

LEGAL ASPECTS OF REAL ESTATE DEVELOPMENT IN ISAREAL

REMY MANOACH



MIXED USE BUILDINGS - ISRAEL



PLOT A1 (53) IN ITZHAK SADE DISTRICT

ORIGINAL BUILDING RIGHTS

- Permitted uses: high tech offices.
- Total area: 11,250 sqm.
- Number of floors: 10

NEW DETAILED PLAN

- Dwellings: 20,000 sqm.
- Commerce: 1,500 sqm.
- School: 8,000 sqm.
- Number of floors: 40

MUNICIPAL BETTERMENT TAX

- Betterment: increase in land value, that derives from the approval of a new local plan.
- The rate of the tax: 50% from the betterment.
- Purpose of the tax: finance of public structures and developments, including takings and conservation of monuments.
- Calculation of the betterment: value of the land immediately following the approval of a new plan, minus the value of the land immediately following the approval of the new plan,
- The calculation should not take into account the values that results from the expectations to the approval of the new plan.

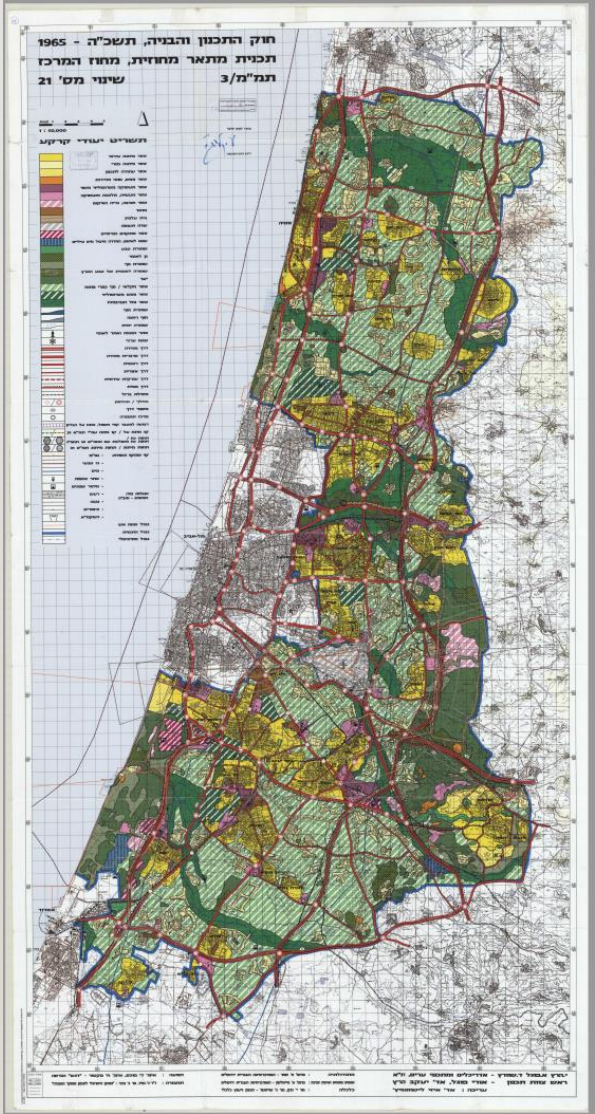
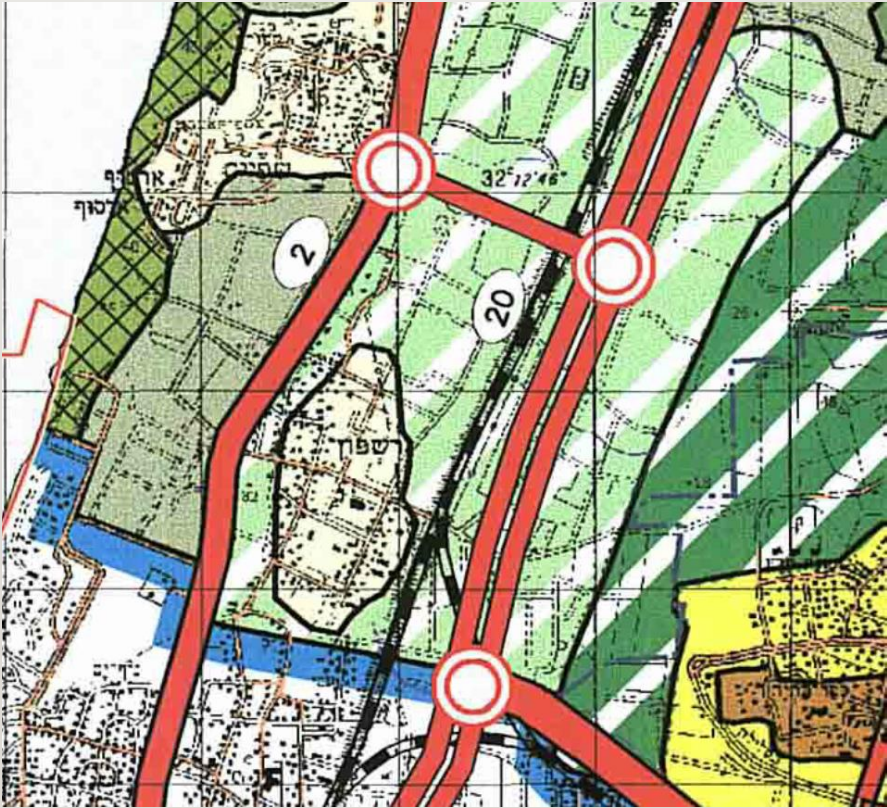
EXAMPLE: CALCULATION OF BETTERMENT THAT RESULTS FROM TWO CONSEQUITIVE PLANS

- Value on December 31st 2008: \$1,000,000
- January 1st 2009: approval of new plan 1.
- Value on Jnauary 2nd 2009: \$2,000,000
- Value on December 31st 2018: \$3,000,000
- January 1st 2019: approval of new plan 2.
- Value on January 2nd 2019: \$4,000,000
- What is the taxable betterment?

COMPENSATION

- Compensation is paid for decrease in land value that derives from the approval of any plan. (not only local plans).
- Compensation is paid by the local authority.
- The rate of the compensation is 100% from the decrease in value.
- Justification: corrective justice and economic efficiency.
- Criticism: no similar protection over other investment assets.

COMPENSATION FOR SPECULATIVE EXPECTATIONS?



INDEMNIFICATION

- Entrepreneur of a new plan undertakes to indemnify the local authority for any third party claims for compensation, for decrease of land value due to the approval of the new plan.
- Is this mechanism legally valid? The supreme court decided that it is not. New law upheld the indemnifications.
- Now – a prevailing practice.

TAKINGS - COMPULSORY PURCHASE

- Takings by the government vs. Takings by the local authority.
- Local authority takings requires a plan, designating a land for public use.
- Wide definition of public uses.
- Full compensation for state takings.
- Near full compensation for local authority takings.
- Durability of the proprietary right of the original owner.

LAND READJUSTMENT

- Adjusting outdated property rights and land ownerships according to the current planning needs.
- Coordinating new subdivision among many owners, thus reducing transaction costs.
- No need of owners approval.
- The process is subject to distributive justice criteria.

