The Transformation Game

A research into the municipal boundaries and means of development optimisation of transformation projects

Jelle Heijstee P5 Report Master Thesis June 2020 Delft University of Technology

Colophon

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Preface

This thesis is the result of one year of research and represents my graduation thesis for the master program Management in the Built Environment at the Faculty of Architecture of the Delft University of Technology. The research was carried out within the graduation laboratory Urban Development Management, under the supervision of Dr. F.A.M. Hobma and Dr. Hilde Remøy MSc.

This research focuses on transformation projects, and the negotiations between developers and municipalities when applying for a change in the land-use plan or environmental permit to deviate from it. This research provides insight into the municipal requirements imposed during this application that may form a problem in transformation projects. The research also looks at what optimisation possibilities a developer could use to make his transformation project feasible after all.

This final result, however, could not have been achieved without any guidance. First and foremost, I would like to thank my main graduation mentor Mr. Hobma and second graduation mentor Mrs. Remøy from Delft University of Technology. I would like to thank them sincerely for their help and valuable advice during the process. At all times I was able to ask for guidance which I experienced as very pleasant. The challenging questions, their knowledge and expertise, but also their enthusiasm and continuous interest in my research kept me on my toes and contributed to this final result.

In addition, I would like to thank everyone in the field who was willing to cooperate for their hospitality, time and effort. The information I received from them, and interviews I was able to conduct, have contributed greatly to the realisation of this thesis.

Finally, I would like to thank in particular my parents, girlfriend, brother, other family members, housemates of the Kloosterkade and friends of the premaster for all the advice and support I received during my time as a student in Delft. I can say with certainty that without them, I would not have been able to get to where I am now. My sincere and heartfelt thanks for all your support.

Whether you are interested in transformation, project optimisation, construction in general, or are an absolute layman in one or all of these areas, please enjoy reading this thesis. I hope this report can give you some insight into the municipal requirements and optimisation possibilities of transformation projects. In any case, this research has been carried out with great pleasure.

Jelle Heijstee
Delft, June 2020

Management summary

Problem field

The population of the Netherlands is growing to an estimated 18 million people in 2029 (CBS, 2018). This growth of population also increases the need for new homes. A coalition of real estate developers, investors and contractors stated that they want to build one million homes by 2030 (RTL nieuws, 2018). These new houses will have to be built somewhere in the Netherlands and the transformation of existing real estate can be part of the answer to this problem. Transforming existing real estate is also a more sustainable solution, as this brings a more efficient use of the inner-city urban environment, and the already scarce green in the Netherlands is spared (Kohlman & Tragter, 2017).

According to these findings one could say that real estate transformation is a possible solution to the housing shortage in the Netherlands. Nevertheless, the transformation process has its own complications and problems that come along with it. There are especially barriers when the existing land-use plan has to be changed in order for new developments to take place. Problems in this case arise when municipalities demand so much of the developers that they cannot make a profitable business case anymore.

The problem statement of this research thus starts with the fundamental problem of the housing shortage in the Netherlands. It is said that the transformation of inner-city areas can solve this problem for 75% (Planbureau voor de leefomgeving, 2016), but the transformation 'game' has its own problems. One of these problems that has not been researched yet is the excessive requirements of municipalities when applying for a change in the land-use plan or environmental permit by the developer. This problem of municipalities stacking all kinds of requirements in order for planning participation in the transformation initiative will be central in this research.

Research questions

The main question of this research is a binding of two research questions on the process of real estate transformation. The main research question that is formulated is as follows:

How do municipal policy requirements form an obstacle to transformation projects, and what ways of project optimisation are at hand to still make a financially feasible transformation project?

The first part of the main research question is focussed on the part of the municipality in this problem statement. It looks at the judicial boundaries of what the municipalities can ask when developers apply for a deviation of the land-use plan and how this can form a barrier. The second part of the main research question looks at the problem from the other side and doesn't focus on what municipalities may do wrong, but focusses on what developers could do better. This second part of the question aims to find an answer to what ways of project optimisation developers can use in order to still make a feasible transformation project even though municipalities ask high requirements.

Research sub questions

In order for the main question to be answered correctly several sub questions have been formulated to better understand the problems and to find the answers. The sub questions are as follows:

i. What is the definition of transformation?

ii. What is the role of the municipality and the developer in the transformation process?
iii. What does the process of real estate transformation look like?
iv. What does the legal process look like when developers apply for a change in the land-use plan or an environmental permit for deviation of the land-use plan, and what terms and conditions come along with it?
v. What is project optimisation and what possibilities can a developer use in order to still make a feasible transformation project?
vi. What municipal requirements cause problems during negotiations for a change in the land-use plan or an environmental permit for deviation of the land-use plan in practise?
vii. What ways of project optimisation do developers use in practise to make transformation projects feasible when a municipality sets excessive requirements?

Methodology

Several methods will be used in the research, being literature review, case study and interviews.

Literature review

The research will begin with investigating from the literature point of view what requirements the municipality can set in the event of a change in the land-use plan, and the legal limits associated with this. This will be done by making a literature review. The literature review is used to place the project in the right theoretical starting point and to contribute to the state of knowledge of the subject. The information obtained through the literature review concerning the legal aspects, regulations, policy and the transformation process provides an overview of what is known in theory and contributes to the general knowledge about the subject.

