attained in the case of "massive governmental intervention, in the absence of which the trends that contradict the underlying premise of the plan shall be reinforced."⁹

⁸ The deposition for public review of the Jerusalem 2000 outline plan is being delayed due to the intervention of the Interior Minister. To date, the plan has still yet to be deposited.

⁹ Jerusalem 2000 Local Outline Plan, Report no. 4, *The Proposed Plan and the Main Planning Policy Principles*, August 2004, p. 463.

Attaining this goal entails pursuing two avenues of planning: offering incentives to Jews to immigrate to Jerusalem (by increasing the supply of land for residential uses as well as employment for the Jewish population), and limiting development and construction for the Palestinian population (by legislating low building rights, zoning widespread areas as open rural landscape, and so on). In so doing, the Jerusalem 2000 local outline plan directly continues the planning policy pursued and implemented for the past 44 years in East Jerusalem, the upshot of which are discriminatory planning restrictions for the Palestinian population of the city.¹⁰

The plan designates extensive areas of East Jerusalem as open landscape zones, yet these zones do not offer any planning solutions for the residents of the Palestinian neighborhoods as far as the need for high quality open public spaces are concerned: they do not designate open public areas for recreational and leisure activities.

Since 2004, when the Jerusalem 2000 outline plan was first published, unofficially, for public review, several different versions of the plan have been distributed. The current report refers to two of these versions, neither of which have statutory standing. The version which defines a large number of national parks (see map 9) is the version that was approved by The Local Planning Committee, was discussed at The District Planning Committee, and was approved for deposition, with a demand for significant revisions (henceforth this version of the outline plan will be referred to as "the national parks version"). The second version to which the current report refers is the version that incorporates the required revisions, and which is now waiting to be deposited for official public review (henceforth called "the version awaiting deposition").

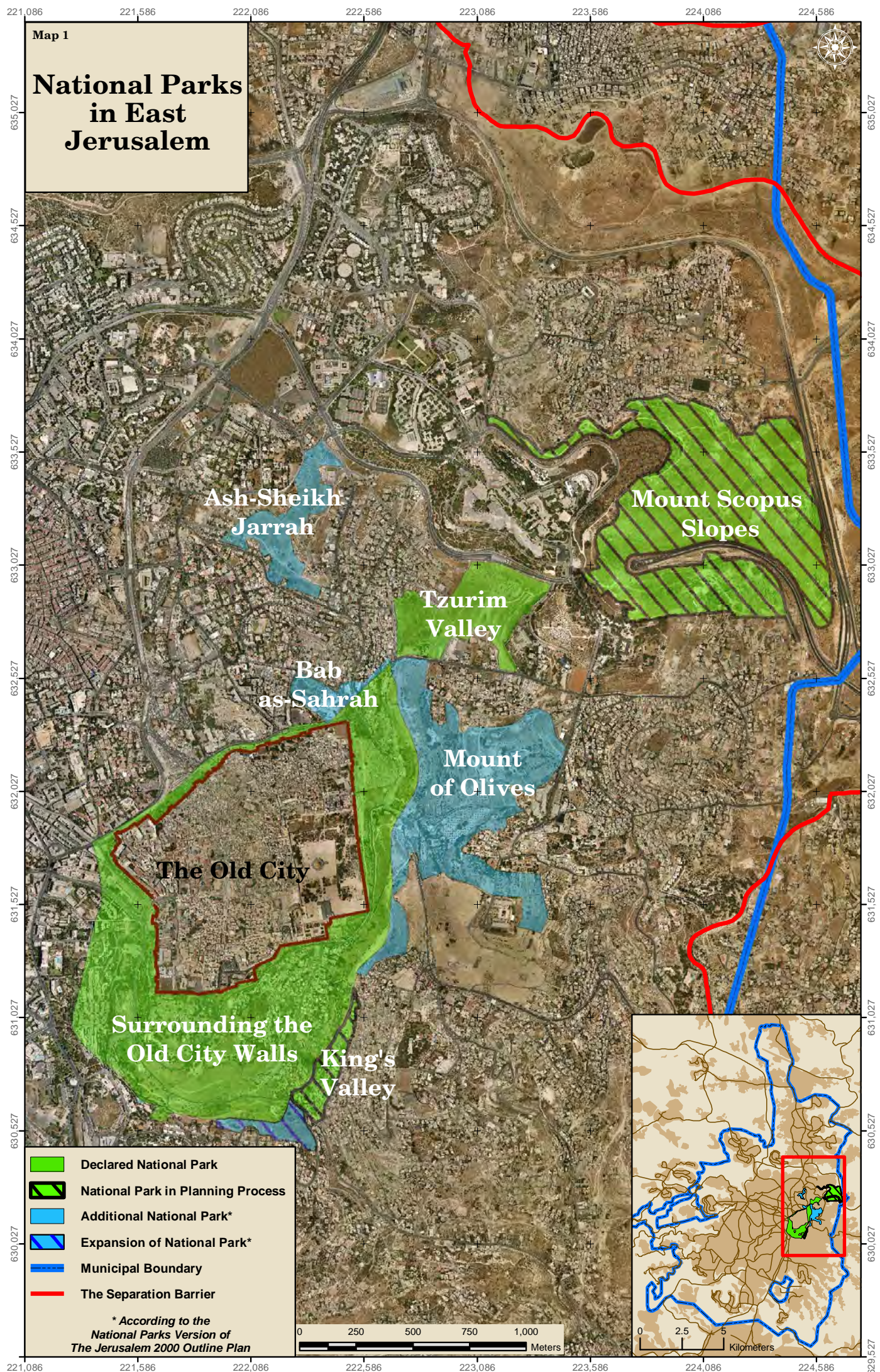
According to the national parks version, a number of relatively small open spaces in the heart of the urban fabric have been designated as future national parks. These spaces coincide with the few open, and un-built, spaces that remain in East Jerusalem, which could be used either as high-quality open spaces or as development areas. The

¹⁰ Excerpt from a position paper by Bimkom, "Notes to the Jerusalem 2000 local outline plan," May 2006.

severe implications of the fact that the Jerusalem Municipality has designated these open areas as national parks, is the central phenomenon which this report wishes to bring to light. Through the rezoning of these areas, the Jerusalem Municipality abdicates its responsibility for the area, its residents, landowners and users, and transfers authority to the NPA, which, according to the law, bears no responsibility toward the residents.

Although all the national parks mentioned in the national parks version, with the exception of the national park surrounding the Old City walls, were removed from the version of the plan awaiting deposition,¹¹ the previous version is the more important one. This is because it contains information about national parks about which *no other official source of information exists*, some of which are already in the planning pipeline, at the early phases of the planning process.