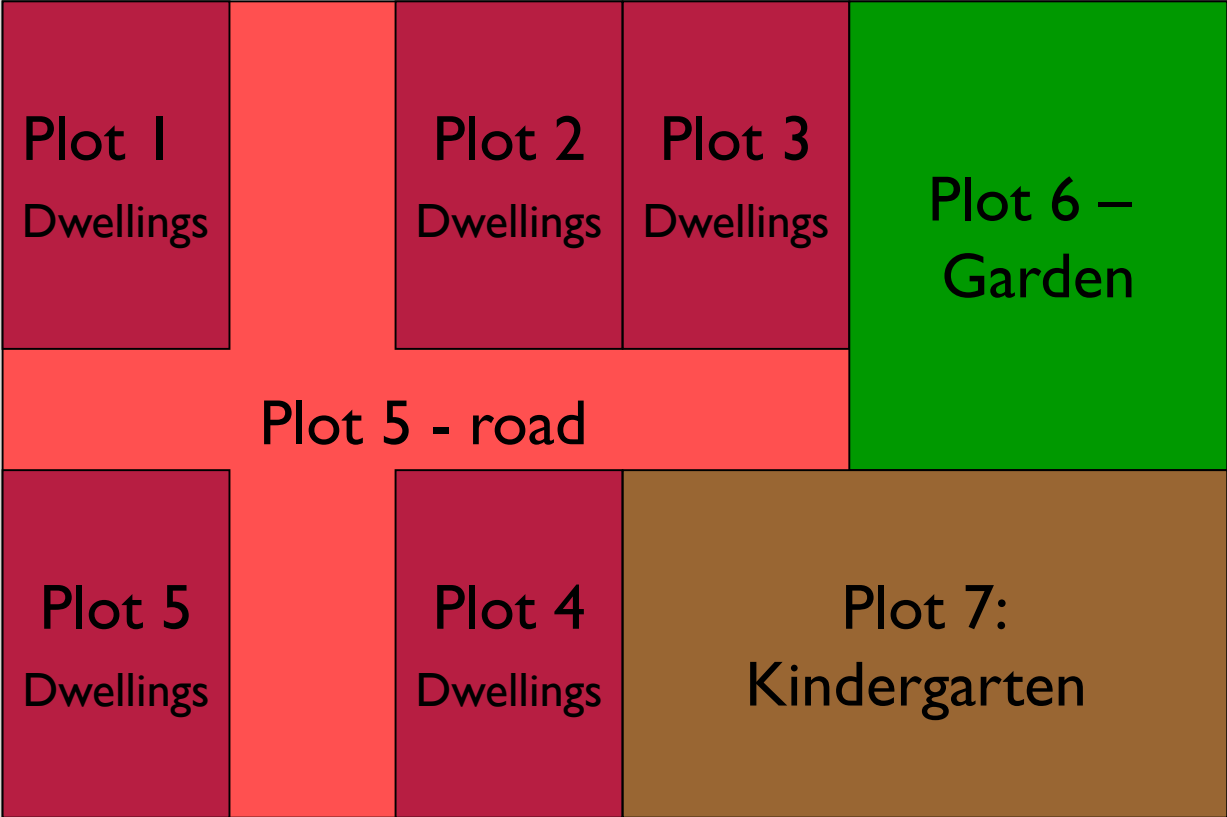
FIVE AGRICULTURE PLOTS. EACH 10 DUNAMS.

A
B
C
D
E

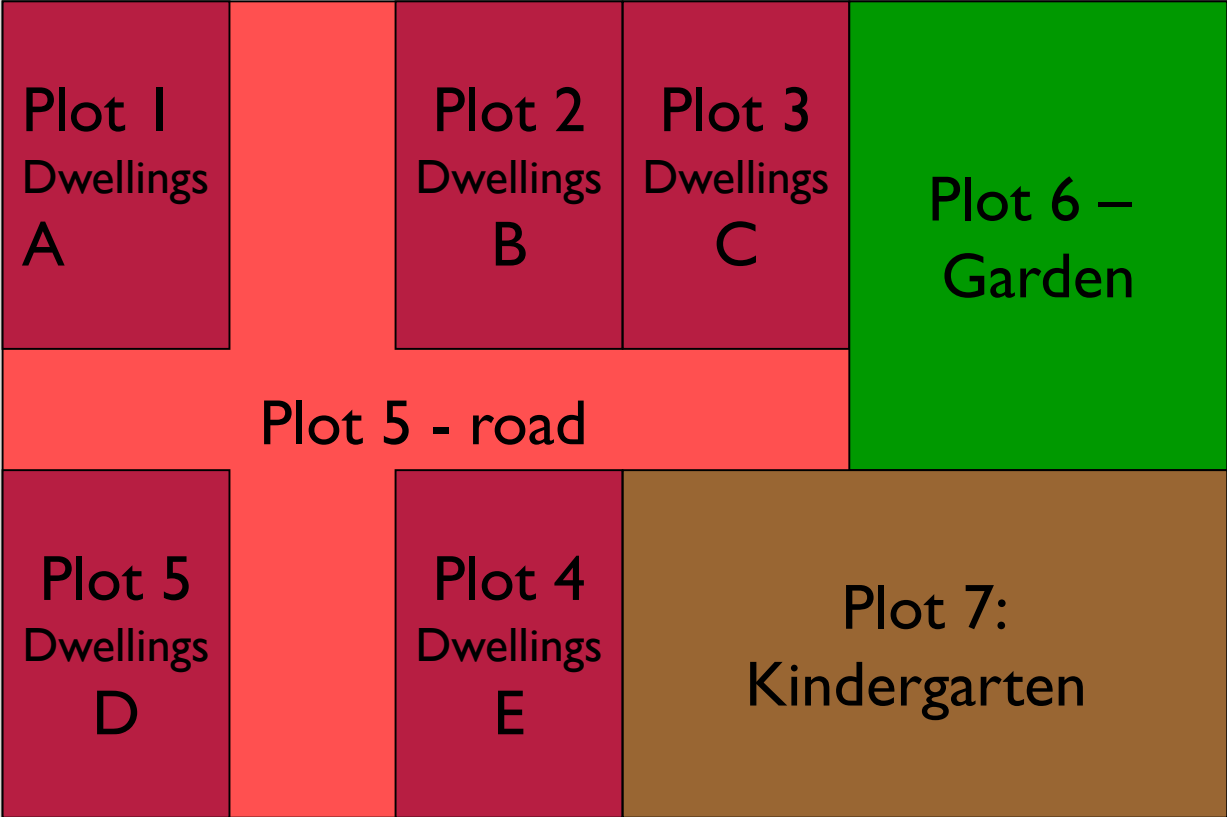
**STEP ONE: ERASING THE ORIGINAL SUB DIVISION
THUS CREATING A NEW PLOT OF 50 DUNAMS.**

50 Dunams
A, B, C, D, E – each owns 20%

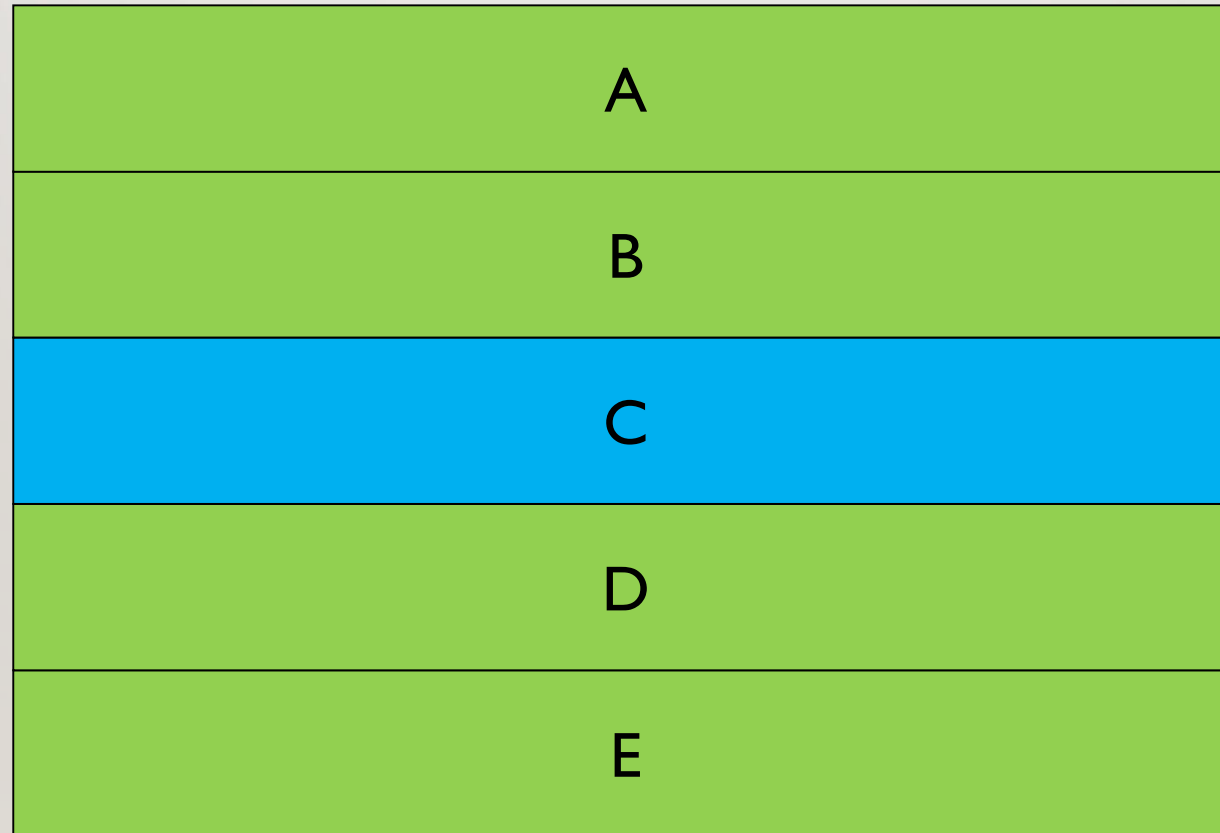
STEP 2: NEW PLAN AND SUBDIVISION



STEP 3: NEW ALOCATION



AND WHAT IF C'S PLOT IS DIFFERENT?