Explorative interviews

With the knowledge of the literature research at hand, experts are interviewed. The semi-structured interviews are held in order to gain more insights about the problem and to be able to answer the questions that could not be answered by the literature research. The knowledge gained during the literature search can also be checked with experts in the field to see whether this information is correct and still applicable. For the interviews various parties working on transformation projects will be interviewed, these are the developer, lawyer, municipality and advisor.

Case studies

Several transformation projects will be analysed in the case study. It is desirable that the research has at least four cases in at least two different municipalities to compare with each other. A criterion for the cases is that during the cases problems arose because of the requirements that were set by the municipality. It is in this case important that the problems that arose were in fact caused due to excessive requirements that were set, and not due to other reasons such as that the developer payed too much for the land and buildings.

In practice, interviews will be held with experts as part of the case studies, being developers and municipalities. The expert interviews provide more in-depth information on the subject and the cases as the experts have a lot of knowledge and experience on the subject and have worked on the selected cases.

Research goal

The aim of this research is to fill the gap in literature and show which municipal requirements can form an obstacle in transformation projects and how developers can optimise their projects. By doing so, the ultimate goal is that the results of this research improve the transformation process and therefore contribute to new developments. The results of this research should function as a guideline or advice that developers can use in challenging transformation projects.

Results literature research

The literature research is focusses on what exactly is the meaning of 'transformation', the role of the developers and municipalities within a transformation project, the legal process and terms when applying for a deviation from the land-use plan, and ways of project optimisation that can be useful for developers in projects that seem unprofitable due to excessive requirements imposed by the municipality.

Definition of transformation

The terms 'adaptive reuse', 'redevelopment' and 'transformation' can be seen as different terms with the same definition. In this report the term 'transformation' will be used consistently to be exact and avoid confusion. Transformations projects can take place at area level as well as building level and always bring a clear change of functions and change of the land-use plan. Some of the possible characteristics of the projects are that they have a high risk profile, financial uncertainty and a long start-up phase.

Position of municipalities and developers

The municipality often takes the role of the director in transformation projects because of its social and public tasks and to ensure a good living environment. The municipality is represented by The Mayor and aldermen, or Municipal Executive, and the Municipal Council, who together form the municipal administration. The municipality has over the years decreased its involvement in transformation projects, though in many cases financial support from government is still needed.

In types of developers one can distinguish those associated with a construction company, independent developers, those associated with institutional investors, those associated with financial institutions, those that are part of companies with a different core business and delegated developers. Since the economic crisis of 2008, developers are losing the central role they always occupied in the value chain and their core competence of making risk-bearing investments. In transformation projects this can mean more and closer cooperation with the municipality and third parties.

Phases of project development

In development projects one can distinguish different phases, for example the initiation phase, definition phase, design phase, realisation phase and control phase. In the first phase of transformation projects plans get initiated. In this phase municipal requirements are set for the change of the land-use plan and negotiations between the developer and municipality take place. The initiation phase of transformation projects is therefore the most important phase for this research and will be further discussed in this report.

Legal process and terms

The use of all the land in the Netherlands is regulated in the land-use plan, that can be either a rigid, flexible or half-flexible land-use plan. When, for the benefit of a transformation project, a developer wants to

change one of these land-use plans he has three options. The most drastic one is to change the existing land-use plan for an entire area. A less drastic way in which a new land-use plan does not have to be made is if the existing land-use plan is half-flexible. The municipality can also draw up land-use plans for individual vacant buildings, these are known as postage stamp land-use plans or postage stamp plans.

Besides changing the land-use plan, a developer can also apply for an environmental permit to deviate from the land-use plan. He can either apply for an internal plan deviation, external plan deviation or for a minor exception. In addition, these minor exceptions can be combined so that larger transformations can be realised. For the internal deviations and minor exceptions the normal procedure of eight weeks applies, for the outer plan deviations the extended procedure of twenty-six weeks applies which can be extended by six weeks.

In order for planning participation to change of the land-use plan or for an environmental permit to deviate from it, the municipality sets requirements to which the transformation plan must comply. These requirements mostly come forth out of municipal policy that is drawn up for various areas. Plans must for example comply with spatial-, economic-, housing-, parking-, financial- and environmental policy. The municipality also has the policy freedom to set other requirements than stated in policies, or not to cooperate at all with an application. In various articles it is stated by developers that due to these requirements the feasibility of transformation projects is being comprised, resulting that sometimes offices are not transformed at all and being resold as offices again. Especially the building programme and the height of the ground lease can cause big problems. The percentage of social housing can even have such an impact that transformation projects turn out unfeasible. In addition, all developers also stated that it is mostly the stacking of requirements that cause projects to turn unfeasible. In one of the found articles it is stated that a transformation project is completely stalled due to the stacking of ever new requirements, despite the fact that the plan complies with municipal policy. From this article one can conclude that there should be a willingness from the municipality to cooperate. If a municipality does not want to cooperate the transformation can take a very long time and can sometimes in the end not be developed at all.

