

# EXPECTANT TERRITORIES AND URBAN INSTRUMENTS: THE CASE OF URBAN OPERATION ÁGUA BRANCA

## TERRITÓRIOS EXPECTANTES E OS INSTRUMENTOS URBANÍSTICOS:

O CASO DA OPERAÇÃO URBANA ÁGUA BRANCA<sup>1</sup>

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**ABSTRACT :** The paper discusses the consequences of production restructuring processes upon urban planning, focusing in São Paulo, a city marked by a retraction of industrial activities since the late 1970s. We tackle the consequences of changes in production processes upon urban planning by looking at urbanistic instruments, namely the instrument of urban operations, specifically the Urban Operation Água Branca. The operation is analyzed in terms of its effectivity in promoting the territorial reorganization of industrial areas present in the different design strategies envisioned for the large industrial vacant plots that, however, never materialized. Furthermore, this paper looks at the materialization of the urban operation by mapping the plots employed under its guidelines and the real estate developments it produced, critically evaluating the real restructuring consequences of this operation.

**KEYWORDS :** urban operations, urban instruments, urban restructuring, urban projects

**RESUMO :** O artigo aborda os rebatimentos do processo de transformação produtiva no planejamento das cidades, com foco na experiência Paulistana, marcada pela retração da atividade industrial desde finais da década de 1970. Aborda-se aqui os rebatimentos desse processo na reestruturação do território da metrópole paulista por meio da promoção de instrumentos urbanísticos, nomeadamente as Operações Urbanas e especificamente a Operação Urbana Água Branca. A operação é analisada em sua efetividade em transformar o território industrial, apresenta as diferentes estratégias projetuais definidas para esse território, envolvendo os parcelamentos de grandes glebas industriais que, em sua maioria, nunca se materializaram. Finalmente, analisa-se a materialização da Operação Urbana Água Branca por meio do mapeamento dos terrenos consumidos e dos empreendimentos imobiliários dela decorrentes, avaliando criticamente a real reestruturação consequente dessa operação.

**PALAVRAS - CHAVE :** operações urbanas, instrumentos urbanísticos, reestruturação territorial, projetos urbanos.

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## INTRODUCTION

2 Commonly mistaken by what is called globalization, the productive restructuring consists of expedients of fragmentation and relocation of the production, in search for lower production costs and solvable markets. The Regulation School understand the process as the substitutions of the capitalist crisis by the crisis in capitalism.

The paper presents the planning outcomes of the transformation in the production processes<sup>2</sup>, focusing on the experience of São Paulo, marked by the restructuring of the industrial activities since the 1970's, with the decrease of the participation of the industrial activities in the city's GDP (FIGUEIREDO, 2005). We approach here the outcomes of this process in the restructuring of the metropolis' territory, by means of urbanistic instruments, targeting specifically the southwest portion of Tiete river's floodplain in the city, occupied by industries since the metropolis's formation.

This portion of the floodplain, which received the first wave of industrialization in the city, was initially structured by the railway axis along the second half of the nineteenth century. The first railway path opened was Santos Jundiaí, operated by São Paulo Railway Company. Later, this was territory was further structured by the ambitious project of Rectification and canalization of the Tiete river along the 1940s and 1950s, structuring anew metropolitan axis and paving the way to the second wave of industrial expansion.

Thus, since it is after all a floodplain, this territory was organized around natural and infrastructural elements – the river, the railway, the highways – presenting, simultaneously, different logics of materialization of its urban tissue.

At the same time that the railway axis created a platform, today composed by the industrial heritage and many vacant buildings, the road system created an armature. The armature is composed by the express highways, called Marginal Tiete, and its accessories (bridges, accesses, and viaducts), introducing different flows to this territory, superposing new logics to the rationality of the pre-existing urban tissue (BARBOSA, 2018).

The superposition of logics in the process of urban tissue materialization has as an outcome a fragmented territory, which inherited the rural land structure from the nineteenth century, and consolidated it along the first waves of industrialization in the city, following the different infrastructural lines present. This territory passes through a process of urban transformation, with the increase of the real estate production which was partially induced by urban regulations.

This area was the object of utopic projects, unfulfilled plans and large scale infrastructural interventions. Its occupation, especially since the 1950s, was guided by land use regulations, which have reserved a wide portion of the Tiete's river floodplain to industrial uses after its rectification, canalization and the construction of the highways (avenidas marginais). Since the 1980's, the moment which industry stopped being the economic driver of the metropolis, the strictly industrial land use regulation turned this area an expectant site. The first discussions about urban operations emerged in this context and, later, Urban Operation Água Branca (OUAB) was enacted, in 1995.

This paper has the objective to approach Urban Operation Água Branca as the urbanistic instrument implemented to guide the restructuring of the industrial floodplain's territory, while it was going through a process of productive restructuring. It explores the efficiency of the instrument in defining material outcomes of this restructuring process, when it enabled (or not) the implementation of urban projects. It points the distance between the urban design proposals and the mechanisms for its implementation, as well as the connection between OUAB with the interests of

the corporative urbanism, (FERNANDES, 2013), departing from its more inclusive goals, highlighting the limited mechanisms of reduction of inequalities.

In Brazil, São Paulo was the pioneer on testing urbanistic instruments such as Building Rights Concessions and Urban Operations, concepts that were initially discussed and framed separately. These instruments were conceived, discussed and defined in the late 1970's, tested over the 1980's, legally approved and put in practice from the mid 1990's onwards.

The 1972 zoning regulation crystalized the industrial land use along the floodplains of Tiete, Tamanduateí and partially, Pinheiros rivers. In the rest of the city, combined with the economic expansion perceived in the 1970's, its promulgation triggered an increase in the real estate activity in the city, intensifying the verticalization process and its sprawl outside the expanded center when larger scale gated communities emerged in peripheral areas (SOMEKH, 1987).

Understood as a consequence of a context, which, in part resulted in the shift of urban regulations, the sprawl of verticalization triggered reflections among the municipality, academics, and Institutions, which culminated in the Embu Letter (1977). The Embu letter denied the concept of Created Land [Solo Criado], which was discussed in legal and urbanistic terms (MONTANDON, 2009b; NOBRE, 2015), separating conceptually the property rights and the building rights and creating the theoretical basis to the concept of social function of property (MALERONKA, 2010: 106). Legal equity and urbanistic compensations were considered the essence of Create Land concept (MONTANDON, 2009; NOBRE, 2015). The dissemination of this concept triggered the search for a regulatory framework more appropriated to deal with the excessive valorization of urban land, speculative processes<sup>3</sup>, and the restructuring of well-located areas in the city which, were not considered spontaneously attractive to the real estate market (MONTANDON, 2009b; MALERONKA, 2010).

Sao Paulo's first Urban Operations were conceived in the 1985-2000 Plano Diretor, proposed by Jorge Wilhelm as planning secretary, under the mayor Mario Covas's mandate (1983-1986 - PMDB).

Initially, they were conceived as urban projects acting as *"a set of integrated urban interventions, developed in determined areas in the city, coordinated by the State, aiming to obtain relevant results related to the goals of the Masterplan. These results are mainly: To enable real estate productions (notably of social housing), infrastructure, collective equipment, and public spaces that are difficult to implement in the current conditions of real estate and public actions, and to induce the urbanistic transformation (physical and functional) in determined areas, particularly related to the Urban Development of differentiated areas"* (SEMPLA, 1985 apud MONTANDON, 2009:6).