ALLOCATION TABLE:

תאריך: 30/5/2007

בלת הקצאה ואיזון לתכנית מפורטת את/3/15 – "פרדס המושבה"

תשלומי איזון		מצב יציא					מצב נכנס			נתוני המקרקעין					
בעל הזכויות ישלם	בעל הזכויות יקבל	שוי יחסי	שוי מצב יציא	החלק במגרש	שטח המגרש (2)	התמורה המגרש	שוי יחסי	שוי מצב נכנס	חלקה	שם בעל הזכויות	שטח בתכנית	שטח רשום	חלקה (1)	גוש	סידורי
אין	אין	18.877%	1,743,108	100.000%	871	2	18.877%	974,000	1	ישראל אומן	1,948	1,948	12	1234	1
	3,864	13.624%	1,258,000	100.000%	629	3	18.945%	477,500	1	שמואל בלומברג	1,955	1,955	13	1234	2
		5.279%	487,508	34.822%	700	5									
	197,092	2.647%	244,412	17.458%	700	4	4.781%	16,700	51/203	אברהם וקסמן	1,964	1,964	14	1234	3
אין	אין	4.969%	458,850	32.775%	700	5	4.969%	16,400	53/203	דניאל כהנמן	1,964	1,964	14	1234	4
אין	אין	9.282%	857,080	61.220%	700	4	9.282%	478,900	99/203	יהושע לדרברג	1,964	1,964	14	1234	5
אין	אין	3.233%	298,508	21.322%	700	4	3.233%	166,800	25/88	גבריאל ריפמן	1,174	1,974	15	1234	6
							1.616%	83,400	25/176		1,174	1,974	15	1234	7
אין	אין	11.196%	1,033,874	100.000%	517	5	9.580%	494,300	1/2	אהרון צ'חטובר	1,977	1,977	17	1234	8
							1.616%	83,400	25/176		1,174	1,974	15	1234	9
76,644		12.995%	1,200,000	100.000%	6	6	9.580%	494,300	1/2	אברהם מייקלסון	1,977	1,977	17	1234	10
							0.969%	50,000	1		100	1,984	18	1234	11
אין	אין	1.616%	149,240	10.660%	700	5	1.616%	83,400	25/176	נלי זק"ש	1,174	1,974	15	1234	12
אין	אין	1.680%	155,162	11.000%	700	5	1.680%	86,700	13/88	יוסף ארלנגר	1,174	1,974	15	1234	13
אין	אין	1.616%	149,240	10.660%	700	5	1.616%	83,400	25/176	חרן בנאמרף	1,174	1,974	15	1234	14
124,312		12.985%	1,199,017	100.000%	800	6	11.638%	600,500	1	סטלי טן	1,201	2,001	16	1234	15
							0.000%		1		200	200	20	1234	16
							0.000%		1	עיריית ירושלים	250	250	21	1234	17
							0.000%		1		800	800	22	1234	18
200,956	200,956	100.000%	9,234,000		11,569		100.000%	5,159,700			11,569				

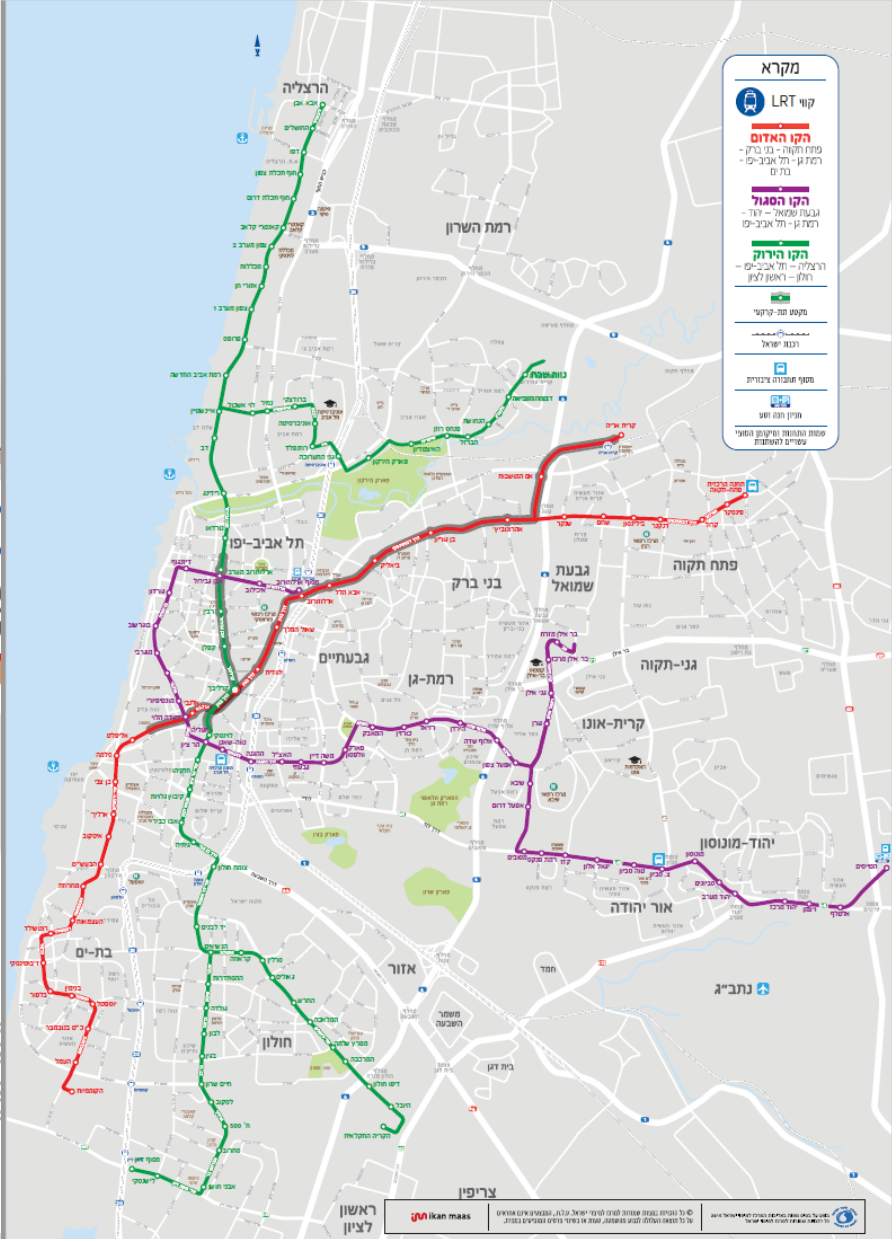
סרי"ט
 (1) סביבת הקצאה והאיזון נערכה לחיוב מתחום התכנית בכדי בהתאם להוראות התכנית.
 (2) שטח מגרש התמורה נעל על ידי מדידה אנאליטית ממלחשת של המתכנית.