There are however legal boundaries to the requirements that municipalities can set. In a general sense municipalities must adhere to the principles of good governance and may not impose unreasonable requirements. The further legal limits of what a municipality is allowed to demand are regulated in many laws and regulations that fall under public law. These include among others the Housing Act, General Provisions Act, Spatial Planning Act, Land Development Act, the Building Decree and the Crisis and Recovery Act. Once agreement has been reached on the requirements, this is often laid down in an anterior agreement.

Project optimisation

When after calculations a transformation project turns out unfeasible, developers can optimise their projects in an attempt to still make it feasible. To do these calculations, developers can either use key figures, base their calculations on budgets, use the discounted cash flow method or do a residual value calculation. However, developers will most of the time use key figures when they optimise and recalculate transformation projects.

Two important ways to optimise projects is by reducing costs and increasing revenues. These costs that could be reduced are the investment costs from which the construction costs are the largest cost item on which money can be saved.

The investment costs can be optimised by building in phases. The project is than transformed not in one go, but in two or more phases, with each investment leading to a different exploitation picture. In the first phase buildings can also be rented out at low levels to give an impulse to the area. In addition, transformation in phases has the advantage of being able to respond better to technical developments, and even to changing trends in design and people's perceptions.

Form literature it can be concluded that if a developer needs to lower the construction costs he must first look at his costs for the façade, structure, installations, inner walls and general implementation, as these are the largest costs on which a developer can lower his expenses. The easiest way to do so would be to simplify the development plan by using cheaper materials and remove parts of the list of work to be carried out. Developers could however also organise work differently, like in-house construction and user involvement, which lead to different calculations. A more inventive mix of demolition, preservation and partial transformation, questioning whether relocation of the existing infrastructure is really necessary, more function-oriented remediation of soil pollution and avoiding expensive technical environmental provisions that do not substantially contribute to the environmental quality can also help decreasing costs. Municipalities can on their part optimise transformation projects by removing inappropriate cost components from land use, lowering the parking standard in high-urban areas and removing or moderating additional quality requirements in the areas of architecture, traffic and the environment that are not appreciated by end users.

There are also various ways to optimise the revenues of transformation projects. The market, location and building characteristics are the most important factors that determine the revenue of a project. Since the developer cannot change the location of the project, he must look at possibilities to optimise the building by, for example, adding or combining floors or use the plinth. Other possibilities to optimise the revenues is by making the programme more in line with the market, or to deal with the water storage task in a more inventive way. Municipalities can on their part optimise revenues of transformation projects by reducing the proportion of social rental housing with a very low rental price and partly replace them with social owner-occupied homes. Another possibility is optimising the usage of land by intensifying or densifying the development plan and increasing the FSI. Though densification and high-rise buildings are not always the right formula and sometimes dilution of the buildings in the land use can be more favourable.

Besides reducing costs and increasing revenues the other important possibility to optimise projects is by using different financing sources and methods. Financing sources as sale and taking ground lease, crowdfunding or using project partners, are financing sources that can increase the feasibility of transformation projects. Developers can also use other financing methods to reduce and shorten the risk of capital requirements. This can be done by phasing the development in subprojects. The investment volume will then remain limited in size and time. In other words, turning the bathtub model into a sinks model.

Explorative interviews

The explorative interviews were conducted in order to learn more about the research problem and subject, and to answer the questions that could not be found in the literature. In order to get a good picture of the subject, different parties were interviewed who can shed light on the research problem from different angles.

Results

When transformation projects get initiated by the developer, he can buy the land speculative at an early stage with risk, or he can first discuss the building possibilities with the municipality. The negotiations that then follow about changing the land-use plan start with exploratory conversations and work towards the joint signing of the anterior agreement. In these negotiations it is very important that the plan is in line with the municipal policy and the municipality is convinced that the plan must be developed.

The requirements set during these negotiations can arise from policy or can be imposed during the process. The requirements imposed during the process cause the most problems because these are not known to the developers in advance. From the municipal side, they state they set these requirements in order to guarantee the safety, health and liveability of the city. One reason for project-specific requirements to be set is that practice is often quicker to responding to new trends and developments than the municipality has drawn up policy documents and regulations. The majority of the transformation projects therefore involve project-specific requirements as customised work is needed. The most common requirements that cause problems are programmatic requirements, sustainability requirements, requirements regarding exploitation costs and parking standards. Furthermore, it is not so much one specific requirement that causes problems, but rather the stacking thereof. Changing municipal policy during a negotiation process is also a common problem.

Developers state that the municipality has the freedom to require what they want, and there are no legal limits to this. They also indicate that as a developer you don't want to antagonize a municipality, so you have to accept the municipality's requirements. Lawyers on the other hand state that there are in fact legal boundaries to what a municipality may require. This is regulated in many different public laws to which a municipality also must comply when it imposes requirements in a private law anterior agreement. However, case law on municipalities being sued for requirements they impose is rare.

In order to optimise their transformation projects developers can go back to the negotiating table with the municipality, reduce costs or increase revenues. If the developer wants to refute requirements, this will have to be done with good arguments. To reduce costs, the investment costs are often critically examined again. And developing smaller units can increase the revenues. Other, or more detailed ways of project optimisation are not given by the interviewees as they state that in most projects it comes down to the given three possibilities.