The urbanistic project should determine the physical results, cost, and benefits and economic procedures of such operation, as part of a program of integrated intervention in the city, composed by Urbanistic Interventions (Urban Design); Integrated Management (contemplating the transferring funds from profitable to unprofitable Operations); Participation; Shared costs and benefits; Transfer of resources among different operations (some to be subsidized, others self-sustained); a program of interventions (MONTDANDON, 2009: 16).

The urbanistic project should be composed by strategies of induction triggered by the **direct action** of State:

<sup>3</sup> Throughout this paper the notion of speculation is applied to describe the processes in which real estate market stakeholders – developers and land owners – maintain their plots and buildings vacant, waiting for better Market conditions to unfold. Speculation is given by the expectancy of valorization. Speculative processes occur also in the imminence of changes in urban regulations, moments in which these actors act to assure "right of protocol", many times without effectively intending to develop their properties. This paper does not have the intention of describing these processes, however, these processes are cited since they were identified along the analysis of OUAB's materialization.

*“An integrated and synergic set of actions, coordinated by the municipality, with the goal to accelerate the gradual constructions of projects, in its most **structuring physical aspects** (...) Aiming to obtain: Spatial results for real estate production and public equipment, particularly related to social housing, not viable in the current market conditions; and Induce urban transformations (occupation of urban voids, diversification of urban patterns, constituting functional zones as nodes and corridors) and transforming urban spaces, especially spaces of public use” (SEMPLA 1985a: 14-23 apud MONTANDON, 2009:17-18)*

The 1985 plan was never enacted, yet it launched the idea that induced urban development in profitable areas could finance social housing and public equipment in other areas of the city. This idea was recuperated in the following plans (PD 1988 e PD 1991)<sup>4</sup>.

In the early 1990's the first Urban Operations (OU) were enacted: OU Anhangabaú in 1991, OU Faria Lima and OU Água Branca in 1995 and OU Centro in 1997 (substituting OU Anhangabaú). The last Urban Operation enacted was OU Águas Espraiadas, in 2001. Each of these experiences was formulated according to different models, yet all had the Created Land concept as its basis, especially concerning its financial scheme. Each operation's specific regulation defined its financial scheme, not defining, however, the spatial result which they would supposedly achieve.

It is a consensus that there are discrepancies between the definitions of the instrument and its pragmatic application in Sao Paulo (CASTRO, 2006; MONTANDON, 2009; MALERONKA, 2010). The critiques on the experiences of Urban Operations in Sao Paulo are extensive, consensual and mainly focused on how these areas have materialized and redeveloped under this instrumental framework.

The materialization of OUs are criticized since they increase spatial segregation and gentrification processes (FIX, 2001; MONTANDON, 2009b), consolidate the concentration of development and investment in the south-west vector of the city (CASTRO, 2006; MONTANDON, 2009b; MALERONKA, 2010), rely upon the speculative construction of the place to attract private investors (FIX, 2001, 2007; FERREIRA, 2003; CASTRO, 2006); promote the prevalence of real estate rationality instead of transformations based in public interests (MARICATO; FERREIRA, 2002; FERREIRA, 2003; CASTRO, 2006); apply the majority of funds in a car-based infrastructure (CASTRO, 2006; MONTANDON, 2009b; NOBRE, 2015); and present a lack of urban design strategies able to pre-define its spatial transformations (MALERONKA, 2010)

In this paper we first present the OUAB under a historic perspective, by means of analyzing the text of its specific law and presenting the outcome of interviews with professionals that participated in its elaboration and management. Posteriorly, we analyze the different urban design strategies defined to this territory, approaching the land parceling of wide vacant plots which, mostly, never materialize. Finally, we analyze the materialization of the Urban Operation Agua Branca by means of mapping the consumption of plots and an analysis of its consecutive real estate development, critically accessing the urban restructuring deflagrated by this operation.

4 Montandon (2009) offers a revision of the different types of urban operation conceived in the 1985 plan. For more information on the topic, consult: MONTANDON, D.T. **Operações Urbanas em São Paulo: da negociação financeira ao compartilhamento equitativo de custos e benefícios.** (Dissertação de Mestrado em Arquitetura e Urbanismo). Faculdade de Arquitetura e Urbanismo, Universidade de São Paulo, São Paulo. 2009b.

## **THE EXPECTANT TERRITORY'S RESTRUCTURING AND THE URBAN OPERATION AGUA BRANCA.**

This section will present the Água Branca Urban Operation under a historical perspective, revealing its guidelines, proposals and methods to the transformation of the territory.

After a sequence of unfulfilled plans and projects along the twentieth century, the territory between Lapa and Barra Funda, northern to the railway, was classified as industrial in the Integrated Development Plan [Plano Diretor de Desenvolvimento Integrado] of 1971 and its following land use regulation of 1972. It was from the 1985 Masterplan— never approved — that this area happens to be cited as a possible new centrality, given its location, the characteristics of its occupation and the sprawl of industrial activity throughout the entire state.

Barra Funda's perimeter was defined to be an Urban Operation, an object of urban re-structuring through private investment. Despite attempts of redevelopment through instruments contained in the 1985, 1988 and 1991 Masterplans, the first proposal envisioned by the municipality and approved by City Council to the floodplain's transformation was the Operação Urbana Água Branca (OUAB).

OUAB was conceived as an urban regulation that would offer incentives to real estate developers, inducing the area's occupation and, consequently, its redevelopment. It focused in the transformation of its urban dynamics, the occupation of its many large vacant lots, assisting in the already ongoing industrial reconversion.

Envisioned by the municipality in the early 1990's the bill was sent to the city chamber in 1993 (PL 0545/93) by Mayor Paulo Maluf (1993-1997, PDS). Its approval happened in 18th of May 1995 (Lei 11.774/1995).

OUAB's perimeter summed 487 ha, divided into five mixed use sectors, contemplating a development program based on the grant of incentives and amnesties in order to promote private-led redevelopment. The benefits were obtained by means of a series of compensations, which would allow the municipality to improve the area's local infrastructure.

The benefits offered were: (I) Modification of parameters and characteristics of parceling, use and occupation of the land and its underground, as well as modification of building rules; (II) Onerous Concession of aerial or subterranean space, safeguarding the public interest; (III) Regularization of existing constructions, renovations or expansions done in disagreement with current regulations (PMSP, 1995 - art. 5).

There were three modes of compensations: (a) Financial based — calculated according to the land value of the plots in question; (b) Property based — in which the developer would offer the municipality real estate properties of the same value of the benefits; (c) Construction based — in which developers could build themselves the urban interventions onto public space, envisioned in the operation's program.