שם שמואי המקרקעין חתימת השמואי מספר רשיון ת"ד

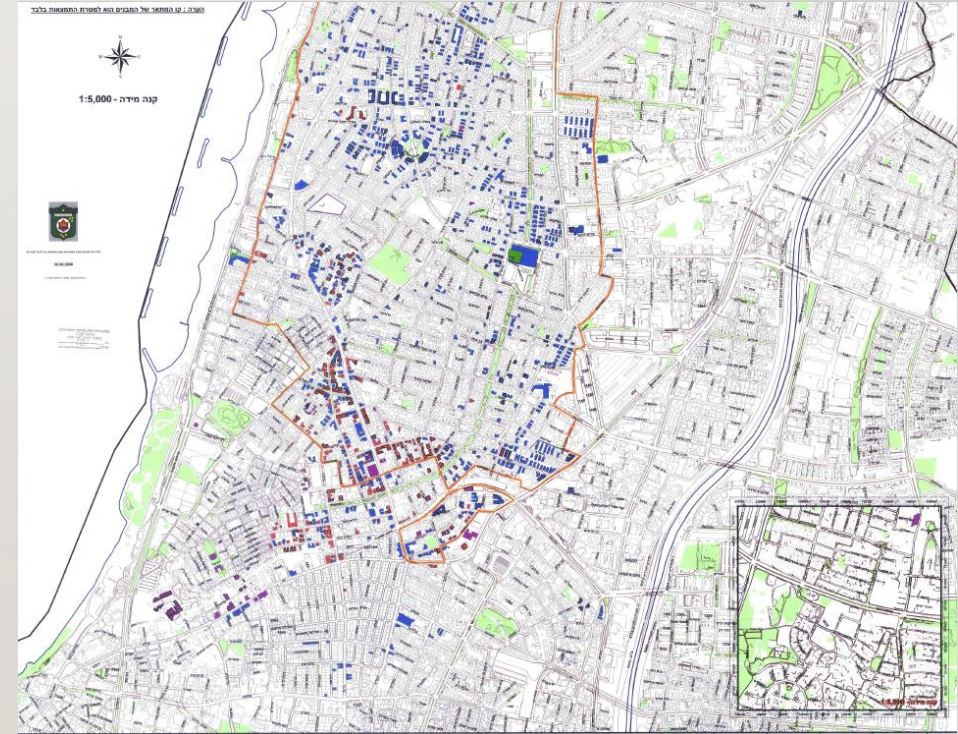
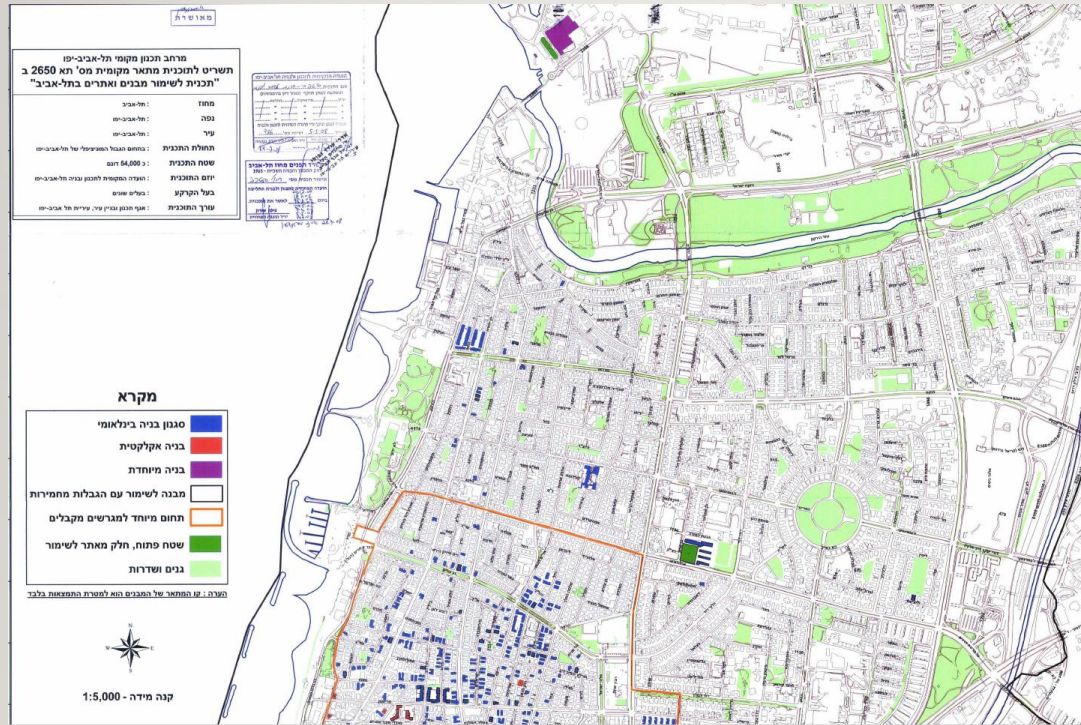
DISTRIBUTIVE JUSTICE IN NEW SUB DIVISION:



TRANSPORTATION



LANDMARK PRESERVATION:



PRESERVATION IS EXPENSIVE



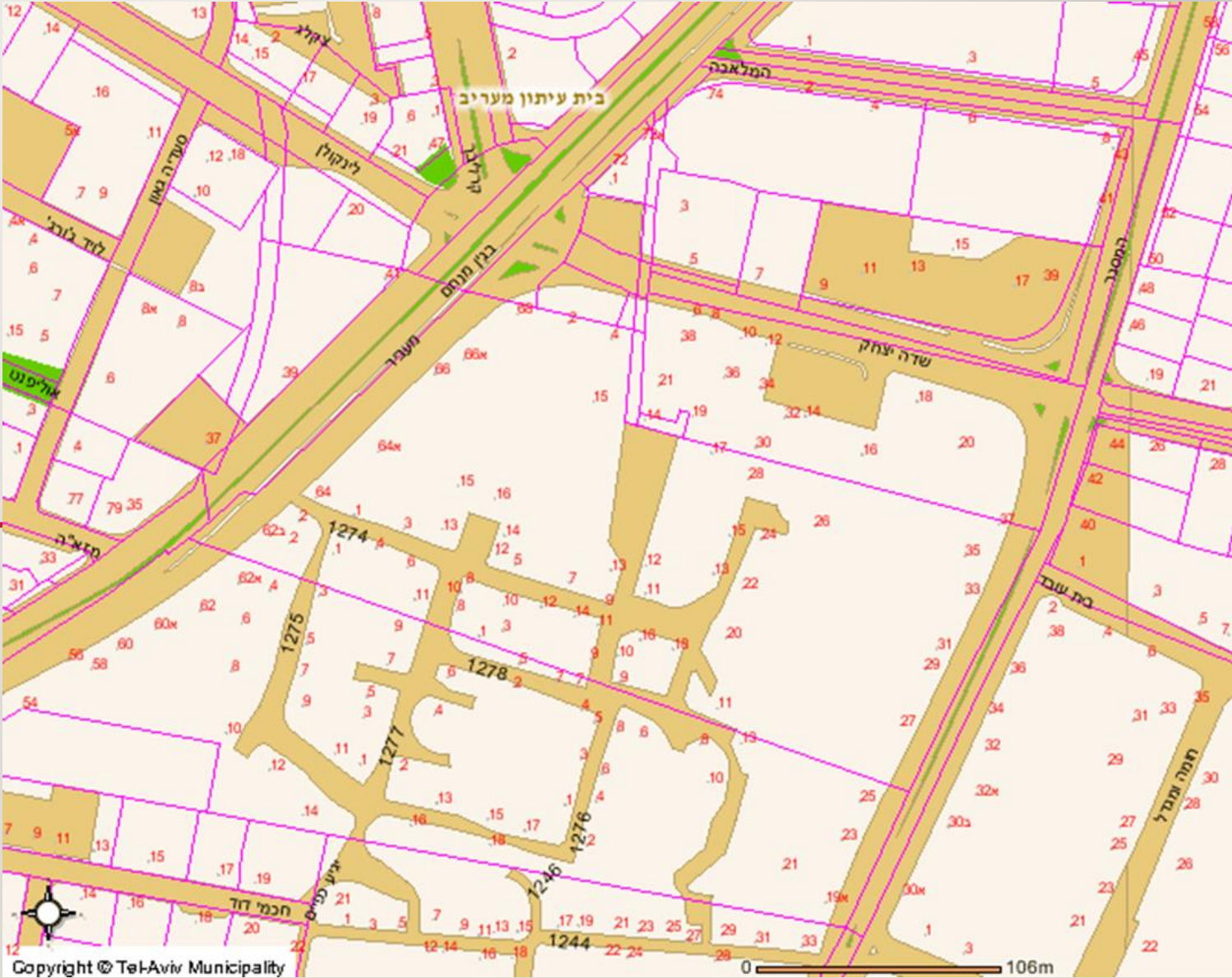
TDR: MOSTLY TO TOWERS



THE SITE PRIOR TO NEW DEVELOPMENT



ORIGINAL SUB DIVISION

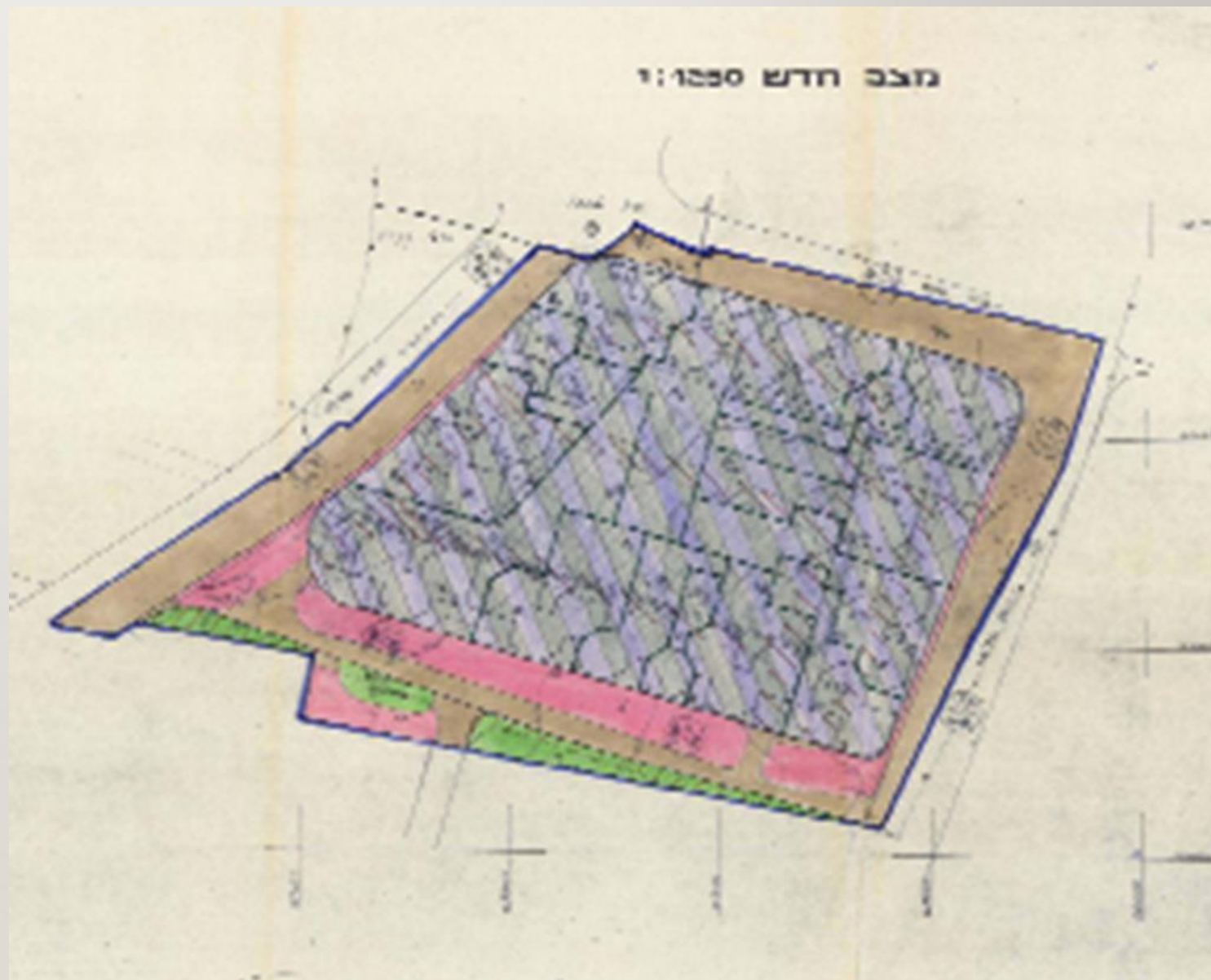


1996: DETAILED PLAN NO. 595A

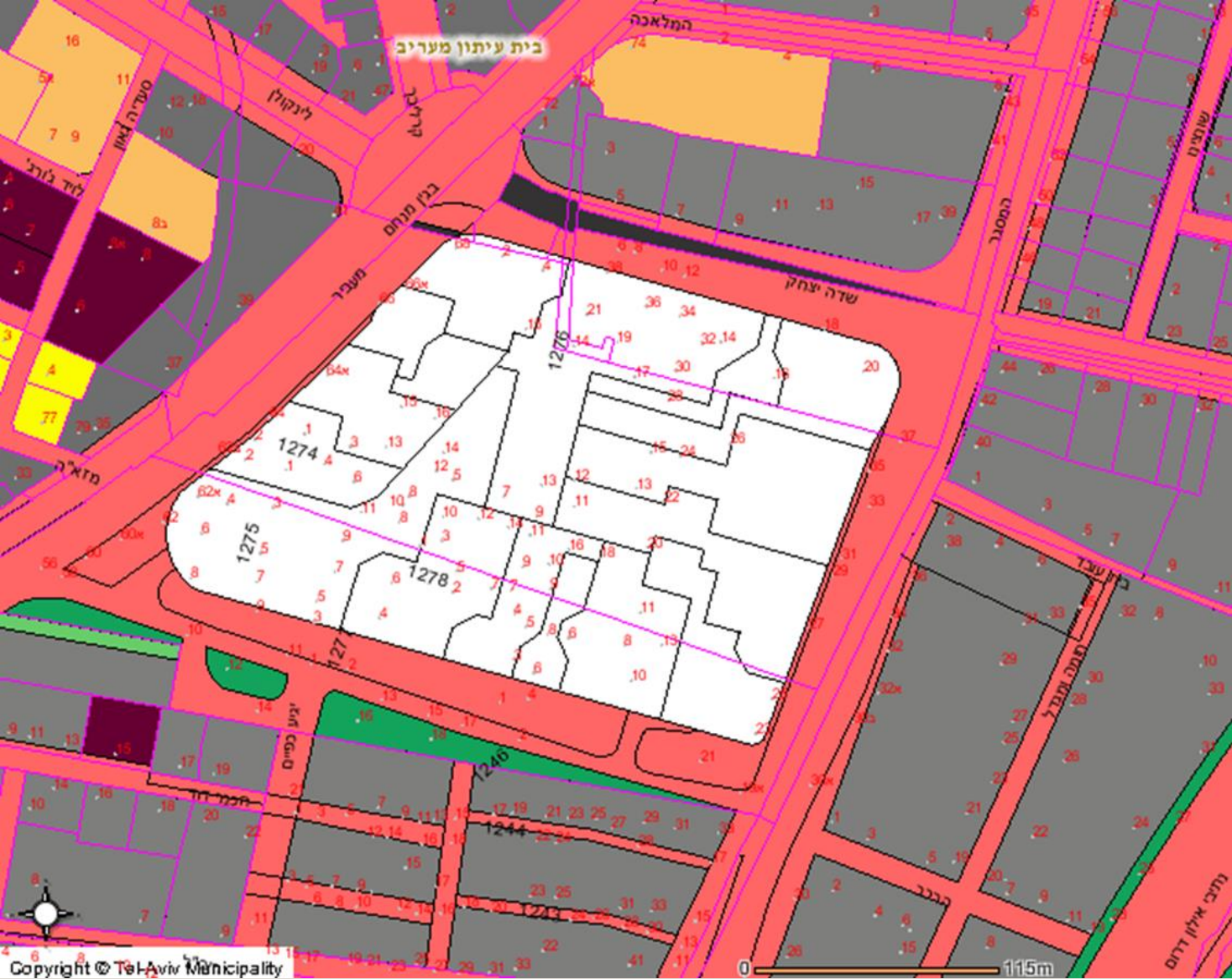
Permitted uses: high tech offices.

Total area: 11,250 sqm.