Case study

Based on the predetermined selections criteria, the following transformation projects were chosen to use for the case study:

- De Hooch; this is a completed transformation of an office land-use into a high-end apartment building in the centre of Amsterdam.

- De Karsp; this a completed transformation of an office land-use into two residential towers.
- Kabeldistrict; this an ongoing area transformation of an industrial area into a live-work environment in Delft.
- Brandsmafabriek; this an ongoing transformation of an old factory into a live-work environment.

All cases were individually analysed and all results were eventually analysed in a cross-case analysis.

Results

A diverse set of municipal requirements can cause problems to transformation projects in practise. These requirements are project-specific requirements as there is no blueprint for transformation projects. It therefore can not be said in a general sense which municipal requirements cause the most problems in transformation projects. It can also be concluded that it is not only the requirement itself causing problems in the negotiations for the land-use change, but more factors play a role in this issue.

One factor is that having the intended transformation plan to comply to municipal policy is no guarantee for good negotiations and a successful transformation project. Presenting the transformation plans in such a way that the municipality is convinced of the importance of the project can be seen of a higher importance for success. Complying the first design with multiple policies does however increase the chance that the municipality will be convinced. Another possible factor that causes difficulties in transformation projects is that no developer has a predetermined negotiation strategy in which they set their focus for the negotiations. If strategies would be made these could be align with to those of the municipality, making the objective of both parties clear and ultimately leading towards a good relationship, which is seen as a key success factor by the municipality.

Regarding to the project optimisation, it can be concluded that this method is not used often for increasing the feasibility of the analysed transformation projects. In only one of the analysed projects the developer used an optimisation possibility by changing the floor plans in order to comply with noise standards. Seeing that this was the only found optimisation it can be concluded that whenever difficulties arise in negotiations the developer will mostly choose to go back to the negotiating table with the municipality. Using optimisation possibilities in order to make the project financially feasible is not the answer in that case. The changes that have been made in the designs of the projects have been made for planning reasons and not to optimise the projects financially.

Main conclusion

For the conclusion of the research an answer is given to the main question of the research. The main research question of this research is stated as follows:

How do municipal policy requirements form an obstacle to transformation projects, and what ways of project optimisation are at hand to still make a financially feasible transformation project?

The first part of the research question focusses on how municipal requirements form an obstacle. It is found both in literature as well as in empirical research that municipal requirements can certainly form an obstacle to transformation projects. It is in this case mostly the stacking of excessive municipal requirements in order for planning participation to change the land-use plan or for an environmental permit for a deviation of land-use plan that cause the most problems. From the literature research it was concluded that the requirements regarding the programme and ground lease cause the most problems.

However, from the explorative interviews is was concluded that, besides the programme requirements, it were not the requirements regarding the ground lease that caused most problems, but those regarding sustainability, parking standards and exploitation costs. In addition, from the case studies it was concluded that it was none of the above-mentioned requirements that caused most problems, but it were other requirements regarding for example building height and noise standards. From all these different findings it can be concluded that in a general sense it can not be said what municipal requirements cause the most problems in transformation projects.

It can however be concluded that especially the requirements that do not originate from policy, but are set during the negotiation process, cause most problems in transformation project and can form an obstacle. The problem of these project-specific requirements is that these are not known by the developer in advance, making it not possible to take them into account in the development plans. Factors that cause these project-specific requirements to occur is because either policy has changed during the course of the project or the municipality uses its policy freedom to deviate from existing policy. The latter appears to be used many times, as in most transformation projects customised work is needed. It can therefore be concluded that designing a transformation plan that complies with all policies is no guarantee for smooth negotiations and a successful transformation project.

The second part of the main research question focusses on what ways of project optimisation are at hand in order to still make a feasible transformation project. From the literature research it was concluded that there are various ways for developers to optimise their transformation projects by either reducing costs, increasing revenues or using different financing methods. From the empirical research it was however concluded that almost none of the optimisation possibilities found in literature were in fact used in practise. The reason for this is that the municipal requirements do certainly cause problems to the transformation project, they do however not so much in a financial sense. Design changes in transformation projects are made more for planning reasons, so to comply to municipal requirements, than that plans get optimised in order to make them financially feasible. Whenever problems arise, developers will therefore always choose to go back to the negotiating table with the municipality and try to refute requirements with good arguments, making financially optimising projects not the suitable answer to this problem. Developers should instead focus on convincing the municipality of the importance of the transformation, and building up a good relationship.

Recommendations for practise

Based on the research conducted and the conclusions that have been drawn from this, various recommendations can be given to both developers and municipalities that work on transformation projects.

Developers

- *Develop negotiation strategy.* This can be done by predetermining the most important aspects and bottlenecks, thereby fully knowing the rules of the game.
- *Contractually law down determined requirements.* By doing so it makes it is not possible for the municipality to keep changing its requirements, and therefore brining more certainty to the project.
- *Keep legal check in mind.* Developers should keep in mind that obtaining legal advice and addressing this to municipalities, does not necessarily mean that legal proceedings have to follow.
- *Complying to policy is no guarantee for success; convince municipality of importance transformation.*

- *Focus on relationship.* This can be done by maintaining a good dialogue with each other, being transparent about dilemmas and enter a process with respect to each other.