The program of the operation consisted in an extra building rights stock of 1.200.000m<sup>2</sup> established to reach the aimed transformations, of which 300.000m<sup>2</sup> were reserved for residential developments and 900.000m<sup>2</sup> for non-residential land use, to be distributed along the five sub-sectors of the Operation;

The Operation was conceived as an integrated set of actions aiming at a balanced development in the area, infrastructural and environmental upgrades and a valorization



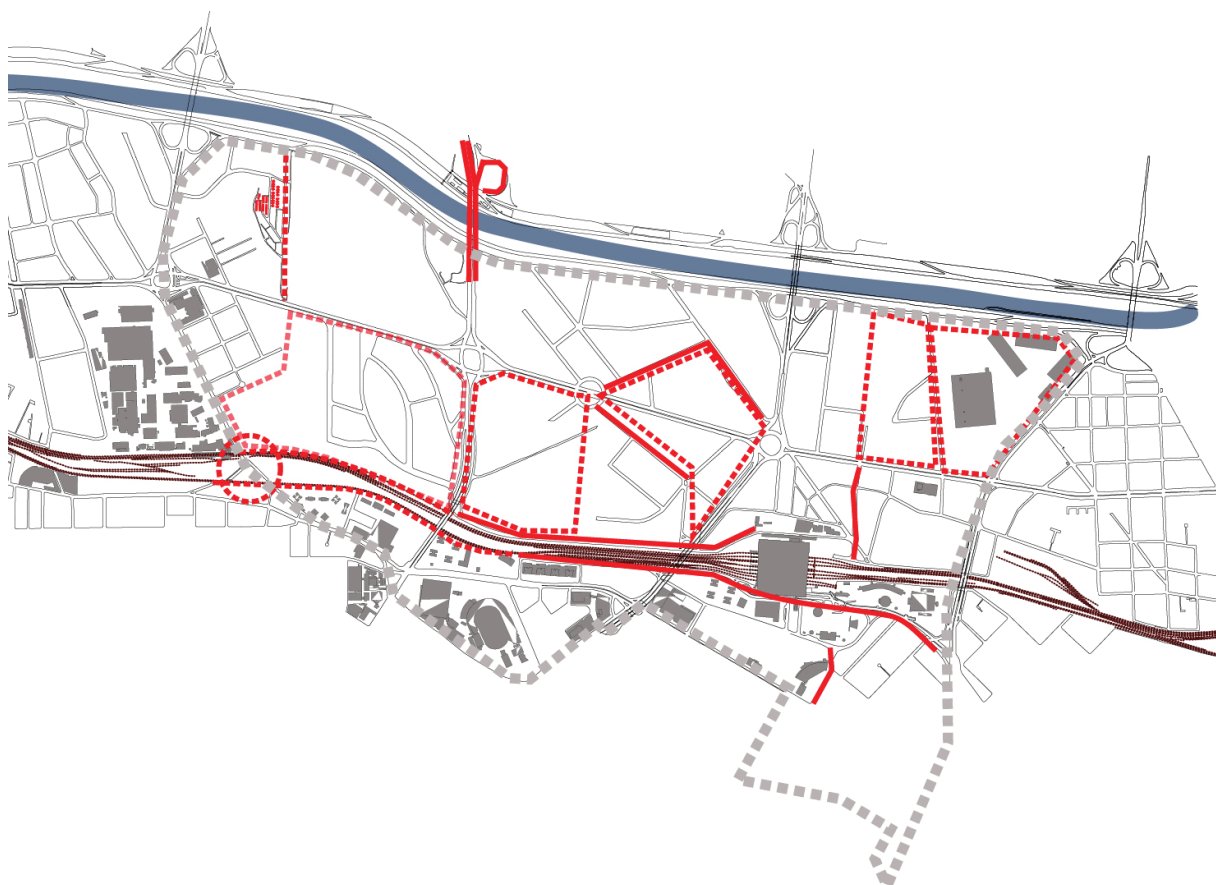
of the urban landscape (Sao Paulo, 1995). It was to be coordinated by EMURB, the Municipal Urbanization Company, which could act directly in order to materialize the goals of the operation (Sao Paulo, 1995- Art. 1, §3).

The goals were to occupy the existing empty plots, generate jobs, restore existing industrial heritage and increase density, taking advantage of the interest of real estate stakeholders in the southern part of the railway, inducing the occupation of the Northern portion of the Operation's perimeter, between the river and the railway.

As the method to achieve these goals, the Operation established, beyond the building rights stock, a program of infrastructural interventions and improvements – related to drainage and the road system – and determined compulsory land parceling of existing wide scale plots, as shown in figure 1.

Therefore, we highlight, that the means to reach the objectives of territorial restructuring relied, invariably, in urban design and projects for the wide scale vacant plots mentioned by the program of interventions. The funds raised by the scheme of benefits and compensations would finance the set of actions envisioned by the municipality and coordinated by EMURB.

Figure 1: Interpretative cartography of the set of actions of OUAB. Source: Drawn by the author, based in the Mapa Digital da Cidade (2004) e the descriptions contained in the Law 11.774/1995.



Bartalini (2015) emphasizes that this operation is part of the set envisioned in the 1990's, with the aim to make the area more attractive to the real estate market, as a mean to generate revenue. Vacancy in the area was seen as an attractive aspect for redevelopment, offering what was demanded by the market: new frontiers for the reproduction of real estate capital.

The regulation was envisioned to attract real estate capital to this territory, instead of other sites in the city, with the purpose of capturing revenue through urban development, not for urban development, as defined in the first conceptions of this instrument during the above mentioned discussions of the 1980's. According to this logic, inducing real estate activity in the area became the end goal and not the means to achieve wider restructuring transformations, in a scheme that the instruments of urban planning are designed to be in the secondary capital's disposal, operated by the real estate market, which invests the exceeding production of the primary capital in the land market (GOTTDIENER, 1995).

Bartalini (2015) and Maleronka (2015) explain that the operation was first envisioned as an alternative to the fast development of the Berrini region, located in the southwest region of the city. Água Branca and Barra Funda were considered areas more suitable for such development – a tertiary centrality – since they were neighborhoods with better infrastructure and located closer to the center and presented a high level of vacancy.

The choice of promoting the area comes as an opportunity represented by a wide scale development of fourteen corporate towers proposed in a former industrial site, between Avenida Matarazzo and the railway's southern branch.

By the early 1990's, heritage policies were developed targeting the classification of remaining industrial facilities from the nineteenth and early twentieth centuries. Heritage classification triggered speculative processes throughout the city and the area was no exception. Property owners, through the instrument Operações Interligadas, proposed to develop former industrial plots in the area. The existence of the real estate development explains the high concentration of building rights stock in non-residential uses.

This also explains why the building rights stock was much more concentrated in non-residential activities (BERNARDINI, 2015; SALES, 2015). There was a feeling that this first corporate development would attract others, in a similar process to what was happening spontaneously in the Berrini area. Yet, this wish didn't materialize.

Thus, combining the opportunity represented by an interest of the market and wider intentions pre-established by the municipality since 1985, the operation was launched.

We highlight, as Bernardini emphasizes, the simplicity of the operation law, "done by lawyers, not urbanists" (BERNARDINI, 2015-s.p.).

OUAB was conceived to allow new uses, extra building rights, etc, without defining, however, a new type of urban tissue.

Under the scope of the Água Branca Urban Operation, private stakeholders (land owners and developers) interested in the area could participate in specific bids promoted by EMURB or spontaneously require authorization to change established parceling characteristics, land-use and occupation parameters (by that time regulated by the 1972 zoning law); regularize illegal constructions<sup>5</sup>; acquire aerial and underground concessions<sup>6</sup>, rights to build in public areas, including subnormal occupied areas and carry out expropriations in order to give room for new real estate enterprises.