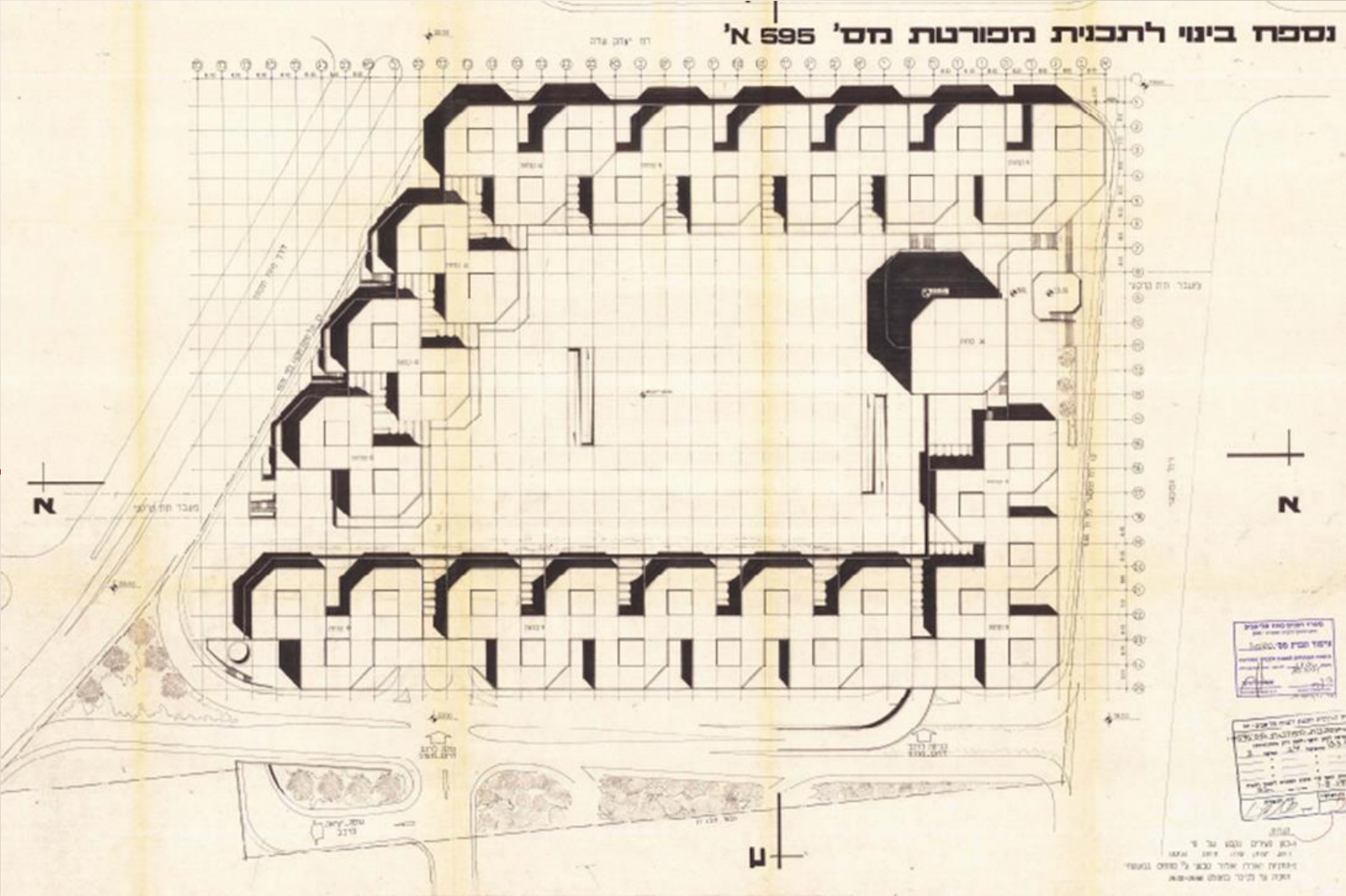
Number of floors: 10



NEW SUB DIVISION



**PLAN NO. 595A –
BUILDINGS LAYOUT**



2005: DETAILED PLAN NO. 3319

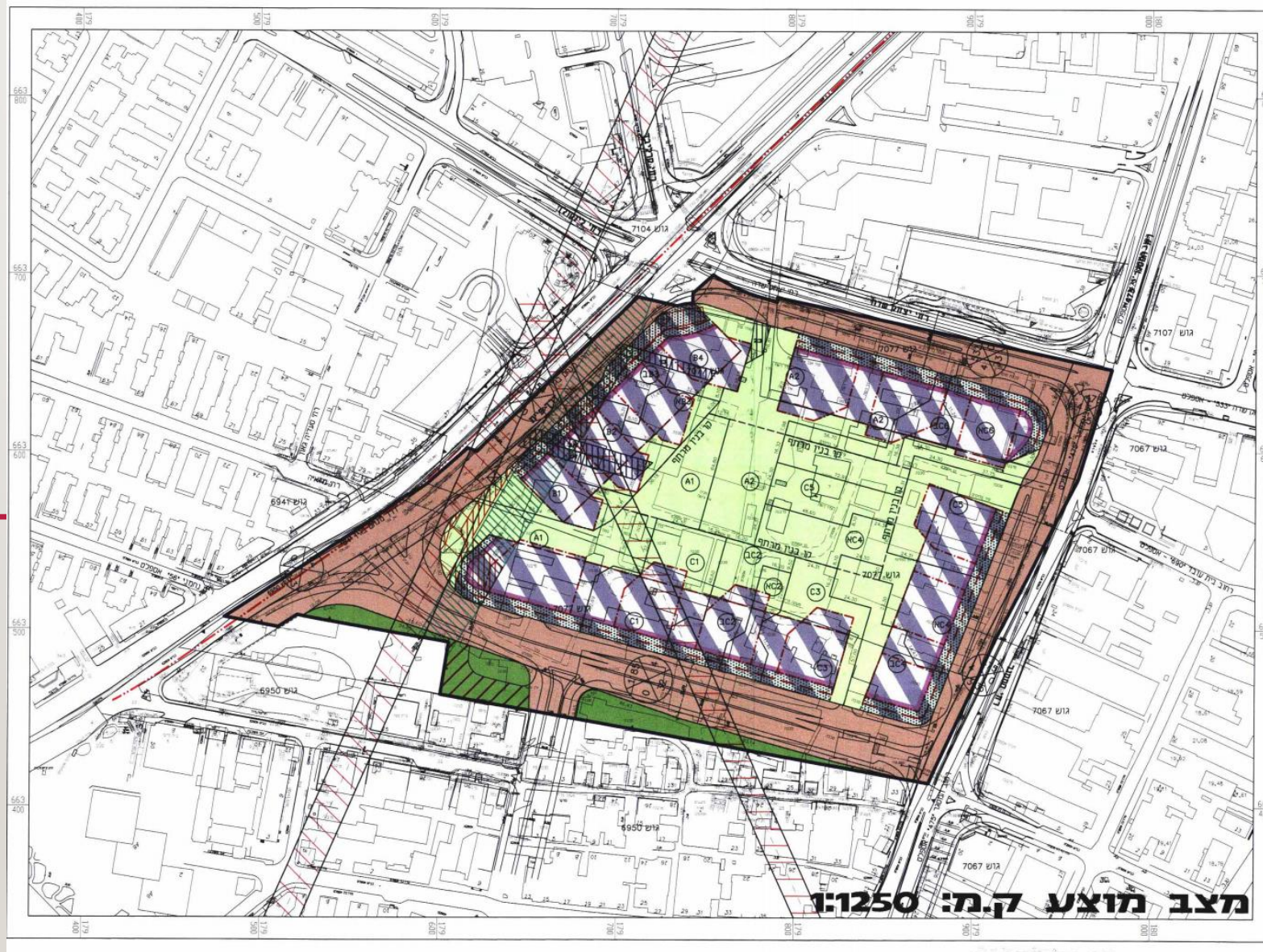
No chance in the approved sub
division.

Permitted uses: high tech offices.

Right to convert up to 20% to
dwellings.

Total area: 15,700 sqm.