Municipalities

- *Assemble development teams.* Development team with the people who can make decisions and who can meet with the developer on an agreed basis help the process go faster.
- *Retain policy.* More certainty is brought in transformation projects if the policy that was applicable at the time of the initiation will be retained throughout the transformation project.
- *Make policy more adaptive.* This can be done by stating that the overall plan has to be good, and it does not have to score a hundred percent on all different points in policy.
- *Be clear in decision making.* Municipalities should be more transparent about why new requirements are set or designs get rejected and give a good substantiation to this.
- *Update parking policy.* A possible solution can be to set minimum standards per dwelling instead of maximum standards.

Discussion

What was found in literature and practise differ much in this research. It was for example found in literature that there are legal boundaries to what requirements the municipality can set, and developers can thus appeal against municipalities. Though from the explorative interviews it was found that all developers stated that there are no limits to what a municipality can demand and that they almost never do a legal check to assess if the requirements can be set. The same applied for the found project optimisation possibilities; a lot of possibilities were found in literature though almost none of them were actually used in practise.

The results of this research also address a so-called sore point in the transformation process. Municipalities sometimes set all kinds of requirements that lawyers claim can not legally be set at all, but both municipalities and developers do not express themselves on this issue. After all, developers do not want to disrupt the good relationship with the municipality because they need the municipality in future projects, and seeing the issue is convenient for the municipality they too do not address it.

Recommendations for further research

The research of this report has come to an end and conclusions have been drawn, there is however also room for further research. The most important recommendations for further research will be discussed in this section.

- *Conduct case study with unsuccessful transformations*.
- *Conduct same research again in a few years when the new Environmental Act is in full use.*
- *Specify research scope.* The scope could be further specified in for example solely office building transformations, or solely area transformations.
- *Conduct more case studies.* For example in villages, or in cities outside the Randstad area.

Management samenvatting

Probleemstelling

De bevolking van Nederland groeit naar schatting tot 18 miljoen mensen in 2029 (CBS, 2018). Deze bevolkingsgroei vergroot ook de behoefte aan nieuwe woningen. Een coalitie van projectontwikkelaars, investeerders en aannemers heeft aangegeven in 2030 een miljoen woningen te willen bouwen (RTL nieuws, 2018). Deze nieuwe woningen zullen ergens in Nederland gebouwd moeten worden en de transformatie van bestaand vastgoed kan een deel van het antwoord op dit probleem zijn. Het transformeren van bestaand vastgoed is ook een duurzamere oplossing dan nieuwbouw, omdat dit een efficiënter gebruik van de binnenstedelijke stedelijke omgeving met zich meebrengt en op deze manier het schaarse groen in Nederland gespaard wordt (Kohlman & Tragter, 2017).

Het transformatieproces heeft echter ook zijn eigen problemen, en complicaties die ermee gepaard gaan. Er ontstaan vooral barrières wanneer het bestaande bestemmingsplan moet worden gewijzigd om nieuwe ontwikkelingen mogelijk te maken. Problemen ontstaan in dit geval wanneer gemeenten zoveel eisen stellen aan de ontwikkelaars dat ze geen rendabele businesscase meer kunnen maken.

De probleemstelling van dit onderzoek begint dus met het fundamentele probleem van de woningnood in Nederland. Er wordt gezegd dat de transformatie van binnenstedelijke gebieden dit probleem voor 75% kan oplossen (Planbureau voor de leefomgeving, 2016), maar het transformatie 'spel' heeft zijn eigen problemen. Een van deze problemen die nog niet is onderzocht, zijn de eisen die gemeenten stellen aan ontwikkelaars voor de wijziging van het bestemmingsplan of omgevingsvergunning voor afwijking van het bestemmingsplan. Dit probleem bestaande uit gemeenten die allerlei hoge eisen stellen en stapelen voor planologische medewerking aan het transformatie-initiatief staat centraal in dit onderzoek.

Onderzoeksvragen

De hoofdvraag van dit onderzoek is een combinatie van twee onderzoeksvragen die gericht zijn op de transformatie van vastgoed. Deze hoofdvraag van dit onderzoek is als volgt:

Hoe vormen gemeentelijke beleidseisen een obstakel voor transformatieprojecten en welke manieren van projectoptimalisatie zijn er voorhanden om alsnog een financieel haalbaar transformatieproject te realiseren?

Het eerste deel van de onderzoeksvraag is gericht op de gemeente in deze problematiek. Er wordt gekeken naar de juridische grenzen van wat de gemeenten kunnen eisen wanneer ontwikkelaars een afwijking van het bestemmingsplan aanvragen en hoe dit een barrière kan vormen. Het tweede deel van de hoofdvraag gaat in op het probleem van de andere kant en richt zich niet op wat gemeenten mogelijk fout doen, maar op wat ontwikkelaars beter zouden kunnen doen. Dit tweede deel van de vraag is bedoeld om een antwoord te vinden op de vraag welke optimalisatie mogelijkheden ontwikkelaars kunnen gebruiken om toch een haalbaar transformatieproject te maken, ook al stellen gemeenten hoge eisen.