5 Irregular building amnesties were common along the twentieth century in São Paulo. The first land parceling regulations and building codes were established in the end of the nineteenth century, when the city passed through a period of expressive growth and expansion. However, along the century, irregular allotments and constructions were tolerated throughout the development of the city. For a detailed analysis of amnesties and urban regulations in São Paulo, consult: ROLNIK, Raquel. **A cidade e a lei: legislação, política urbana e territórios na cidade de São Paulo**. São Paulo: Studio Nobel; Fapesp, 1997.

6 Brazilian regulation establish that aerial and subterranean rights belong to the public power, that can allow private stakeholders (developers, land owners, service companies) to build in aerial and subterranean spaces by means of concessions.

7 According to the interviewee, from a point onwards the FAR equals four (FAR=4) was informally adopted as the maximum allowed, until the approval of the 2002 Masterplan and the 2004 Land Use Law which defined minimum and maximum FARs for the whole city.

Avila (2015) elucidates the difficulties of managing the operation. Very simplified, the law did not provide a detailed plan on how to deal with the set of actions it envisioned, and, most importantly, did not detailed the relations and responsibilities of the different stakeholders involved. It also did not specify parameters of land use and occupations for this area, stating which uses were allowed, the maximum FAR standards, setbacks, among other definitions. The law allowed exceptions but did not specify limits to these exceptions<sup>7</sup>.

It is not possible to analyze OUAB's materialization without taking into account its management and a sequence of events that profoundly impacted as much the private adherence and as the proposals of spatial guidelines - especially concerning the wide scale vacant plots listed in the program of interventions. Therefore, we now present a sequence of urban design strategies proposed to this territory under restructuring.

## **URBAN DESIGN STRATEGIES TO THE OUAB: DESIGNING THE TERRITORIAL RESTRUCTURING.**

Along 2001, with the discussions of the new Strategic plan to be approved in the following year, new guidelines were defined to the existing Urban Operations, aligning the to the proposed new operations. As stated by Magalhaes (2005), it became necessary to adequate the goals and methods used in the ongoing Urban Operation to the new development axis envisioned in the Urban Operation Diagonal Norte – Água Branca – Centro – Diagonal Sul, entangling the whole industrial figure around the historic railway.

Inter-secretarial groups (GTI) were defined, coordinated by SEMPLA under the guidance of the urbanist Jorge Wilhelm, with the mission to establish critical analysis and preliminary urban design strategies for the operations (SALES, 2005; 2015b).

While some were analyzing the sites, potentials and opportunities for the new operations, special commissions were established to analyze the existing operations, its accomplishments, and problems, in order to propose new guidelines for its development.

In the case of OUAB, the group had as a main guideline the definition of land parceling of larger plots in order to establish mixed use, assure fluidity of local traffic, having the design as the element that would assure achieving collective goals, achieved my means of the construction of infrastructure using private funds.

The first urban design proposal was realized in 2002. São Paulo prepared its application to host the 2012 Olympic Games, and the Olympic Village would be place in the wide scale vacant plots of the OUAB. In 2004, a competition called Bairro Novo was launched to fulfill the goal of guiding the allotment of existing underused wide scale plots in the area.

In the same year, with the approval of the municipal regional plans, there was the change of the Land Use regulation, which removed the industrial zoning laid upon the territory of OUAB (the old Z6 was modified to mixed use zone ZM3 in the law 13.885/04).



In 2006, after an auction, a large plot belonging to Telefonica (the privatized Telesp, former state telephone company) was finally acquired by Tecnisa<sup>8</sup>. The company is one of the main real estate developers in the city, and would be responsible for determining its parceling.

Triggered by the sale of Telefonica's plot, accompanied by the newly found dynamism of the Real Estate Market and taking advantage of the Urban Concession<sup>9</sup> in the city, EMURB started to prepare a new proposal for the OUAB from 2009 onwards.

Finally, institutional adjustments were made. In 2009, SEMPLA, the Planning Secretariat was divided in to two. One part became responsible for the Financial Planning of the city, with the same name, and the Urban Development and Urban Planning attributions were passed on to the Urban Development Secretariat (SMDU).

This change was followed by the dismantling of EMURB, the public autarchy responsible for planning and managing the Urban Operations in the city. Its main attributions were divided into two newly created public companies SP Urbanismo and SP Obras. The first became responsible for managing approved urban operations and develop guidelines for the revision of the Operation and preparation of new urban design proposal for the area (Bill nº 505/12), culminating in the approval of the Água Branca Urban Operation Consortium – OUCAB, in December 2013 (Lei nº 15.893/2013).

Sales (2015) points out that this institutional shift might have diminished the articulation roles present by former EMURB. When envisioned by Jorge Wilhelm in the 1970's, EMURB was to be a public company of urbanization, directly responsible for the planning and execution of urban interventions in several scales. With the division, not only EMURB lost its construction branch, but also became a purely mixed economy management company, which, for some time, assumed the role of conceiving Urban Operations and Projects, a role which was originally the responsibility of SEMPLA. The Operação Urbana Consorciada Água Branca (OUCAB)<sup>10</sup> was conceived by SP Urbanismo in this period.

#### THE EVENT AS A TRIGGER: THE OLYMPIC PROJECT.

The first contemporary urban design proposal for the site was part of Paulo Mendes da Rocha's Olympic project, commissioned by the municipality and designed in 2002. The city of Sao Paulo, under mayor Suplicy (2001- 2004, PT) and having the architect Jorge Wilhelm as the planning secretary, passed by a wide revision of its urban policies.

There was an ambition to elevate the international status of the city (VITAL, 2012), based on the international experience of urban projects, taking advantage of big events to attract growth and investments in the city, combining them to public led interventions, enabled through private partnerships (BERNARDINI, 2015). By 2002 cities should apply to host the Olympics of 2012 and the municipality hired Paulo Mendes da Rocha (69) to develop the Olympic Site masterplan (ANDRADE NETO, 2006).

Paulo Mendes and his team developed a proposal spreading the Olympic facilities through the floodplains of the Pinheiros and Tietê Rivers, activating underused sites with public transport access, in a way that a wider portion of the city could benefit from the event's legacy (VITAL, 2012). The existing main rivers – Pinheiros and

<sup>8</sup> This plot was classified as Z8 (Special areas for development) in the 1972 zoning regulation, with the goal to receive a project. In the 2004 land use law it became classified as Mixed Zone of high density.

<sup>9</sup> Law nº 14.917, 7 May 2009.

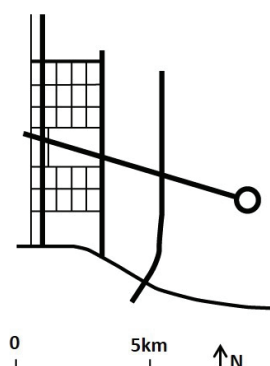
<sup>10</sup> The change in the name from Urban Operation to Consortium Urban Operation indicates an intension of the transformative character of this operations, from a simple exchange of benefits and compensations to an effective public-private partnership in which, under a public-private consortium, some areas should be restructured. This change was introduced by the Federal Regulation City Statute (2001).

Tietê – and its tributaries were used as structural elements, taking advantage of the infrastructure already placed in its floodplains.

The wide scale un-parceled plots inside OUAB were chosen to host the Olympic Village and the main stadium was designed by Paulo Mendes da Rocha in cooperation with MMBB Architects.