¹¹ See note #8, above.



- Chapter 3 -

National Parks in East Jerusalem: The Detailed Planning Prism

East Jerusalem includes a number of national parks in its territory: (1) two declared national parks - the National Park Surrounding the Old City Walls, which was declared in 1974, and the Tzurim Valley National Park, declared in 2000; (2) two national parks in advanced stages of planning¹² - the plan for the Mt. Scopus Slopes National Park has been deposited for public review, and the plan for the King's Valley National Park was approved only by the local committee; (3) three additional national parks are in early stages of the planning process - the Mount of Olives National Park, the Ash-Sheikh Jarrah (Simon the Righteous) National Park, and the Bab-as-Sahrah National Park (see map 1).

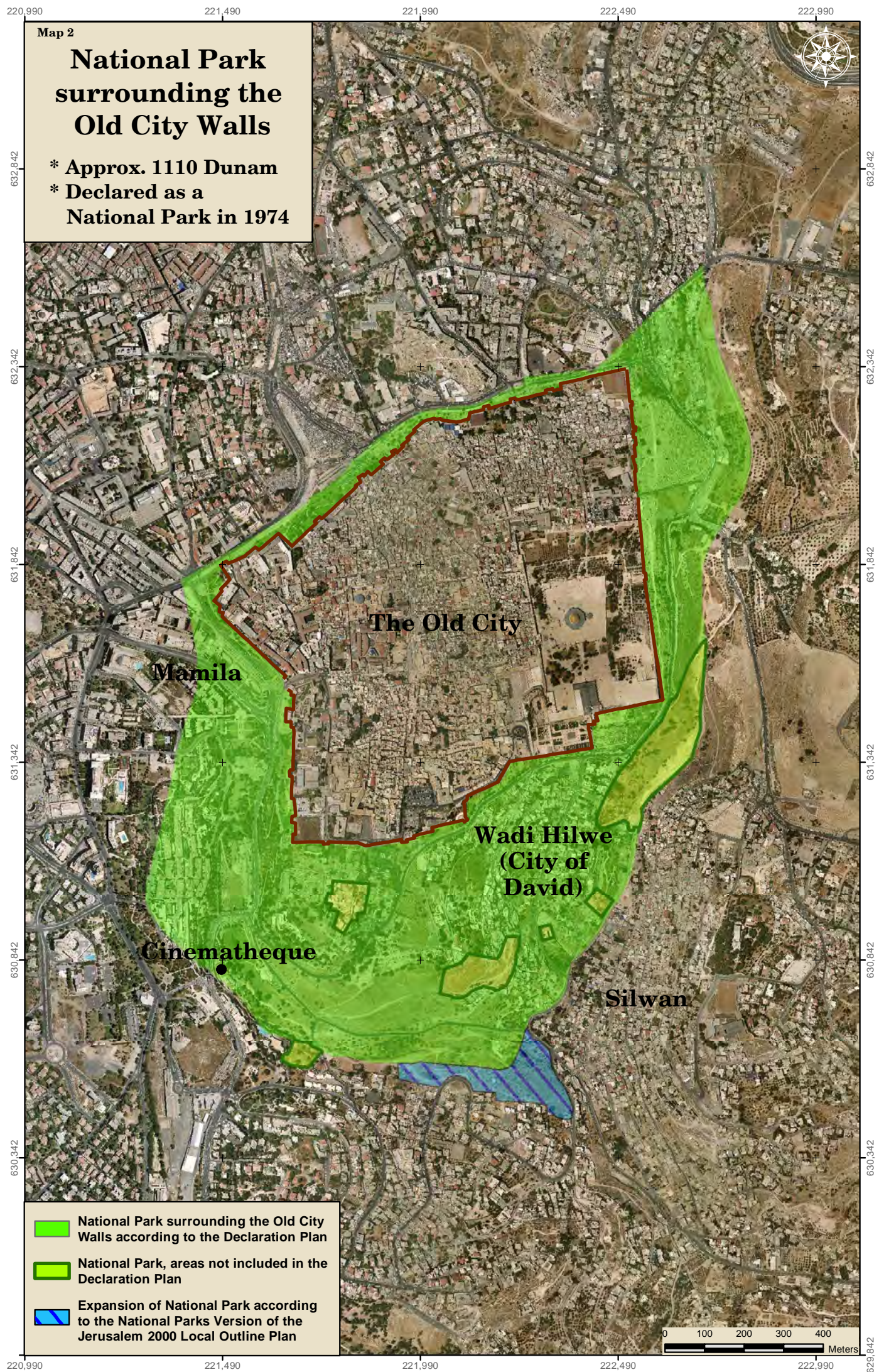
In the present chapter we will consider each of East Jerusalem's national parks in detail, examine the underlying planning rationale for each one as well as their spatial implications for the urban environment and its Palestinian residents.

Declared National Parks

1. The National Park Surrounding the Old City Walls

The national park surrounding the Old City walls (encompassing some 1,110 dunams) was declared on March 31, 1974 (see Map 2). Its name reflects its essence: a strip of varying width that encircles the Old City Walls, the bulk of which lies south of the walls, in the region of Wadi Hilwe (the City of David). The Jerusalem municipality bears responsibility for and authority over the areas of the park, in accordance with an

¹² For an unclear reason, the two national parks that are in advanced stages of planning were not defined as national parks in either of the versions of the Jerusalem 2000 local outline plan.



Map 2

National Park surrounding the Old City Walls

- * Approx. 1110 Dunam
- * Declared as a
National Park in 1974




Mamila

The Old City

Wadi Hilwe
(City of
David)

Cinematheque

Silwan

-  National Park surrounding the Old City Walls according to the Declaration Plan
-  National Park, areas not included in the Declaration Plan
-  Expansion of National Park according to the National Parks Version of the Jerusalem 2000 Local Outline Plan

0 100 200 300 400
Meters

agreement for delegation of responsibility that it signed with the NPA.¹³ This is an exceptional case, in which the NPA has delegated responsibility for a national park to the local authority in whose jurisdiction the park is located. This exception is a product of the complexities involved in managing the park due to the mixed land uses it contains (residence, tourism, industry, commerce, and recreation), and to the fact that it includes built urban fabric.¹⁴ However, despite this complexity, managerial responsibility for the national park in the City of David, which is part of the National Park Surrounding the Old City Walls, is not held by the municipality but rather by an NGO – Elad.

The designation and declaration of the land surrounding the old city walls as a national park, viewed today as an undisputed *fait accompli*, represents only one among many other possible planning alternatives for the area. Historically, a variety of plans for this area suggested alternatives that might have succeeded at creating a better balance between the various possible land uses and the need for preservation.