Deelvragen

i. Wat is de definitie van transformatie?
ii. Wat is de rol van de gemeente en de ontwikkelaar in het transformatieproces?

iii. Hoe ziet het proces van vastgoedtransformatie eruit?
iv. Hoe ziet het juridische proces eruit als ontwikkelaars een wijziging van het bestemmingsplan of een milieuvergunning voor afwijking van het bestemmingsplan aanvragen en welke voorwaarden horen daarbij?
v. Wat is projectoptimalisatie en welke mogelijkheden kan een ontwikkelaar benutten om alsnog een haalbaar transformatieproject te maken?
vi. Welke gemeentelijke eisen veroorzaken in de praktijk de belangrijkste problemen bij de onderhandelingen over een wijziging van het bestemmingsplan of een milieuvergunning voor afwijking van het bestemmingsplan?
vii. Welke manieren van projectoptimalisatie gebruiken ontwikkelaars in de praktijk om transformatieprojecten haalbaar te maken wanneer een gemeente te hoge eisen stelt?

Methodiek

In het onderzoek zijn verschillende methoden gebruikt, zoals een literatuuronderzoek, casestudie en exploratieve interviews.

Literatuurstudie

Het onderzoek begint met een literatuuronderzoek naar de eisen die de gemeente kan stellen bij een wijziging van het bestemmingsplan en de daarbij behorende wettelijke grenzen. Het literatuuronderzoek is gebruikt om het project in het juiste theoretische uitgangspunt te plaatsen en bij te dragen aan de kennis van het onderwerp. De door het literatuuronderzoek verkregen informatie over de juridische aspecten, regelgeving, beleid en het transformatieproces geeft een overzicht van wat er in theorie bekend is en draagt bij aan de algemene kennis over het onderwerp.

Exploratieve interviews

Met de kennis die is vergaard in het literatuuronderzoek, zijn experts geïnterviewd. De semi-gestructureerde interviews worden gehouden om meer kennis te vergaren over het probleem en om de vragen te kunnen beantwoorden die door het literatuuronderzoek niet opgelost konden worden. De kennis die tijdens het literatuuronderzoek is opgedaan, is tevens gecontroleerd bij experts in het veld om te zien of deze informatie juist en nog steeds toepasbaar is. Voor de interviews zijn verschillende partijen geïnterviewd die werken aan transformatieprojecten. Dit zijn de ontwikkelaar, advocaat, gemeente en adviseur.

Casestudies

In de casestudie zijn vier verschillende transformatieprojecten geanalyseerd. Een vooropgestelde eis was dat het onderzoek ten minste vier cases betrof in ten minste twee verschillende gemeenten zodat deze met elkaar vergeleken konden worden. Een criterium voor de cases is dat er tijdens de cases problemen zijn ontstaan door de eisen die door de gemeente zijn gesteld. Het is in dit geval van belang dat de problemen die zich voordeden ook daadwerkelijk veroorzaakt werden door de te hoge eisen die werden gesteld, en niet door andere redenen zoals dat de ontwikkelaar te veel betaalde voor de grond en de gebouwen. In de praktijk zijn voor de casestudies interviews gehouden met experts, zijnde ontwikkelaars en gemeenten. De expertsinterviews geven meer diepgaande informatie over het onderwerp en de projecten, omdat de experts veel kennis en ervaring hebben over het onderwerp en hebben gewerkt aan de geselecteerde projecten.

Doel van het onderzoek

Het doel van dit onderzoek is om het gat in de literatuur op te vullen en te laten zien welke gemeentelijke eisen een obstakel kunnen vormen bij transformatieprojecten en hoe ontwikkelaars hun projecten kunnen optimaliseren. Het uiteindelijke doel is dat de resultaten van dit onderzoek het transformatieproces verbeteren en daarmee bijdragen aan nieuwe ontwikkelingen. De resultaten van dit onderzoek moeten fungeren als een leidraad of advies dat ontwikkelaars kunnen gebruiken bij moeilijke transformatie-projecten.

Resultaten literatuuronderzoek

Het literatuuronderzoek richtte zich op wat precies de betekenis van 'transformatie' is, de rol van ontwikkelaars en gemeenten binnen een transformatieproject, het juridische proces en de voorwaarden bij het aanvragen van een afwijking van het bestemmingsplan, en manieren van projectoptimalisatie.

Definitie van transformatie

De termen 'adaptief hergebruik', 'herontwikkeling' en 'transformatie' kunnen worden gezien als verschillende termen met dezelfde definitie. In dit rapport is de term 'transformatie' consequent gebruikt om verwarring te voorkomen. Transformatieprojecten kunnen zowel op gebiedsniveau als op gebouw-niveau plaatsvinden en brengen altijd een duidelijke functieverandering en verandering van het bestemmingsplan met zich mee. Enkele van de mogelijke kenmerken van de projecten zijn dat ze een hoog risicoprofiel, veel financiële onzekerheid en een lange opstartfase hebben.

Positie van gemeenten en ontwikkelaars

Bij transformatieprojecten neemt de gemeente vaak de rol van regisseur op zich vanwege haar sociale en publieke taken zoals het zorgen voor een goede leefomgeving. De gemeente wordt vertegenwoordigd door de burgemeester en wethouders, ook wel het college genoemd, en de gemeenteraad, die samen het gemeentebestuur vormen. De gemeente is in de loop der jaren minder betrokken geraakt bij transformatieprojecten, hoewel in veel gevallen nog steeds financiële steun van de overheid nodig is.