The project, containing of twenty-five blocks, with two blade-like buildings each, established a grid composed of a set of 47 residential building blocks, framed by two north-south canals connecting Tietê River to the figure of the railway, which was to receive an east-west canal for flood control (Figure 2).

Figure 2: Scheme of the Olympic Project territorial reorganization proposal.



Source: Drawn by the author.

The main public facilities were placed attached to the railway figure, creating at the same time common and civic spaces and new pedestrian crossings, connecting the south and north sides of the railway.

To enable these transformations and due to its exceptionality, Mayor Suplicy enacted a public utility decree on these plots, that should be subject to compulsory expropriation, valid for five years (BARTALINI, 2015).

In an internal dispute, São Paulo lost the competition to Rio de Janeiro, which was also disqualified in the international competition in the following years. Paulo Mendes' proposal for the area lost its reason to exist, but the Public Utility Decree over the plots remained valid, triggering the next proposal for this site.

<sup>11</sup> PMSP. *Termo de Referência do Concurso Bairro Novo*. 2004. Available at: <<http://www.vitruvius.com.br/revistas/read/projetos/04.044/2398?page=2>>. Acesso em: 28 fev. 2014, 16h.

<sup>12</sup> 127 projects were inscribed, involving around 700 professional in the country, but also renowned foreign urbanists, resulting in 58 valid proposals (ANDRADE NETO, 2006). The winner project was from Dante Furlan, Euclides Oliveira e Carolina de Carvalho, a team from Rio de Janeiro.

#### **THE COMPETITION AS A PROSPECTION FOR SPATIAL REORGANIZATION: BAIRRO NOVO.**

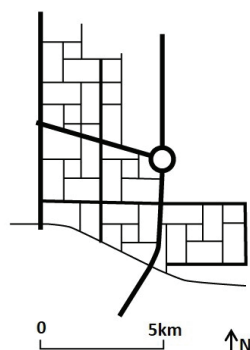
In 2004 SEMPLA, still under Jorge Willheim's Guidance, launched an urban design competition called Bairro Novo<sup>11</sup>, contemplating urban the development of the area of the operation. The competition had the goal to establish an Urban Project for the same three wide plots of the Olympic Village, targeting development proposals adapted to the OUAB's guidelines (Sao Paulo, 2004).

Important moment to discuss urbanism as a propositional discipline in contemporary Sao Paulo<sup>12</sup>, the competition aimed to adapt the OUAB to new demands and dynamics of the real estate market in the city – what showed signs of recuperation – and to the possibilities brought by the new master plan (PDE 2002) and its new urbanistic instruments.

The urban project should not only define strategies and actions but also design new urban tissue, redefine land structure, establish a new morphology in the remaining public land (occupied mainly in concession) and private plots (Telefônica and Gleba Pompeia plots). The urbanistic plan had a pre-defined program (with about 80% of its area to be used for residential projects, opposed to the initial Operation's program), should be therefore, the *"backbone of the re-urbanization process and an instrument for an effective dialogue between municipality, developers, land owners and inhabitants in general"* (PMSP, 2004).

The winner<sup>13</sup> proposed an alternative to what he called "market led city" (FURLAN et al, 2004), seeking to conciliate car circulation to the traditional uses of public realm in its urban design proposal, defining wide sidewalks, formal unity by means of uniform six story-high buildings blocks, articulating diversity of demand and different typologies to public spaces.

Figure 3: Scheme of Bairro Novo's proposal for territorial restructuring.



Source: Drawn by the authors.

The design proposed a cartesian arrangement of the road system, organized in wide blocks of 318m by 318m, subdivided by secondary roads, prioritizing pedestrian flows. Land Parceling premises were based on small, regular lots of 1250m<sup>2</sup> to 2500m<sup>2</sup> with the objective of pulverizing the participation of different private stakeholders in the project. Mixed use was proposed on the main avenues, contemplating commercial activities in the ground floor and residential uses in the intermediary blocks (Figure 3).

The Project was not carried further for several reasons. Among them, we highlight: the fragilities and indefinities of the project when facing the complexities of the site's preexistences (SALES, 2015; ÁVILA, 2015); the difficulties in implementing the instrument urban concessions and creating the mixed managing company [Sociedade de Proósito Específico] to enable the public coordination of the project (BARROS e PINA, 2009); and the technical and political indispositions of the authors of the projects, the technicians of the municipality, and the municipality's executive power (BERNARDINI, 2015; MALERONKA, 2015; SALES, 2015 e ÁVILA, 2015). The contract was finally suspended in 2007 (PMSP, 2009), with the justification that the OUAB fund could not remunerate projects, according with its statute<sup>14</sup>.

Despite not being materialized, Bairro Novo was the first large scale urban project proposed to the reconversion of an industrial area of the city. It was defined by means of a competition organized by the municipality of Sao Paulo, combining definitions of urban design with project management, and the reorganization of the

**13** A complete evaluation of the competition can be found at: NETO, Gustavo Pires de Andrade. *Pensando a cidade no Século XXI: O Concurso Bairro Novo em São Paulo*, 2004. TFG – FAUUSP: São Paulo, 2006. An evaluation of the Project according the "sense of urbanity" criteria can be found at: BARROS, Raquel R. M. Paula; PINA, Sílvia A. Mikami G. Uma reflexão sobre assentamentos humanos mais sustentáveis: o projeto urbano Bairro Novo. *Anais ELECS*. Recife, 2009.

**14** It is consensual among the interviewees that the Project had technical problems and there was resistance between the secretaries involved (Housing, Transportation, Public Services) in relation to its development. The public dispute was given by means of newspaper articles and declarations and through a series of papers published by the online journal *Arquitextos*. According to Bernardini (2015), this dispute was present and exposed in the *Achitectural Bial of Sao Paulo* in 2006.

land structure. Contemplated the organization of a financial scheme in its own and the directing of real estate activity, in a real estate operation to be directly coordinated by the municipality.

#### THE DESIGN OF THE “CORPORATIVE URBANISM”: JARDIM DAS PERDIZES.

Jardim das Perdizes is a private real estate enterprise promoted by Tecnisa and AGRA, currently under construction on the land previously owned by the company Telefônica. The plot was one of the three un-parceled and vacant wide scale lots in which the Bairro Novo Competition was laid upon.

Given its scale – 250ha – and the way it was developed, it can be considered what Fernandes calls “Corporate Urbanism” (FERNANDES, 2013:83) in her critique to contemporary urbanism, characterized by the dissemination of wide scale private led interventions, enabled by the “financialization”<sup>15</sup> of real estate market and a deregulation processes supported by the state.

The plot was acquired by Tecnisa in 2006 via a public auction, in which the Telefônica company had invited the main developers of the city to participate. The decision to invest in such a large enterprise was directly related to the planned Initial Public Offering (IPO) of the company. As many others investors in Sao Paulo at the time, Tecnisa was preparing to launch its capital shares in the stock exchange market in order to attract more investors and there was a need to enlarge its land bank and business perspectives. The funds collected with the IPO allowed Tecnisa to acquire the entire plot without any partners. After the expiration of the public interest decree on the area, Tecnisa sold 25% of the business to AGRA, for 50% of the value invested and carried on with the project (NIGRI, 2015).