The boundaries of the national park surrounding the Old City Wall, as they are demarcated in the national parks version of the Jerusalem 2000 Outline Plan, are slightly larger than the boundaries of the declared park. In addition, in the south, on the southern slope of the Ben-Hinnom Valley, adjacent to the existing buildings of Abu Thor neighborhood, another 20 dunams were added. A number of years ago, the NPA erected an observation point at the Northern tip of Abu Thor, suggesting an intention to annex the above mentioned area to the national park in the future. In December 2011 a structure was demolished in this area. During the demolition, the NPA Jerusalem district director was present on site.

The densely built Abu Thor neighborhood has thus been left without land for future development. When residents of the neighborhood attempted to find a plot for the construction of a new school, it was proposed that part of this area be rezoned for

¹³ To the best of our knowledge, the former "delegation" agreement expired at the end of 2007, necessitating the signing of a new agreement.

¹⁴ According to a conversation with Anat Yatziv, director of the NPA Real Estate Department, in her office in Jerusalem on July 28, 2007.

public uses. However, the intention of turning this area into a national park is likely to undermine this option.

In 2003, following many years of neglect, resulting from abstention of both the NPA and the municipality from carrying out their duties, the National Parks and Nature Reserves Council¹⁵ initiated a discussion about the national park surrounding the Old City Wall. During this discussion, Architect Uri Shitrit, then City Engineer of the Jerusalem municipality, spoke about the conflict that arises when a national park is planned within urban fabric: "The Planning and Building Law and the National Parks Law are in constant confrontation within a national park. There is a genuine problem involved in managing a national park [...] vis-à-vis the need to guarantee the continued urban development and the sustaining of vibrant and normal urban life in the Old City and the surrounding areas." ¹⁶

Shitrit's comments also referred to the municipality's problematic attitude toward the Palestinian residents who were living in the area of the national park: "the area is inhabited by a hostile population, which is continually growing, and there is a dramatic discrepancy between the vision and the desire to preserve and maintain everything properly and the realities on the ground [...] within the national reality, which is more powerful than desires and wishes."¹⁷

In this presentation, the City Engineer appears to articulate the complex point of view of the city residents and the municipality vis-à-vis the interest of historical preservation, represented by the NPA. His description of the Palestinian residents of the city as a "hostile population" and his mention of the "national reality" interjects a political-nationalist dimension into the complex planning considerations for East Jerusalem, in general, and for the national park surrounding the Old City walls, in

¹⁵ The National Parks and Nature Reserves Council is a statutory public council whose responsibilities are included in the "National Parks, Nature Reserves, National Sites and Monuments Law, 1998", article 2. This is an advisory body to the Interior Minister, the Environment Minister, the planning institutions, the local authority, and the NPA.

¹⁶ Excerpt from the protocol of meeting no. 107 of the National Parks and Nature Reserve Council, January 2, 2003.

¹⁷ Ibid.

particular. It is precisely because of these circumstances that many questions arise about the manner in which the park is being managed by the municipality and the NPA, a management which eschews any attempt to involve representatives of the residents or to protect their interests, as part of the full gamut of considerations. This approach is contrary to a stipulation in the National Park Law regarding the need for public hearings.¹⁸

The problems that surfaced in this discussion of the National Parks and Nature Reserves Council raise the question whether it is in fact desirable to have a national park in the heart of Jerusalem, or whether it would be more "appropriate to cultivate small open spaces and important archeological and historical sites, and to entrust the municipality with their management."¹⁹ These issues, which came up in the discussion, are not reflected at all in the decisions taken by the council when the discussion was concluded. Yet, at the same time, the discussion is instructive insofar as it reveals that alternatives to historical and archeological preservation of the areas surrounding the Old City walls do exist. Such alternatives do not involve designating and declaring the entire area, in a sweeping manner, as a national park, and, in so doing, disregarding the different uses and users encompassed therein.

As previously mentioned, Elad (acronym for *El Ir David* = to the City of David) is in charge of managing the City of David site within the national park. The organization was established in the 1980s,²⁰ with the declared purpose of Judaizing the City of David. To achieve this end, Elad pursues several courses of action²¹, including the management of the park, its landscape design, and the shaping of the educational content of the guided tours.

¹⁸ Article 1 of the National Parks, Nature Reserves, National Sites and Monuments Law, 1998 stipulates public hearing as one of the NPA's areas of authorization.

¹⁹ Excerpt from the protocol of meeting no. 107 of the National Parks and Nature Reserve Council, January 2, 2003.

²⁰ Elad has been registered as a non-profit organization since 1986.

²¹ According to publications, the activities of Elad include: involvement in purchasing land and buildings, financing of archeological excavations (sometimes beneath homes of Palestinian residents, and without their permission). Miron Rapaport, "The Elad Republic," Haaretz, April 21 2006.

It is not clear how Elad was given charge of the management of the City of David National Park, despite the 1999 directive of the Attorney General, and of the outcome of the petition by Prof. Yoram Tzafrir and sixty other academic scholars (represented by Att. Naomi Weil) to the High Court of Justice, in 1998.²² The massive scope of the activities, undertaken by Elad in Silwan in its role as administrator of the park, invades every aspect of life of the local residents, excluding them from the process and imposing threatening their very presence there.

Elad exercises physical control of the area by funding archeological excavations in the few remaining open spaces in Silwan, even underneath homes, without permission and in violation of the law.²³ Through the planning and development of the site, the guided tours and its marketing to the Israeli public, the organization shapes the meanings of the site in accordance with its own worldview, an ideological view that denies any claims to the area by Palestinian residents, neither in the past nor in the present.²⁴

Under the auspices of the sovereign power, and without the awareness of most visitors, the national park in the heart of Silwan serves Elad as yet another instrument for reinforcing the Jewish hold over the City of David, as well as a platform for disseminating its ideology.

²² The organization Ir Amim, together with public figures, filed another petition to the HCJ to challenge this situation. In its ruling (October 2011), the court ordered Elad and the NPA to reassess their agreement in order to make sure that Elad is only operating and not managing the site. The court abstained from addressing the validity of the agreement itself.

²³ Miron Rapaport, "A private political body is in charge of excavations," Haaretz, January 27, 2007. In wake of a petition submitted by residents of Silwan by means of Att. Sami Arshid against the excavations conducted underneath their homes, the High Court of Justice instructed the Antiquities Authority to stop the excavations.

²⁴ The archeological findings serve the agenda of Elad. The First Temple Period is emphasized in the planning of the visitors' center, and also in the guided tours given there, under the auspices of the NPA. On the other hand, important and impressive findings from later periods are rendered barely visible. From the alternative archeology website: www.alt-arch.org.