In soorten ontwikkelaars kan men onderscheid maken tussen degenen die verbonden zijn aan een bouwbedrijf, zelfstandige ontwikkelaars, degenen die verbonden zijn aan institutionele beleggers, degenen die verbonden zijn aan financiële instellingen, degenen die deel uitmaken van bedrijven met een andere kernactiviteit en gedelegeerde ontwikkelaars. Sinds de economische crisis verliezen de ontwikkelaars de centrale rol die ze altijd hebben gespeeld in de waardeketen en hun kerncompetentie die altijd al bestond uit het doen van risicodragende investeringen. In transformatieprojecten leidt dit tot meer en nauwere samenwerking met de gemeente en derden.

Fasen van projectontwikkeling

In bouwprojecten kan men verschillende fasen onderscheiden, zoals de initiatiefase, definitiefase, ontwerpfase, realisatiefase en beheerfase. In de eerste fase van transformatieprojecten worden plannen geïnitieerd. In deze fase worden gemeentelijke eisen gesteld aan de wijziging van het bestemmingsplan en vinden hierover onderhandelingen plaats tussen de ontwikkelaar en de gemeente. De initiatieffase van transformatieprojecten is dan ook de belangrijkste fase voor dit onderzoek en staat in dit rapport centraal.

Juridisch proces en voorwaarden

Het gebruik van al het land in Nederland is geregeld in het bestemmingsplan, dat zowel rigide, flexibel als half-flexibel kan zijn. Wanneer een ontwikkelaar ten behoeve van een transformatieproject een van deze bestemmingsplannen wil wijzigen, heeft hij drie opties. De meest ingrijpende is het wijzigen van het bestaande bestemmingsplan voor een heel gebied. Een minder drastische manier waarop niet een nieuw bestemmingsplan hoeft te worden gemaakt is als het bestaande bestemmingsplan half-flexibel is. De gemeente kan ook bestemmingsplannen opstellen voor individuele leegstaande gebouwen, deze staan bekend als postzegelbestemmingsplannen of postzegelplannen.

Naast het wijzigen van het bestemmingsplan zelf, kan een ontwikkelaar ook een omgevingsvergunning aanvragen om af te wijken van het bestemmingsplan. Hij kan een binnenplanse afwijking, buitenplanse afwijking of kruimelgevallen regeling aanvragen. Daarnaast kunnen kruimelgevallen worden gecombineerd, zodat grotere transformaties kunnen worden gerealiseerd. Voor de binnenplanse afwijkingen en kruimelgevallen regeling geldt de normale procedure van 8 weken, voor de buitenplanse afwijkingen geldt de uitgebreide procedure van 26 weken die met 6 weken kan worden verlengd.

Voor planologische medewerking in het wijzigen van het bestemmingsplan of voor een omgevings-vergunning om af te wijken van het bestemmingsplan, stelt de gemeente eisen waaraan het transformatieplan moet voldoen. Deze eisen komen veelal voort uit het gemeentelijk beleid dat voor verschillende gebieden is opgesteld. Zo moet het plan voldoen aan het ruimtelijke-, economische-, woon-, parkeer-, financiële- en milieubeleid. De gemeente heeft echter ook de beleidsvrijheid om andere eisen te stellen dan in het beleid is vastgelegd, of om in het geheel niet mee te werken aan een aanvraag. In diverse artikelen wordt door ontwikkelaars gesteld dat door deze eisen de haalbaarheid van transformatieprojecten wordt ingeperkt, waardoor kantoren soms helemaal niet worden getransformeerd en weer worden doorverkocht als kantoor. Vooral het bouwprogramma en de hoeveelheid erfpacht kan grote problemen opleveren. Het percentage sociale woningbouw kan zelfs zo'n groot probleem zijn dat transformatieprojecten onhaalbaar blijken. Daarnaast geven alle ontwikkelaars aan dat het vooral het stapelen van eisen is dat ertoe leidt dat projecten onhaalbaar worden.

Er zijn echter ook wettelijke grenzen aan de eisen die gemeenten kunnen stellen. In algemene zin moeten gemeenten zich houden aan de beginselen van behoorlijk bestuur en mogen zij geen onredelijke eisen stellen. De verdere wettelijke grenzen van wat een gemeente mag eisen zijn in veel publiekrechtelijke wetten en regelingen geregeld. Het gaat onder meer om de Woningwet, de Wet Algemene Bepalingen, de Wet ruimtelijke ordening, de Grondwet, het Bouwbesluit en de Crisis- en Herstelwet. Als er eenmaal overeenstemming is bereikt over de eisen, wordt dit vaak vastgelegd in een privaatrechtelijke overeenkomst.