Nigri (2015) explains that instead of promoting one single development using the whole lot, they preferred to divide the area into several lots in order to minimize the risk several real estate enterprises and would give them flexibility in the long run, enabling changes in the program offered (mix of uses, real estate typologies and real estate products). Yet the allotment signified a different approval process in the municipality and the mandatory destination of around 40% of the gross area, following the rules of the land parceling laws (Federal Law 6766/79 and Municipal Law 9413/83). Nevertheless, he argues, to carry on with one development of 250ha would make it “*unapprovable (sic)*” (NIGRI, 2015-s/p.).

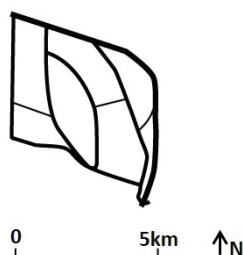
SEHAB and EMURB were able to negotiate some aspects of the design<sup>16</sup> during the land parceling approval, involving mainly the road system’s design, the position and proposition of the institutional and green areas, despite the absence of precise guidelines in the law of the operation and the lack of a previous design for the parceling of this plot.

The road system was defined organically, forming a panoptic scheme with the public park positioned in the central portion, oriented from north to south (figure 4). All the remaining residential plots designed as gated communities were placed around it, positioned facing the park and backwards to the city. The non-residential plots were located in a separate portion, closer to the Pompéia viaduct that connects the residential development to the southern area of the railway.

<sup>15</sup> Some author, including Ana Fernandes (2013), attribute the mass scale emergence of wide scale real estate enterprises, organized as enclaves in the Brazilian cities from the early 2000s onwards, to the financialization of the real estate market – which consists in the opening of capital of real estate companies in the stock market – and also to the creation of securitization systems and real estate funds.

<sup>16</sup> Bartalini (2015) points that this would not have been possible if there was not a good relationship between the two involved secretaries SEMPLA e SEHAB. The two secretaries were college colleagues and had the support of Mayor Gilberto Kassab (2006-20013, PFL, DEM, PSDB). They oriented the two teams to work together on this project. Emurb, along this period, was transformed in SP Urbanismo, and was able to participate in the discussions, since the nominated secretaries acted in favor of the process.

Figure 4: Land parceling scheme of Jardim das Perdizes.



Source: Drawn by the authors.

There were limitations to the urban design strategies proposed by the public power, since the allotment's design respected the rules of the land parceling law, a generic regulation which only defines percentages that need to be reserved for institutional uses, public uses and road system.

It became important, for both stakeholders, to create a large and accessible public space out of this allotment, assembling the donated areas into one large plot instead of small and fragmented leftovers from the recently created street blocks and private lots, as it is commonly seen in other usual allotments around the city.

However, its central position in relation to the closed developments created reinforces the sequence of enclaves represented by the wide scale blocks, occupied by gated enterprises.

The plot, with the size of a neighborhood, had enough scale to generate value and create a location on its own, to control the variables involved in local urban development, applying the condominium rationality even if defined as a set of condominiums, designed to “internalize externalities” (MALERONKA, 2015-s/p.), meaning the size of the development enabled to solve internally any problems the urban context of its surroundings might present.

It is consensual that the development mobilized the market on its own (BARTALINI, 2015; MALERONKA, 2015; NIGRI, 2015), increased market expectation along the seven years prior to the market launch of the first of fourteen planned developments. “The Market is led by Market” said Maleronka (2015), meaning that there are some regions, such as OUAB, which only become an opportunity after the first development is successfully done, disregarding the municipality's induction intentions, in a very common market practice: “*concentrate and, at the same time, segregate*” (MALERONKA, 2015-s/p.). This is the case of Jardim das Perdizes.

#### **THE CONSORTIUM URBAN OPERATION AGUA BRANCA (OUCAB)**

The Telefonica plot purchase in 2006 and its development along the following years have brought new features to this scenario, mobilizing SP Urbanismo to prepare a revision of the OU plan, embodying the urbanistic instruments enabled by the City Statute and the 2002-2012 Masterplan, with the purpose of matching its goals to the existing material conditions of the site and city's market dynamics.

As Alvim et al (2011) highlight, the loss of the plot – equivalent to 25% of the Bairro Novo competition site – risked the viability for a future structuring design, turning urgent the parceling proposals for the other main public and private wide scale plots still present in the area. A new urban project was necessary.



The experience of negotiating with the developer, represented by Jardim das Perdizes, reflected on the law's revision. Bartalini (2015) explains that, when it comes to a negotiation between the entrepreneurs and the public power, it represents a clash between the real estate market rationality – which looks for solvable demand and profit – versus the logic of the city, of a more complex character, plural and communal. The compromise was laid upon what was explicitly required by the law. The way to transcend this clash of different rationalities should be by defining within the law of OUCAB some aspects of form.

It became clear that real estate activity should not be an end in itself but the means to materialize defined spatial intentions, as comprehensive functional and formal transformations. Market dynamics should be activated with the purpose of achieving broader goals.

From 2006<sup>17</sup> onwards, the OUAB revision process begun, aiming to adequate OUAB to The City Statute (2001) and the City's Masterplan (2002), which, together, increased the planning instrument options to be used in the Operation, such as the automation and “financialization” of the funding scheme, enabled by CEPACS's<sup>18</sup>, and Urban Concession. The revision should also adapt the program to new needs, increasing the residential stock and promoting low to middle income housing, to avoid gentrification, as seen in other Operations according to Montandon (2009b).

The urban plan concept started with the proposition of axial spatial guidelines: the redevelopment of the railway figure – promoting social housing and the protection and restoration of industrial heritage –, and the creation of an open space system along the existing natural drainage system and recovering landscape references (PMSP, 2009).

Five high density axes were proposed, North - South oriented (Figure 5), defined in parallel to the existing north-south road infrastructure. The axes were defined according to the existing vacant land and civic spaces: Gleba Telefonica (incorporating the parceling design of Jardim das Perdizes), Gleba Pompeia, the Playcenter plot – a former amusement park – and Memorial da América Latina, coinciding with the main stations and linear parks.

Real estate diversity and the materialization of high density axes would rely on a set of proposed interventions, limitations, and incentive strategies.

These strategies would enable the concentration of specific uses along the axis, with limits to the height of buildings in other areas, while incentivizing the construction of smaller housing units and private spaces of collective uses in the axis, avoiding dispersed urban development and reassuring a cohesive transformation (MALERONKA, 2015; BARTALINI, 2015).

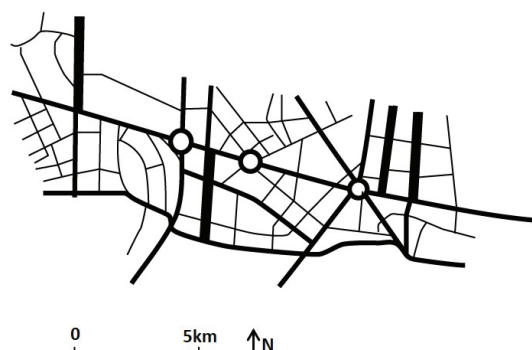
The proposal increased the building rights stock to 1.850.000m<sup>2</sup> (70% of residential land use)<sup>19</sup>, binding the increase to qualitative goals in the development.

**17** According to Ávila (2015), the processes initiated in 2006, however the first technical meeting registered in the public records dates from January 2009, after Kassab's reelection.

**18** In this context, the management of the operation incorporated the financialization by means of CEPACs (Certificado de Potencial Adicional de Construção), building rights certificates launched in stock market auctions by the municipality, and supervised by CVM, national autarchy which functions as a commission of receivables.