2. The Tzurim Valley (Emek Tzurim) National Park

The Tzurim Valley National Park was officially declared a national park in June 2000. It extends over 165 dunams, north of the neighborhood of Es-Suwwaneh, and south of the Hebrew University campus on Mount Scopus, near the Mormon University (see Map 3). The NPA presents the park as a continuous extension of the national park that surrounds the Old City. As an NPA brochure writes: "Another area was declared a national park in the Tzurim Valley, which in fact extends the limits of the existing park toward the Kidron Valley, on the western slopes of Mount Scopus. Although the authorization process is separate and the site names are different, the NPA views both parks as one planning and administrative entity."²⁵

Such presentation, ignores the essential difference between these two parks. The Tzurim Valley National Park is not contiguous with the Old City walls; it contains no archeological excavations, and it is surrounded by roads, homes, and auto repair shops. Also the fact that it was planned, promoted, and declared some 30 years after the National Park Surrounding the Old City Walls, is not a mere technicality. The urban-political context and the planning context of East Jerusalem, in the past and today are very different. It is no longer possible to ignore the existence of the local Palestinian residents and their needs, either in the short-term or in the long-term. Therefore, planning in East Jerusalem today requires an approach that takes the needs of the Palestinian residents into account.

In light of the above, we believe that the underlying motive for declaring the Tzurim Valley National Park is the intention to limit Palestinian construction and to exclude the local Palestinian residents from its area. This intention has also been articulated by MK Benny Elon from the Ihud-Leumi party, and by members of the Ateret Kohanim organization, who have stated that the Tzurim Valley National Park is part of a comprehensive plan to establish a Jewish territory around the Old City, that will encircle it and prevent any possibility of dividing the city. The Jewish territorial

²⁵ Except from the brochure "National Parks in the Old City Basin, Jerusalem" Published by the NPA's Central Region - Judea and Jerusalem, March 2005.



Map 3

Tzurim Valley National Park

- * Approx. 165 Dunam
- * Declared as a National Park in 2000

Al-Isawiyyah

Mount Scopus

Wadi aj-Joz

As-Suwwanah

At-Tur

The Old City

0 100 200 300 400 Meters

continuity will be achieved, according to MK Elon, in two ways: "Green areas, open spaces, and National Parks owned by the state and state institutions, flanked by small Jewish residential neighborhoods".²⁶

Although the Tzurim Valley National park is a declared national park, it is not marked as a national park in the Jerusalem 2000 Outline Plan. Rather, the land use is marked as an open landscape zone.

The director of the Jerusalem district in the NPA, Evyatar Cohen, presents the Tzurim Valley National Park, and the NPA's activity there, as a rescue operation, intended to prevent the obliteration of the landscape and its flora, and to restore its "former glory".²⁷ The declaration of the Tzurim Valley National Park, as well as the NPA's intensive work in the area, led to the clearing of all the construction waste that had been dumped there over the years. Today the park slope is clean and neatly landscaped with agriculture terraces planted with hundreds of olive trees that were uprooted and brought from other locations, following the construction of the separation barrier in the West Bank.²⁸ The NPA's development of the area aims to turn it into an observation point overlooking the Old City (despite its proximity to the Mt. Scopus observation point, which affords precisely the same view), and as a connecting corridor between the Old City and the desert frontier – east of the City.

This entire development scheme has been implemented for the benefit of the tourism market, without taking into account any of the daily needs of the residents of the Palestinian neighborhoods on whose lands the park has been built. While a playground is planned in the area of the park, the overall planning does not encourage the residents to use the park for pedestrian through-passage or recreation. The paths cross the park from East to West only, parallel to the Palestinian neighborhoods that flank it, so that there is no connection between these neighborhoods and the park.

²⁶ Nadav Shragai, "The right wing is initiating a series of outposts surrounding the Old City," Haaretz, April 24, 2002.

²⁷ Excerpt from a lecture by Evyatar Cohen at a conference of the Israel Academy of Sciences and Humanities on "Jerusalem's visual basin – Whereto?", 2006.

²⁸ Miron Rapaport, "Evyatar Cohen will not divide Jerusalem," Haaretz Weekend Magazine, January 18, 2006.

Moreover, the park area is fenced in on the sides bordering the Palestinian residential neighborhoods.²⁹

National Parks in the process of planning

3. The Mount Scopus Slopes National Park

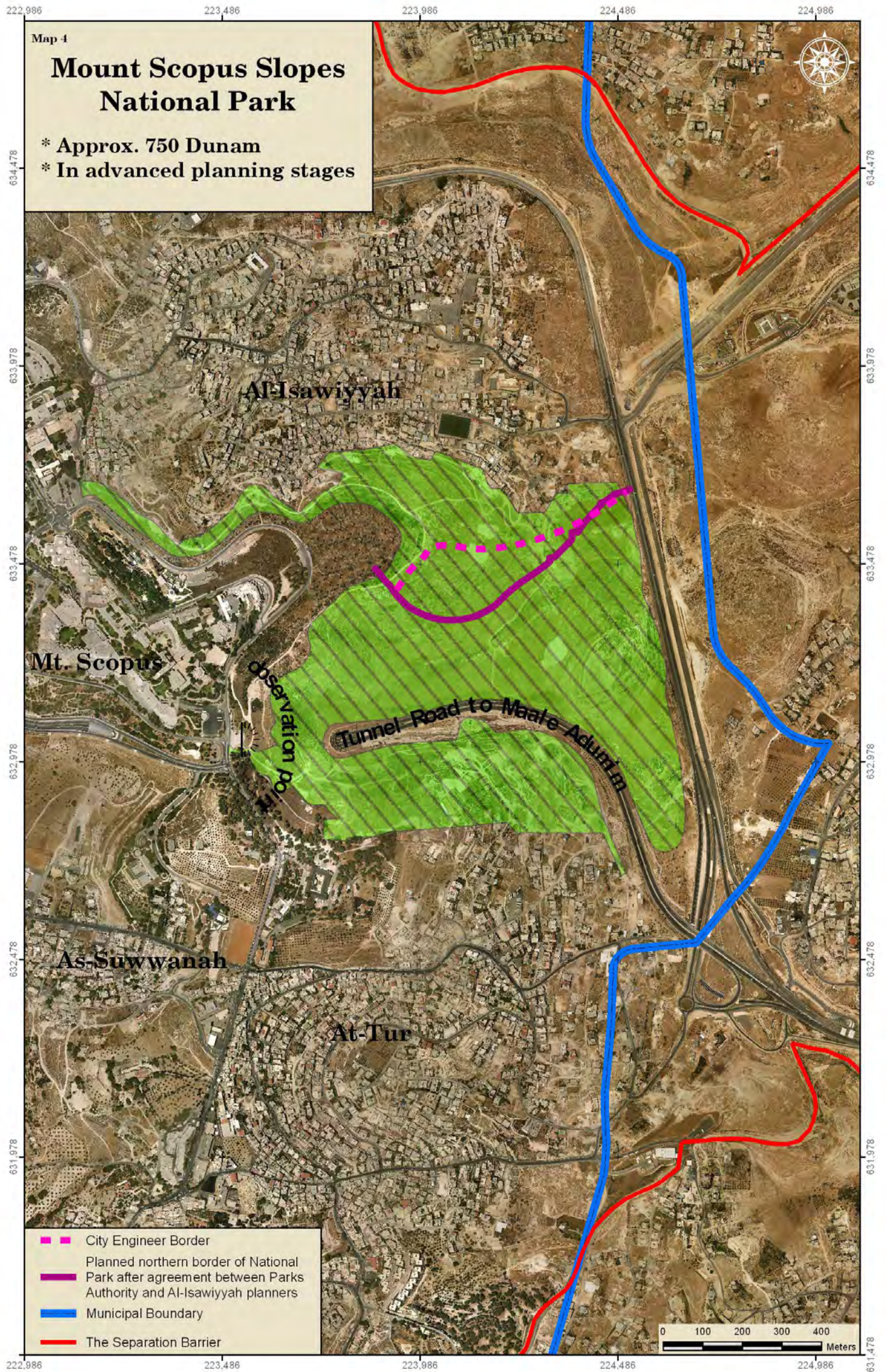
The plan for the Mount Scopus Slopes National Park was approved for deposition by The District Planning Committee (in April 2011), and was actually deposited for public review in November 2011. The park is planned for the area between Al-Isawiyyah and At-Tur, in the valley lying south of the Hebrew University campus on the eastern slopes of Mount Scopus. In addition, at its northern end, a narrow strip has been added to the park, as a divider between the campus and Al-Isawiyyah. The park extends over an area of some 750 dunams (see Map 4).