Number of floors: 20

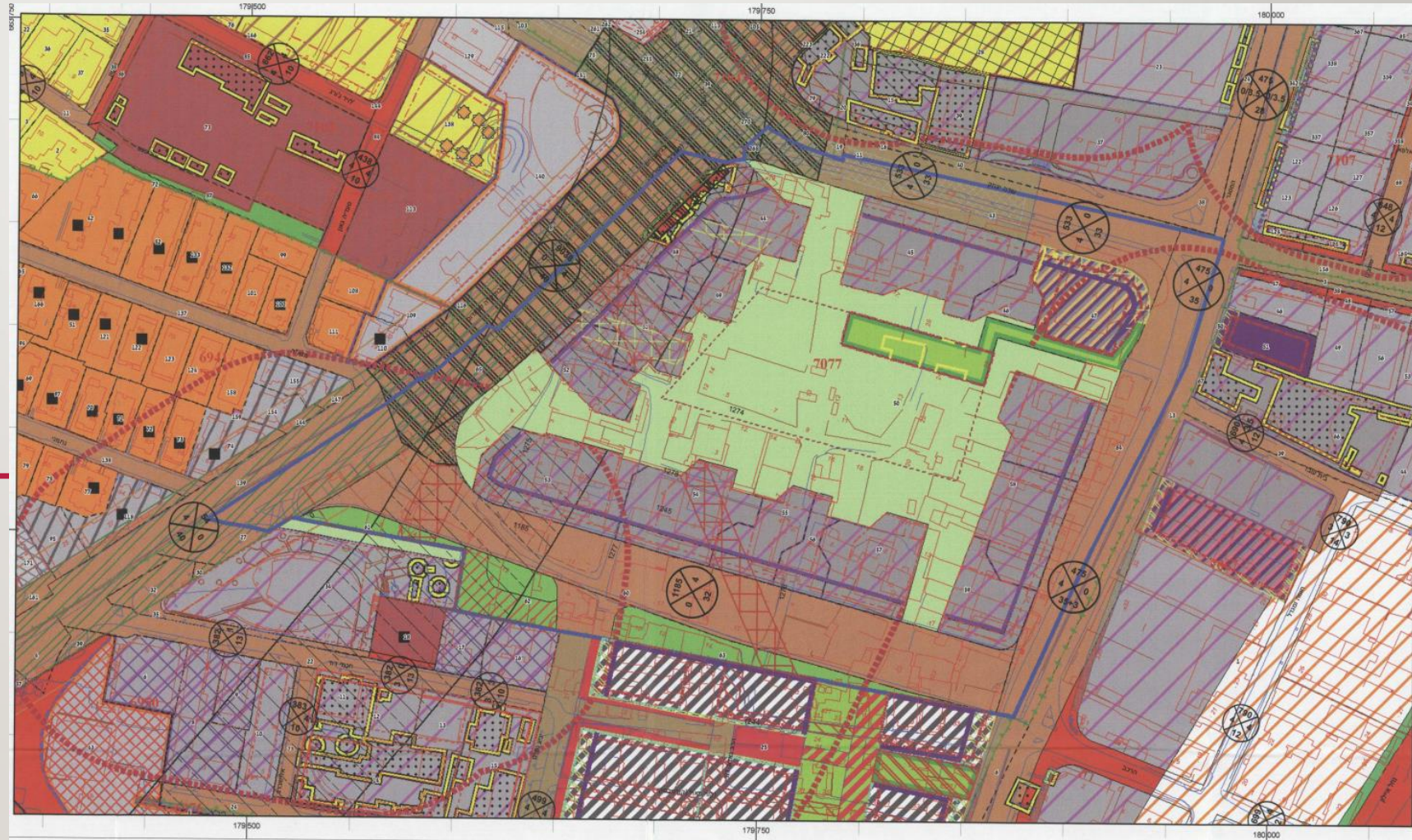


2013: DETAILED PLAN NO. 3319/I

Prolonged execution period.

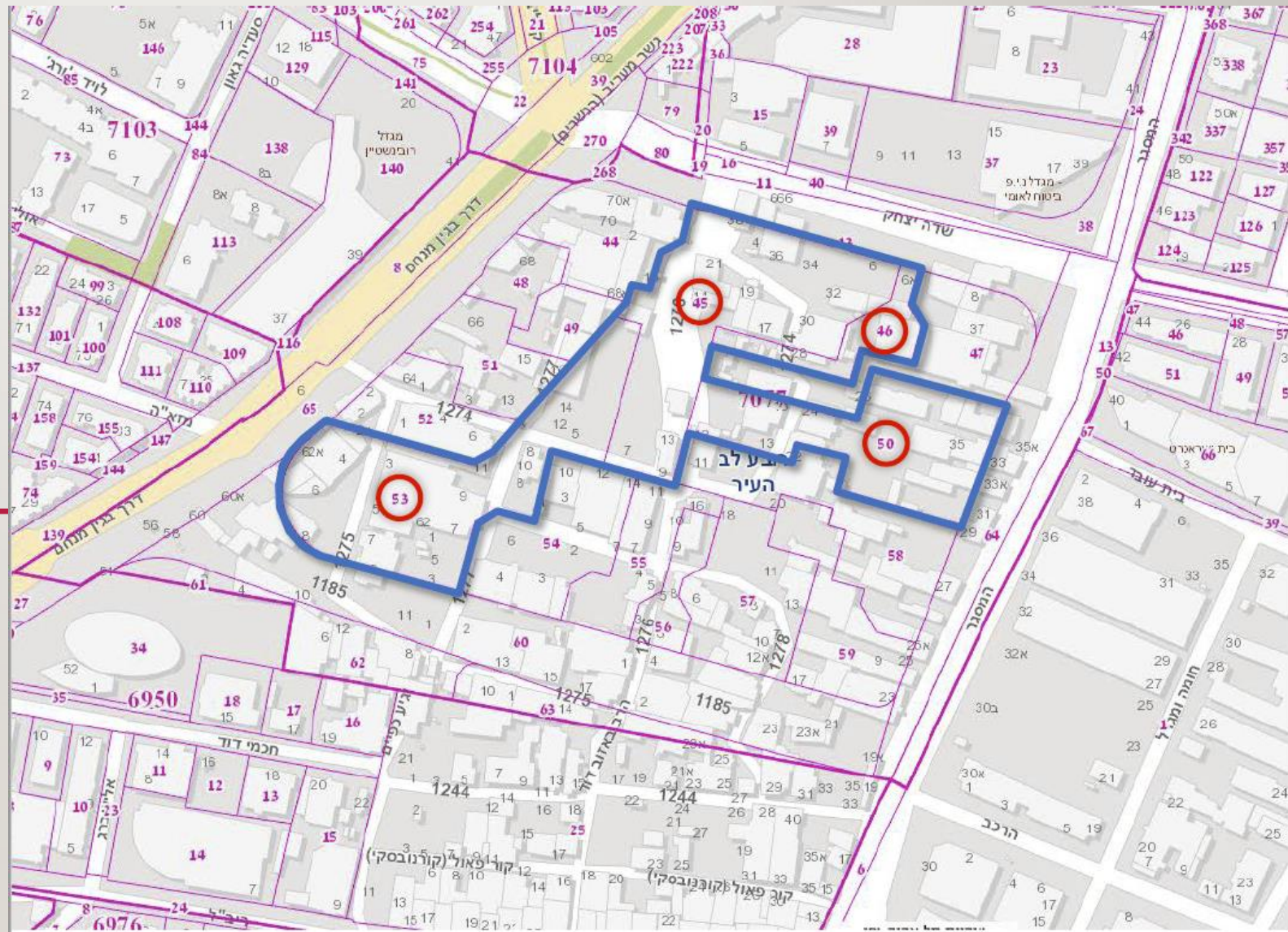
Higher buildings.

Adding hotel uses.