**19** From the 1360.000 m<sup>2</sup> of additional housing building rights, 50% (675.000 m<sup>2</sup>) are to be destined to the incentive housing typology.

Figure 5: Scheme of OUCAB's proposal for territorial restructuring.



Source: Drawn by the author.

Bartalini clarifies that the revision of OUAC was an outcome of a design process that tackled environmental, economic, urban and legal issues, in a multidisciplinary exercise, which resulted in the urban design proposal.

The project served as the basis for a specific regulation for the land use and occupation of the area, incorporated in the operation law. Beyond the urban design strategies that were, up to a certain point, incorporated in the law, the OUCAB brought a series of innovations as well, as the institution of an expanded perimeter – enabling the application of funds in an wider area than the initial perimeter of the operation – the own conceptualization of the high density axes, brought by the design defined a priori. Furthermore, the operation proposed the incentive typologies, smaller housing units, active façade, mixed use enterprises and public fruition of private land, all promoted by means of the incentives. The design guidelines were the basis for the definition of specific rules for the subsector E2: the definition of the configuration of public land, and the possibility of creating a fund to enable its transformation.

After almost one year being discussed in the city chamber, OUCAB was approved and enacted in December 2013 (Lei N.º 15.893/2013), without substituting the OUAB. Both started to coexist over the same territory. The discussion and negotiation process in the city chamber have altered some fundamental elements of the proposed bill, according to Bartalini (2015) and Maleronka (2015). One of the fundamental aspects was the distinct height limitations of the axes, creating differences in the allowed building heights in the areas outside and inside the higher density axes.

Bartalini (2015) considers that the modifications made during public consultations in the City Chamber were influenced by pressure from the real estate market. Nigri (2015) stated: “*It is our victory*”, when asked about the height control and added: “*It was not possible to develop otherwise*” (NIGRI, 2015), meaning the limitation imposed by the height differences would constrain market action in the area.

Nowadays, with only five years of its approval, OUCAB goes through a process of revision, currently going through its mandatory participation process. If approved, the revision will transform the spatial proposals of the current approved law, without the necessary time to enable its materialization.

## MATERIALIZATION OF OUAB AND FINAL CONSIDERATIONS.

The sequence of maps represent the adherence of private stakeholders and the plots they developed under the scope of the Operation. This timeline of the OUAB's materialization demonstrates the slow adherence to the operation along its first years, with a concentration of developments in the southern portion of the rail, outside the floodplain.

After the construction of the first four corporate towers in 1995, it was only in 2001 that a public university acquired building rights to develop the first enterprise north of the rail. Most requests until 2005 were located around the Barra Funda station, on the edge of the floodplain. The first ten years were of a very slow or almost inexistent adherence to the Operation by the private market since it was not the direction of the main real estate investments of the city at that time (BARTALINI, 2015; MALERONKA, 2015).

According to Maleronka (2015) the railway, as a physical and psychological barrier, discouraged the market to act in the area, justifying the slow adherence to the Operation in the first years. The authors points that from 2006 until 2012, the economy growth increased the demand for real estate units, and some developers opened new frontiers of real estate development in the city, since there was more financial capital being applied in the real estate sector. Other areas of the city were also transformed, according to other instruments based on the concept of Created Land, such as the instrument called Onerous grant of building rights [Outorga Onerosa do Direito de Construir (OODC)]<sup>20</sup>. Once the additional buildings rights stock was wearing out throughout the city, developers started to increasingly invest in unexplored territories, such as the area of OUAB.

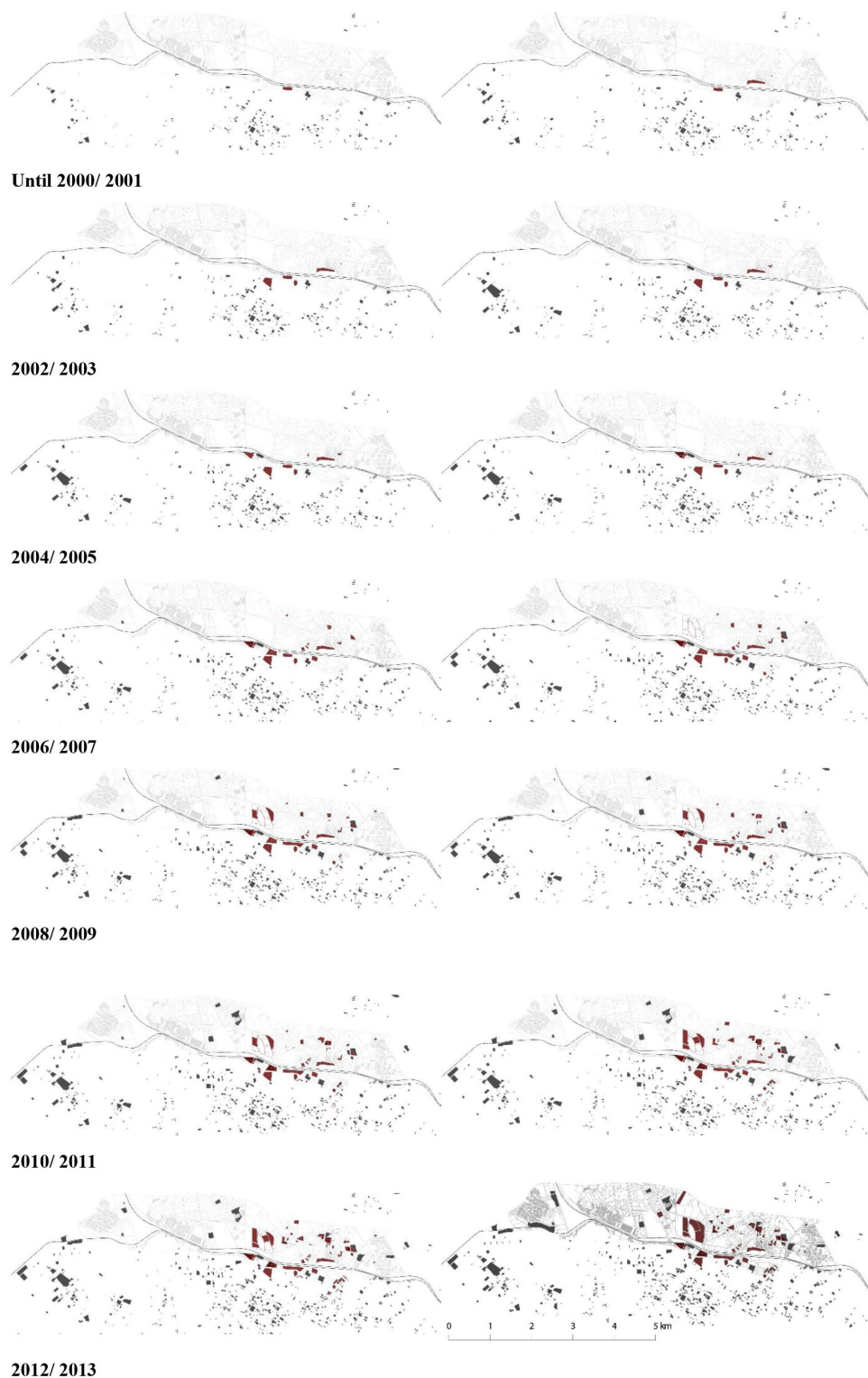
The market, explained Maleronka, is guided by opportunity, plot availability and solvable demands for real estate products. In this period, the opportunity was given by the post-industrial areas, presenting wide scale plots in which the most common typology of the time, wide scale gated communities, could fit into with very little adjustments. Once other post-industrial areas were saturated, new areas were redeveloped. This was the case of the area between Lapa and Barra Funda, involving the perimeter of OUAB.