Until the middle of the 1990s, the area proposed for this national park had not been subjected to any planning. In 1998, a plan for the eastern access road to Jerusalem was approved in the center of this area (the Ma'ale Adumim road). In 2004-5, the residents of At-Tur and Al-Isawiyyah began to plan the expansions of their neighborhoods³⁰ in the unplanned areas that they owned. In parallel, the NPA began to plan the national park (see story in frame below).

The Mount Scopus Slopes National Park does not appear at all in the Jerusalem 2000 outline plan, and in fact, its area is included in the metropolitan park that has been planned for that location. To the north and the south of the metropolitan park, the

²⁹ A report by the Jerusalem Development Authority reveals that no thought has been devoted to the needs of the local residents in respect to the garden. The report reads as follows: "After development of the garden, it is now time to deal with the content. On the agenda is the establishment of an "archeological experience" center, in which rubble from the Temple Mount excavations, and from [other] archeology [sites] will be sifted by tourists, students, and soldiers, as managed by the NPA and funded by contributions from world Jewry. Today, many groups visit the site, and it is a starting point for the Jerusalem trail."

³⁰ For the sake of transparency, Bimkom assisted the residents of Al-Isawiyyah preparing an outline plan for their neighborhood, and was involved in negotiations with the NPA, as will be detailed below.



outline plan proposes expansion areas for the neighborhoods of At-Tur and Al-Isawiyyah. However, by approving the plan for the Mount Scopus Slopes National Park, the District Planning Committee and the Jerusalem Municipality, have, in effect, decided to shrink these expansion areas and enlarge the park area.

The area of the national park, as it appears in the plan, includes lands that are owned by residents of Al-Isawiyyah and At-Tur, part of which are in use as agriculture and pasture land. At its northern and southern edges, near the neighborhoods, the area includes several residential homes, and, as mentioned above, the center of the area is traversed by Jerusalem's eastern access highway – including the Ma'ale Adumim tunnel.

The landscape that is visible to the east, beyond the area of the national park, and which the NPA wishes to preserve, has already been severely damaged on all sides. In fact, the vista includes national highway no. 1, which was expanded and now includes a dividing wall down its center, the Judea and Samaria police headquarters, and an army intelligence base. Even the future construction in the E1³¹ area, if that plan is indeed carried out, will form a dominant part of the view as seen from the observatory.

In actuality, the NPA has for a number of years been performing works in the area of the national park, chiefly the removal of accumulated construction waste, even though the plan for the park was only recently deposited for public review. Moreover, as part of the enforcement authorization it has received from the Jerusalem municipality, the NPA is actively protecting the park area and preventing any new damage or intervention in the area.

In light of the above-mentioned, we believe that the zoning of the area as a national park is unjustified. It might be reasonable to zone part of the area as open space, for

³¹ The area known as E1 is the area extending between Jerusalem and Maale Adumin, in which an extension to Maale Adumim is planned. The plans are controversial and have been frozen because of the demands of the U.S. government. As of now, a system of roads has been built in the area, as well as the Shay (Samaria and Judea) police headquarters.

the use of the residents, but only within a limited framework suitable to the scale of urban planning. It appears however that professional considerations, such as natural, historical and landscape heritage, are not the only motives behind the national park plan slated for approval. There are reasons for concern that the plan has been dictated, to a large extent, by extraneous motives, including the intention to limit the expansion of the nearby Palestinian neighborhoods.

The New Plan for Al-Isawiyyah And the Mount Scopus Slopes National Park: A Case in Point

The planning of the Mount Scopus Slopes National Park by the NPA, in collaboration with the Jerusalem Municipality, began while the plan for Al-Isawiyyah (11500) was already being prepared by the residents, with the help of Bimkom. The southern part of the plan for Al-Isawiyyah overlapped with the plan of the national park (11092). The overlapping area consisted of some 130 dunams, which were designated in the plan for Al-Isawiyyah, partially as residential area and partly as private open space. The choice to expand Al-Isawiyyah toward the south was made at the recommendation of the Jerusalem Municipality, yet despite this fact, the municipality promoted the plan for the national park on the very same area.

The planners of the plan for Al-Isawiyyah learnt about the existence of the plan for the national park on the eastern slopes of Mount Scopus, and the subsequent overlap of the two plans, at one of the routine coordination meetings of Al-Isawiyyah with the City Engineer at the time, Architect Uri Shitrit. At the meeting, the city engineer justified the national park by highlighting the ability of the NPA to develop and invest funds in these areas, thereby saving money for the municipality. As mentioned in Chapter 1 of this report, the zoning of the land as a national park does not require confiscation of land in order to develop it. This exemption is but another way of saving money.