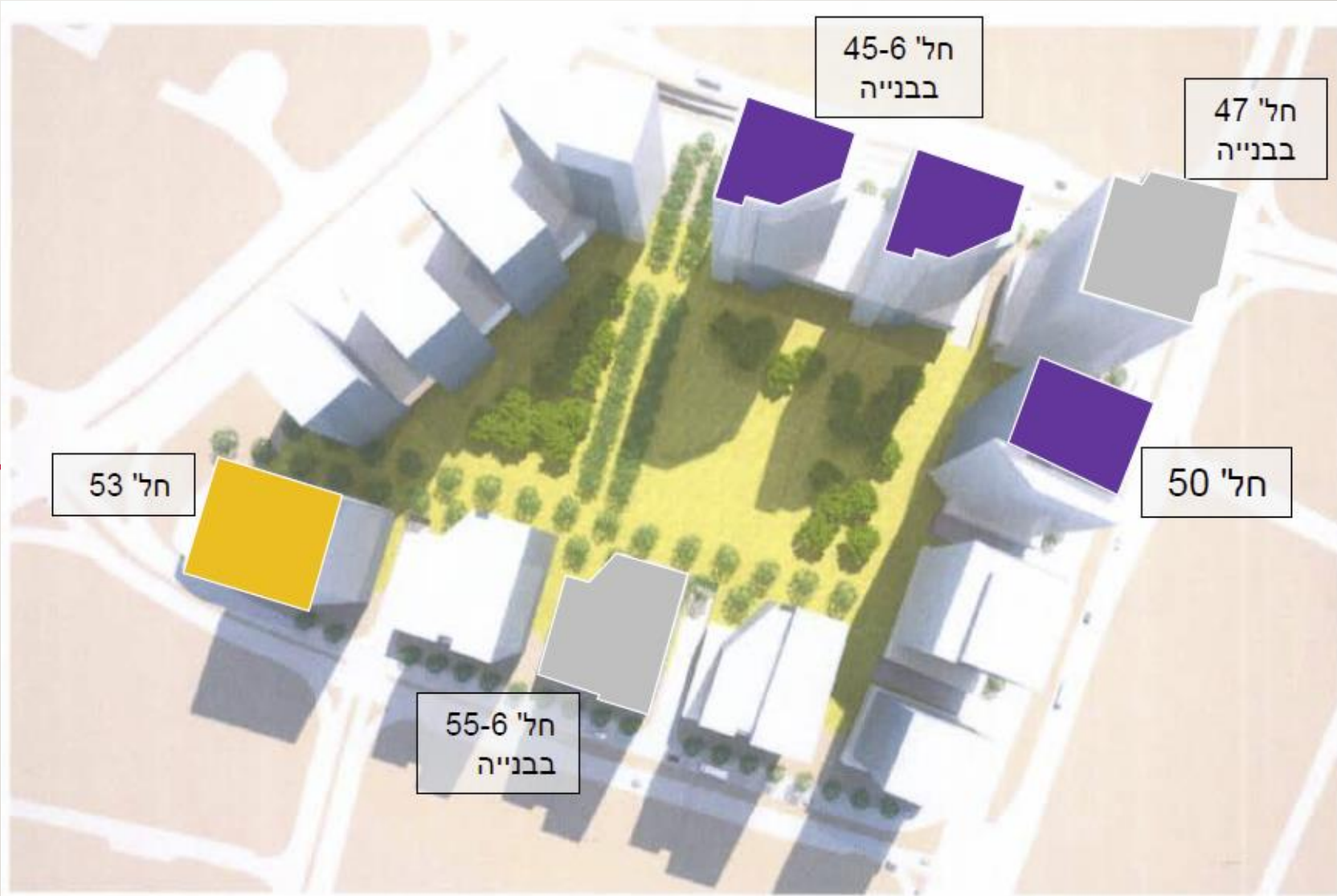


2018: DETAILED PLAN NO. 4555

שטח חלקה (ד')	חלקה מס'	מגרש ע"פ תא/3319
7.104 1.335	45+46	6C/A2ב'
4.953	50	C5
7.420	53	A1
20.812		סה"כ



2014: SITE LAYOUT
PLAN 33 I 9/2





תכניות תקפות - תא/5000



עד 40 קומות

מעל 40 קומות

מרקם ובו בניה נקודתית חריגה לסביבתה



(2) באזור תעסוקה מטרופוליני סמוך לציר מתעניין:

גודל המגרש	רח"ק בסיסי	רח"ק מרבי
פחות מ- 1.5 דונם	4.2	10.4
1.5 דונם ומעלה	4.2	12.8

מגורים - עד 25% מכלל זכויות הבנייה לשימושים סחירים.

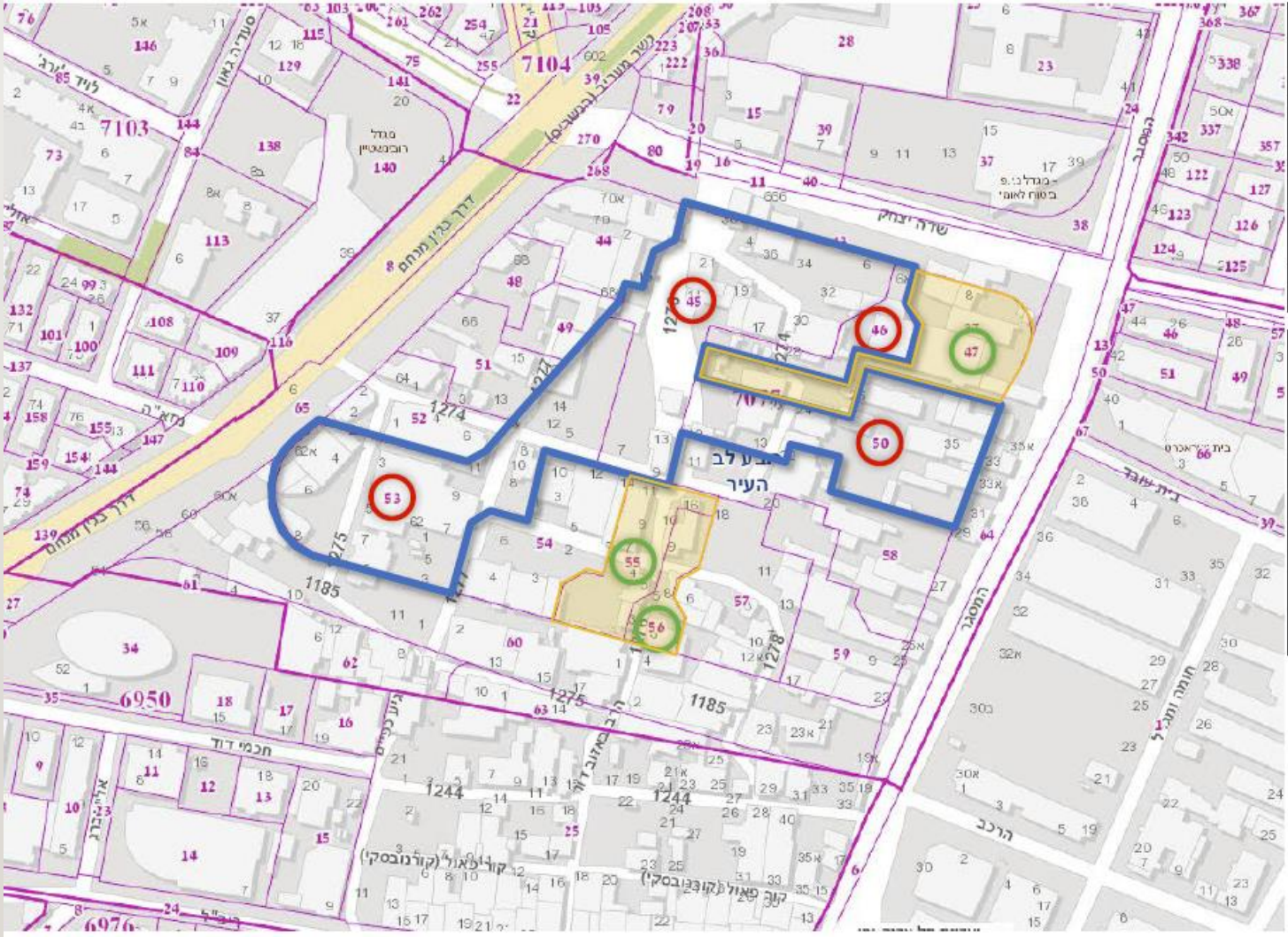
אזור תעסוקה מטרופוליני

אזור מעורב לתעסוקה ולמגורים

אזור תעסוקה סמוך להסעת המונים

STEP I: "COLLECTING" THE CONVERSION RIGHTS FROM ALL 4 PLOTS

Requires set of agreements between the owners of the four plots.



STEP 2: TDR FROM NEAR LANDMARKS

Requires agreements with the owners of the landmarks.



MANAGEMENT
COMPANY WOULD
DEVELOP THE INNER
GARDEN





THE SCHOOL



MULTI USE BUILDING