The analysis shows an intensive speculative process right before the approval of OUCAB. Only in 2013, 21 requests were filled, consuming 30% of the non-residential stock, a volume that has not being consumed throughout the whole period of OUAB's existence. The most common typologies materialized in the area of OUAB were residential gated communities and corporate towers.

The industrial land structure favored the implementation of gated communities, typologies that are isolated islands within the urban fabric, in a way that the typologies no longer depends on the mesh – the “richness, variety and difficulties of the urban project” (SOLÀ-MORALES, 2008) - disappears.

<sup>20</sup> About the concept of Created Land and the instrument of Outorga Onerosa do Direito de Construir: based on the *Plafond Legal de Densité* of the Paris Mastertplan, the discussion about Created Land realized in 1975 by the urbanists of CEPAM has evolved in the 1991 Masterplan, realized during the municipal administration of Luiza Erundina, with the goal to obtain revenue to develop the city, going beyond the land regulation as it was in France.

Figura 6: Timeline of OUAB's materialization. Plots developed considering the rules of OUAB are in red. Plots developed without the rules of OUAB in gray:



Source: Drawn by the author, based in the Mapa Digital da Cidade (2004), updated with new allotments, EMBRAESP database (1995-2013) and the data from the adhesion of OUAB (until December 2013).

The objective of this paper was to revisit the Urban Operation Agua Branca as the instrument which proposed to reorganize the territory between Agua Branca and Barra Funda – an area which went through a process of productive restructuring, becoming expectant –, explaining its materialization process, permeated by a sequence of urban design strategies that did not materialize, questioning the reasons why these projects did not materialize.

The critique on urban operations is mainly related to the fact that it creates an “urbanism of exception” in which “*solutions are punctually and arbitrarily formulated in spite the rules and norms*” (FERNANDES, 2013: 92). Most of these critiques are based on the fact Urban Operations contradict agreed and pre-established regulations which, in theory, arose from a qualified public debate, understanding that the first wave of Urban Operations did not rely on participatory projects, not in its conception, nor in its management<sup>21</sup>. Thus, as a common sense, Urban Operations, are considered a framework that promoted transformations in the urban landscape without a proper debate.

Yet, there is not much difference between the processes of city materialization and the typologies materialized in Urban Operations and other areas of the city in the last twenty years, summed by a transformation of the urban tissue which produces enclaves over wide scale industrial plots as corporate high-rise building and more recently upper and middle class residential gated communities (CASTRO, 2006; MONTANDON, 2009; SANTORO, 2015). The way these typologies materialize present few or no relation with surrounding pre-existences, fragment urban meshes, promote barriers, present isolated buildings in wide plots with walled perimeters, which deny context and increase segregation processes, representing “*obstacles, frontiers and fractures*” (FERNANDES, 2013:101) in the urban tissue.

The scenario presented in the time frame of this research, combining economic expansion of the 2000s to new urban regulation, promoted the gradual sprawl of cataclysmic money (JACOBS, 1961) in Sao Paulo, materialized plot by plot due to the logic of conditional adherence to these regulations – OODC and OUs. It promoted what is here being called the conditional urbanism, in which materialization happens **if** developers adhere to the municipality’s visions, which until now show quite scarce spatial structure for the territorial restructuring. Therefore this transformation is not predefined, but conditioned to market interest.

Presenting the same typologies (Maleronka, 2010), it is clear that, as pointed by Fernandes (2013), the existing rules, based on rates and projections, design abstract space, or legislative space, without properly defining relations with the landscape and its surrounding urban tissue. These rules are detached from the physical characteristic of urban space, therefore are reduced to quantitative aspects – as building rights, FAR, coverage areas – but do not relate to the qualitative character of developments.

Yet, what the contemporary critique misses to mention is that to establish these relations, one has to design the urban space and define the relations between the different urban elements (typology, mesh, tissue). In this sense, design is a necessary tool to increase quality of the planning of territorial restructuring. The Urban Projects – based on urban design – can be, therefore, not the producers of the mentioned and criticized urban discrepancies, but the mediating elements needed to establish connections between the targeted territorial reorganization, the contemporary materialization and the preexisting urban tissue, being contextual, critical and socially consensual.

21 This changes after the approval of the City Statute in 2001, which defines and regulates the consortium urban operations as a “set of interventions and measures coordinated by the municipality, with the participation of owners, inhabitants, permanent users and private investors, with the goal of reaching structural urbanistic transformations, social improvements and environmental valorization” (Estatuto da Cidade, 2001 - section X), highlighting the participatory process, by means of the regulation of a mandatory managing counsel for each operation, to be established with the participation of several sectors of civil society.



The OUAB was elaborated to transform land uses, densities, flows and typologies in the area between Barra Funda and Água Branca, in a process of industrial reconversion, inducing transformations of the urban landscape without defining its form or establishing its general urban design strategy, guiding this transformation. The changes in the landscape occurred due to the – initially low – adhesion of private stakeholders, having as a consequence the generation of a small revenue to fund the public interventions intended. The result of this materialization process is an improvised set of distinct and dissociated fragments.

The first Urban Design proposals, the Olympic Village Project (2001) and Bairro Novo Competition (2004), involved the definition of urban form proposing a transformation of the urban element's physical characteristics (Typology, mesh and tissue) and reordering the land structure, previously based in the industrial typology. Despite not implemented, they offered visions of a possible spatial reorganization of the area, triggering speculative processes.

In 2006, the risky acquisition of Telefonica plot by Tecnisa, along the increasing adherence of private stakeholders, triggered EMURB, nowadays SPUrbanismo, to define the new project to the area.

This proposal generated the Urban Operation Consortium Água Branca [Operação Urbana Consorciada Água Branca – OUCAB] (Law nº 15.893/2013), which partially defined the area's transformation, based on private investments, outlining some aspects of urban form, envisioning a gradual redevelopment of urban tissue around defined and designed new high density axes and the land parceling of vacant wide plots.

The Olympic Project and Bairro Novo were objects of definition, which never materialized. Jardim das Perdizes materialized a vision defined by the market. The three existing projects have targeted the same parcels, yet only the market vision materialized, as it generally does in other areas of the city, despite being inside an urban operation and that parceling of wide scale plots was one of the OUAB's guidelines for interventions. It consists in a lost opportunity for the municipality, to finally materialize an urban project based on wider collective interests.

Throughout this territory, there have been some redevelopments with high-rise gated communities appearing in the skyline, contrasting with the predominant industrial landscape and the scale of dense low-rise housing patches. Yet these developments materialized due to market dynamics and the saturation of other former industrial areas in the city, not due to the induction mechanisms of the operation itself. The operation, functioning as a project of projects, to a fragment of fragments, demonstrated to be ineffective in restructuring this postindustrial territory, since it did not tackle the main characteristics of its urban form: the typology, the mesh and the land structure, functioning only as another instrument to which the market can adhere, within a complex set of overlapped regulations.

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