The city engineer demanded that part of the valley extending south of Al-Isawiyyah not be zoned for the development of Al-Isawiyyah but rather as a national park under the jurisdiction of the NPA. According to Shitrit's proposal, the disputed area was divided between the two plans; some 70 dunams of the original overlapping area were slated for inclusion in the Al-Isawiyyah plan. The precise boundary between the two

plans was set to be determined during coordination meetings between the respective planners.

Eventually, the area of both plans was reduced and a common boundary was drawn. This boundary allotted more area for the development of Al-Isawiyyah than the city engineer suggested. Still, private lands of Al-Isawiyyah residents were to be included in the National Park and the overall area for building, according to the plan for Al-Isawiyyah, was smaller than initially planned.

The coordination processes between the planners and residents of Al-Isawiyyah and the NPA staff took a long time (close to two years), and underwent endless trials and tribulations. The local planning committee ignored the understandings that had been reached, and predicated their recommendation for the deposition of the Al-Isawiyyah plan on yet another reduction of the plan's area in the southwest.

The district planner at the time, Mr. Guy Kav Venaki, made it clear that The District Planning Committee would not be bound by the agreement reached between the planners of Al-Isawiyyah and the NPA and that final decisions were yet to be made. Indeed, the boundaries of the national park – according to the plan that has been deposited for public review by the District Planning Committee - are more expansive than those that were agreed upon. Al-Isawiyyah was not awarded a single dunam of the disputed area, and, in fact, the area for future development that was so significant for the neighborhood is no longer available to its residents.

4. The King's Valley National Park.

The King's Valley National Park is part and parcel of the development plan for the Old City basin. The area in question comprises some 50 dunams in the Al-Bustan neighborhood, which is an integral part of Silwan (see Map 5). Currently, the area contains some 90 buildings that were built without building permits. Some of them have been issued demolition orders. For many years, the Israeli government and the Jerusalem municipality have been attempting to prepare a plan for the area called "The King's Valley". Until recently, these plans utterly ignored the existence of the residents of Al-Bustan, and even provided planning and legal basis for their exclusion from the area.

In the first version of the Jerusalem 2000 outline plan, which was published unofficially in 2004 for public review, the area of Al-Bustan was zoned as "a new residential area", i.e. an expansion of Silwan.³² This designation, similar to other extensions that the outline plan proposed for neighborhoods in East Jerusalem (e.g. in Al-Isawiyyah, Abu Thor, Wadi Qaddum, and Jabal Al-Mokabber), took into account the fact that the area is already built up. Yet in all the other later versions of the plan, including the version approved for deposition, the area of Al-Bustan is marked as "an open landscape area".³³ The explanation for this change was a mistaken zoning in the first version.

The residents of Al-Bustan, living in houses threatened by demolition, initiated their own plan for the neighborhood. In addition to resolving the threat looming over their homes, the plan introduces public and commercial functions. Early in the process, the residents had been lead to understand that the municipality would lend its support to this planning intervention (if for no other reason than the fact that in the municipality's own early version of the 2000 outline plan the area had been designated as residential). However, the plan was rejected by The District Planning Committee, in February 2009. In its rationale for rejecting the plan, the committee noted that the

³² Local Outline Plan, *Jerusalem 2000*, blueprint 1, August 19, 2004.

³³ Local Outline Plan, *Jerusalem 2000*, blueprint 1, March 25, 2007.

221,166

221,666

222,166

222,666

223,166

Map 5

King's Valley (Al Bustan) National Park

- * Approx. 49 Dunam
- * In advanced planning stages



632,616

632,116

631,616

631,116

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630,116

221,166

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223,166

632,616

632,116

631,616

631,116

630,616

630,116

629,616

Bab as-Sahrah

As-Suwwanah

The Old City

Wadi Hilwe
(City of David)

Silwan

Abu Thor

0 100 200 300 400
Meters

"Al-Bustan area was part of the continuum of open spaces that must be preserved due to landscape sensitivity, and the great importance of their locations. Approval of the plan would also violate the principle of preserving a green belt separating the Old City and its surroundings."³⁴

In the course of 2009-2010, after failed attempts to relocate the residents of Al-Bustan to Beit Hanina by consent, it appears that the Jerusalem municipality understood that no significant changes in the area would be possible without the residents' participation. In light of this understanding, Mayor Nir Barkat presented a new plan for the King's Valley, which was prepared by architect Arie Rahmimov, as a combined tourist-residential complex. According to the plan, a residential area will be designated in the eastern part of the valley, with commercial fronts integrated in the housing, while the southern part will be developed for hotels and the eastern part as a park. According to this plan, the residents living in the western park will be relocated to buildings in the eastern part. Twenty-two houses in the western section are to be demolished.

Like the plan submitted by the local residents, which was rejected, this plan too, runs counter to the positions advocated by The District Planning Committee and by the actual Jerusalem 2000 outline plan regarding open spaces, and yet this plan has actually been approved by the Local Planning Committee. Recently, relying on the fact that The District Planning Committee did not reject the mayor's plan off the bat, the residents submitted another plan. It was rejected with the claim that two separate plans for the same territorial units cannot be promoted simultaneously.³⁵

³⁴ Excerpt from the protocol, The Jerusalem District Planning Committee, February 17, 2009.

³⁵ A planning file was opened in April 2010, and the local committee rejected the plan during a brief discussion held on June 20, 2011.

Additional National Parks

5. National Parks on the Mount of Olives³⁶

The National Park on the Mount of Olives is indicated in the national parks version of the Jerusalem 2000 outline plan. The park extends across one of the shoulders of the Mount of Olives, south of the As-Suwwanah neighborhood, sending a long branch into the Mount of Olives Cemetery and the Seven Arches Hotel. The area (some 470 dunams) borders to the east with the National Park Surrounding the Old City Walls and to the west with the Tzurim Valley National Park, thus creating a territorial continuum of national parks. The neighborhoods of As-Suwwanah and Ash-Shayyah are completely stifled by this national park, which wraps itself around them and virtually touches their homes (see Map 6).

Since 2008, the Jerusalem Development Authority and the NPA have been developing and cleaning up the area. As of 2011, along the section of the Kidron Valley included in the park - from the Silwan Spring in the south to the border of the Tzurim Valley National Park in the north - NPA employees have been building terraces and paths and filling extensive areas with earth. It appears that the mere intention to designate the area as a national park was sufficient for the actual transfer of authority from the Jerusalem municipality to the NPA.

The work that is being carried out at present creates facts on the ground and establishes the status of the area as a National Park, both in practice and in the consciousness of decisions makers as well as the local residents and the public at large. All this while, there have been any statutory process nor has the public been

³⁶ The national park, which is marked on the national parks version of the Jerusalem 2000 outline plan, but does not appear on the version awaiting deposit, has no official name. Its designation here as "Mount of Olives National Park" relates to its geographical location. The NPA officials treat it as part of "The King's Valley", although it is located some 2 km north of the King's Valley and is not contiguous with it.



given any opportunity to express its opinion in any way, not even via formal objections.³⁷

Even if the designation of this area as open space is justified, this does not necessitate designating it as a national park. Moreover, as previously stated with regard to the National Park Surrounding the Old City Walls, the proper course of action would be to provide more complex planning solutions, rather than using the sweeping act of zoning the entire area as a national park. This is particularly pertinent in an area that is heterogeneous, in terms of its physical attributes, current uses and land ownership.

6. The National Park in Ash-Sheikh Jarrah (Simon the Righteous)³⁸

An open area in the Ash-Sheikh Jarrah neighborhood, west of Wadi aj-Joz, has been designated as a national park, according to the national parks version of the Jerusalem 2000 outline plan. This national park extends over some 120 dunams of open space and olive groves providing pedestrian through-passage between the American colony, Ash-Sheikh Jarrah, and Wadi aj-Joz (See Map 7). The boundary of the national park, affected by existing construction, approaches the neighborhood homes in many places. Some ten buildings, most of which are residential, are included in the western margins of the planned park.

In the version of the Jerusalem 2000 outline plan awaiting deposition, the national park in Ash-Sheikh Jarrah is missing, but a report by the Jerusalem Development

³⁷ In response to our query regarding the NPA works in the area, then director of the central region of the NPA, Yigal Ben-Ari, said that the fencing works in the area were being carried out by the East Jerusalem Development Authority, and the remainder of infrastructure development was being carried out by NPA, but that all works were being "fully coordinated with all the relevant bodies: The municipality of Jerusalem, the Jerusalem Development Authority, the East Jerusalem Development Authority, the Israel Land Authority (ILA), the landowners and the local residents (letter from June 1, 2008). However, an inquiry with the Jerusalem municipality reveals that no requests for building permits, as required for this type of work, had been filed.

³⁸ This national park, which is marked on the national parks version of the Jerusalem 2000 outline plan, has no official name. Its designation here as the "Ash-Sheikh Jarrah National Park" refers to its geographic location within the neighborhood bearing that name. The site of the grave of Simon the Righteous is located within the park, and it is part of a Jewish settlement that is developing called the "Simon the Righteous complex"; according to Miron Rapaport, "A right wing non-profit association is planning to establish another Jewish neighborhood in Eastern Jerusalem," Haaretz, 29 January 2008.

221,202

221,702

222,202

222,702

223,202

Map 7

Ash-Sheikh Jarrah (Shimon Hatzadik) National Park

- * Approx. 120 Dunam
- * Included in National Parks version of Jerusalem 2000 Local Outline Plan

634,583

634,083

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632,083

221,202

221,702

222,202

222,702

223,202

634,583

634,083

633,583

633,083

632,583

632,083

631,583

Government
Complex

Ash-Sheikh Jarrah

Mt. Scopus

Wadi aj-Joz

American
Colony

Bab as-Sahrah

The Old City

0 100 200 300 400
Meters

Authority suggests that the municipality intends to turn this zone into a national park. With proper planning and development, this area could serve as a regular public park benefiting the residents of the adjacent neighborhoods. However, in July 2011, the NPA began to fence in the area and clean it up.

7. The Bab as-Sahrah National Park (Rockefeller Museum)³⁹

The Bab As-Sahrah National Park is marked on the national parks version of the Jerusalem 2000 outline plan.⁴⁰ These 40 dunams, which are mostly built up, include the Rockefeller Museum, a narrow strip of built up area in Wadi aj-Joz and a small neighborhood garden (see map 8). The public garden -- one of the few that has actually been developed by the municipality in East Jerusalem -- contains olive trees, lawns, pathways and playgrounds for children, but is in a state of deterioration and its maintenance is poor. Nevertheless, the residents of the area -- children, youth and adults - use it on a daily basis.

Designating this area as a national park strengthens our concern that the Jerusalem 2000 outline plan unprofessionally exploits the national park zoning tool. The designated area is small, most of it is already built up and it is located in the heart of a residential neighborhood. Furthermore, It contains no visible elements of natural landscape or heritage value, which might justify its designation as a national park. In actuality, it functions, among other things, as an important open urban space. Even if we assume that the rationale for zoning the area as a national park was to preserve the Rockefeller Museum, it would be more sensible to zone the museum as a national *site* and designate the building for historical preservation, but not to include the public garden and the residential homes in the plans.

³⁹ This national park, which is marked on the national parks version of the Jerusalem 2000 outline plan, but does not appear on the plan awaiting deposition, has no official name. Its designation here as the "Bab as-Sahrah (Rockefeller Museum) National Park" refers to its geographic location.

⁴⁰ In the version intended for public review, however, the area is zoned for public buildings. This report cautions that ulterior motives exist and that they might tip the scale when it comes to defining the land uses of this area.

221,367

221,867

222,367

222,867

223,367

Map 8

The Bab as-Sahrah National Park (Rockefeller Museum)

* 40 Dunam

* In National Parks version
of Jerusalem 2000 Local
Outline Plan



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633,306

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631,306

221,367

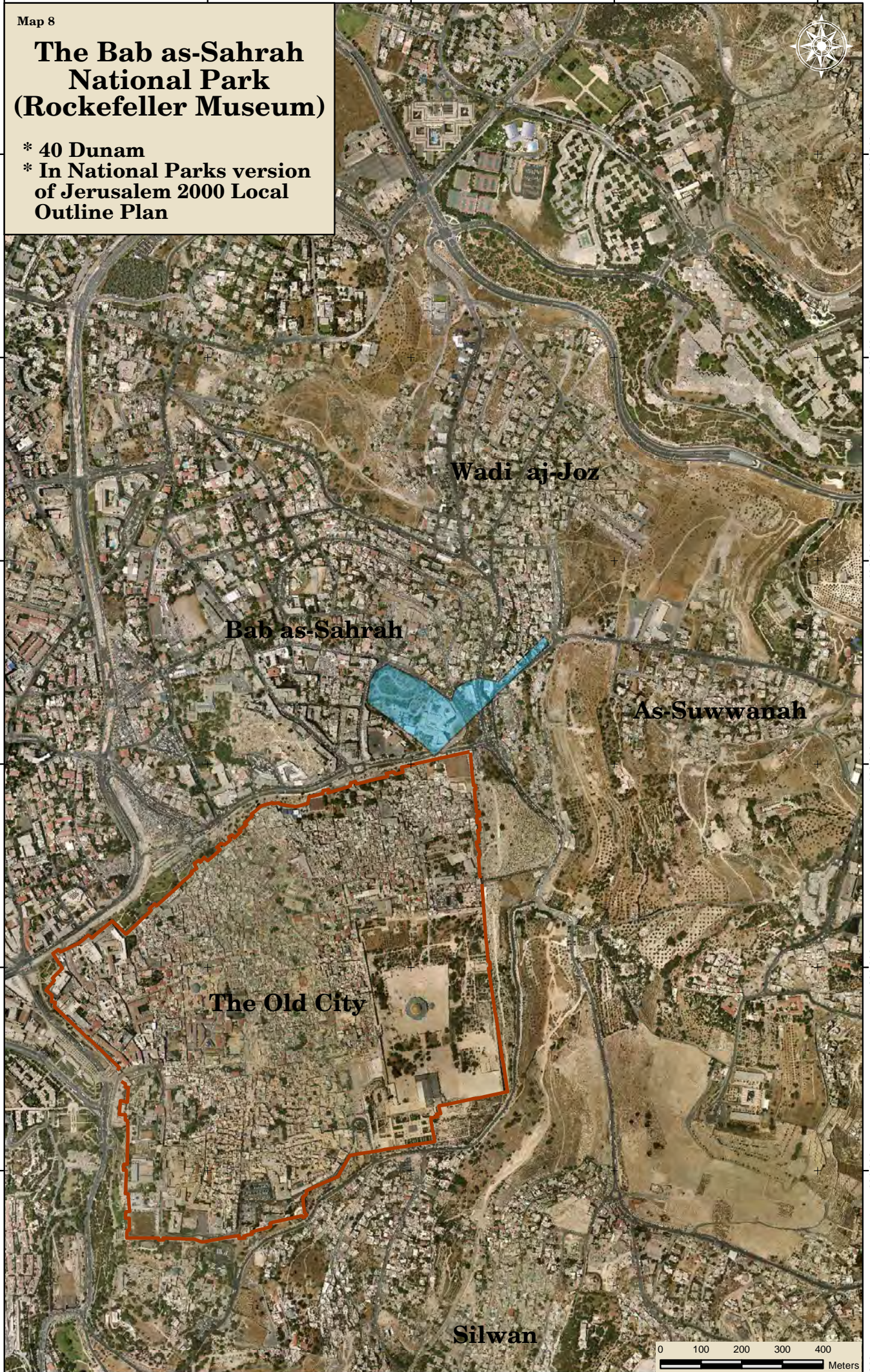
221,867

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0 100 200 300 400
Meters

- Summary -

The locations and characteristics of the areas discussed in this report, which have been designated as national parks, attest to a clear policy trend of rezoning land designated as open **public** space, in former plans, to their designation as **national** parks, in current plans. It should be noted that, in Jerusalem, this planning instrument is used only in the eastern part of the city. Even if seen from the planning perspective, at either the municipal or the neighborhood level, un-built areas that do not necessarily contain elements of nature or heritage value justifying their designation as national parks should be left as open spaces. The wide use of the national park zoning category, as exhibited in the national parks version of the Jerusalem 2000 outline plan, cannot be considered legitimate under these circumstances.

The promotion and declaration of national parks is a powerful spatial and planning action, which carries far-reaching implications for the lives of Palestinian resident of Jerusalem. In East Jerusalem, these actions are carried out in disputed territory, in the midst of a minority population, which does not share equal rights with the majority (neither by law nor in practice). Such actions constrain the development of Palestinian residential neighborhoods and deny residents access to their lands. In this context, such actions only exacerbate a sense of alienation and suspicion. Furthermore, the individual "cases" of national parks in East Jerusalem, as detailed in the current report, add up into a cumulative picture of a trend, whose political-demographic characteristics and motives cannot be ignored. Such motives are much too often incompatible with the values that the national parks are supposed to preserve.

Jerusalem is the only city in Israel in which built areas are planned and declared as national parks. One of the central motives for designating some of the parks, as this report has amply shown, is the protection of open spaces from illegal construction and development pressures. Other cities in Israel also include national parks (planned, approved and declared ones) within their territory, however in all such cases, the parks in question contain sites of unquestionable natural or heritage value, which are

located within municipality jurisdiction lines, but not in the heart of built areas. Furthermore, none of the declared parks in other cities include existing buildings.

Major examples of national parks within municipal areas can be seen in Ashkelon, Caesarea, Petah Tikva and Rosh Ha-Ayin. In many of these cases, the national parks are a locus of conflict between the municipal authority and the NPA, since each body represents different interests within the same area. In East Jerusalem, by way of contrast, it seems as though the Jerusalem municipality is the driving force behind the trend of turning the open spaces into national parks. By adopting this policy, the Jerusalem municipality, which is obligated to look after the welfare of all its inhabitants, is renouncing its responsibility. It is handing these areas over into the hands and authority of the NPA, whose mandate is only to preserve natural and historical heritage but has no obligation or responsibility for the residents or for their needs.

The location of many of the described areas within the Old City basin accords them a high value from the perspective of landscape and historic preservation. As such, they deserve sensitive planning and management, one that will guarantee their preservation in the present and in the future. However, this approach can and should treat the local residents as an integral part of these areas, and reasonable conditions of existence for these residents should be ensured, in the context of the inherent constraints rising from their location in the Old City basin. Based on our experience, the designation of an area as a national park, the transfer of authority into the hands of the NPA and the bypassing of detailed development plans as a basis for the declaration of these parks, provide no guarantee that the local residents will indeed be treated in such a manner. In the end, the interests of the residents are generally harmed and the preservation of the areas is also often undermined.

The struggle to preserve open spaces in Israel, in which the NPA plays a weighty role, is an important one, particularly in light of accelerated building and development trends since the 1990s. In the last few years, there is a growing awareness among the planning authorities as well as among the public at large regarding the importance of

high standard open spaces, as part of every development and construction plan. However, declaring national parks in open areas located in the heart of urban East Jerusalem represents a deliberate misuse of this "green" rationale. Worse yet, such "green" justifications actually run counter to the principles of sustainable development which by definition take the residents' needs into account in the overall considerations. In East Jerusalem, "green" justifications truly lack any type of holistic social and environmental rationale.

In settled areas, in general, and in urban areas, in particular, the preservation of open spaces must be achieved within the framework of planning that provides a solution for the entire gamut of the populations' needs, in all areas of life (housing, infrastructures, employment, public buildings, etc.). This is especially the case in East Jerusalem, which is crying out for suitable, up-to-date planning. Only planning that permits a dignified human existence, as well as future development and growth, has the capacity to truly support the preservation of open spaces and to maintain the original purpose and spatial rationale of this land use, also in the eyes of the local residents.