Projectoptimalisatie

Wanneer een transformatieproject onhaalbaar blijkt, kunnen ontwikkelaars hun projecten optimaliseren in een poging het toch haalbaar te maken. Om deze berekeningen uit te voeren, kunnen ontwikkelaars gebruik maken van kengetallen, hun berekeningen baseren op budgetten, de discounted cashflow methode gebruiken of een restwaardeberekening maken. Ontwikkelaars gebruiken, van de zojuist genoemde manieren, meestal kengetallen bij het optimaliseren en herberekenen van transformatie-projecten.

Twee belangrijke manieren om projecten te optimaliseren zijn het verlagen van de kosten en het verhogen van de opbrengsten. De kosten waarop kan worden bespaard zijn de investeringskosten, waaruit de bouwkosten de grootste kostenpost vormen. De investeringskosten kunnen worden geoptimaliseerd door gefaseerd te bouwen. Het project wordt dan niet in één keer gerealiseerd, maar in twee of meerdere fasen getransformeerd, waarbij elke investering leidt tot een ander exploitatieplaatje. In de eerste fase kunnen gebouwen tevens tegen een lage huur worden verhuurd om zo leven in het gebied te brengen en het een impuls te geven. Daarnaast heeft transformatie in fasen het voordeel dat er beter kan worden ingespeeld op technische ontwikkelingen en zelfs op veranderende trends.

Uit de literatuur kan worden geconcludeerd dat als een ontwikkelaar de bouwkosten wil verlagen, hij eerst moet kijken naar zijn kosten voor de gevel, de constructie, de installaties en de binnenwanden aangezien dit de grootste kosten zijn waarop een ontwikkelaar kan besparen. De eenvoudigste manier om dit te doen, zou zijn om het plan te vereenvoudigen door goedkopere materialen te gebruiken en delen van de lijst met uit te voeren werken te schrappen. Ontwikkelaars zouden echter ook het werk anders kunnen organiseren, zoals bouwen in eigen beheer en gebruiken van de betrokkenheid van gebruikers, wat tot verschillende calculaties kan leiden. Opties die ook kunnen bijdragen aan kostenverlaging zijn bijvoorbeeld een meer inventieve mix van sloop, het behoud en gedeeltelijke transformatie waarbij men zich afvraagt of verplaatsing van de bestaande infrastructuur wel echt nodig is, een meer functiegerichte bodemsanering en het vermijden van dure technische milieuvoorzieningen die niet substantieel bijdragen aan de milieukwaliteit. Gemeenten kunnen op hun beurt transformatieprojecten optimaliseren door de parkeernorm in hoogstedelijke gebieden te verlagen en aanvullende kwaliteitseisen te schrappen of te matigen op het gebied van architectuur, verkeer en milieu die door de eindgebruikers niet worden gewaardeerd.

Er zijn ook verschillende manieren om de opbrengsten van transformatieprojecten te optimaliseren. De markt, de locatie en de gebouwkenmerken zijn de belangrijkste factoren die de omzet van een project bepalen. Omdat de ontwikkelaar de locatie van het project niet kan veranderen, moet hij kijken naar mogelijkheden om het gebouw te optimaliseren door bijvoorbeeld vloeren toe te voegen of te combineren of de plint te gebruiken. Andere mogelijkheden om de opbrengsten te optimaliseren zijn door het programma meer marktconform te maken, of om de waterbergingsvraag op een meer inventieve manier aan te pakken. Gemeenten kunnen van hun kant de opbrengsten van transformatieprojecten optimaliseren door het aandeel sociale huurwoningen met een zeer lage huurprijs te verminderen en deels te vervangen door sociale koopwoningen. Een andere mogelijkheid is het optimaliseren van het grondgebruik door het intensiveren of verdichten van het bestemmingsplan en het verhogen van de FSI. Verdichting en hoogbouw zijn echter niet altijd de juiste formules en soms kan juist verdunning van het grondgebruik gunstiger zijn.

Naast het verlagen van de kosten en het verhogen van de opbrengsten is de andere belangrijke mogelijkheid om projecten te optimaliseren het gebruik van verschillende financieringsvormen en methoden. Financieringsvormen als verkoop en het vestigen van erfpacht, crowdfunding of het inzetten van projectpartners zijn financieringsbronnen die de haalbaarheid van transformatieprojecten kunnen vergroten. Ontwikkelaars kunnen ook andere financieringsmethoden gebruiken om het risico en de kapitaalbehoefte te verminderen en te verkorten. Dit kan door de ontwikkeling in deelprojecten te faseren; het investeringsvolume blijft dan beperkt in omvang en tijd. Met andere woorden, van het badkuipmodel een wasbakmodel maken.

Exploratieve interviews

De exploratieve interviews zijn gehouden om meer te weten te komen over het onderzoeksprobleem en het onderwerp, en om de vragen te beantwoorden die aan de hand van de literatuur niet beantwoord konden worden. Om een goed beeld te krijgen van het onderwerp zijn verschillende partijen geïnterviewd die het onderzoeksprobleem vanuit verschillende invalshoeken kunnen belichten.

Resultaten

Wanneer transformatieprojecten door de ontwikkelaar worden geïnitieerd kan hij de grond in een vroeg stadium met risico kopen, of hij kan eerst de bouwmogelijkheden met de gemeente bespreken. De onderhandelingen die dan volgen over het wijzigen van het bestemmingsplan beginnen met verkennende gesprekken en werken uiteindelijk naar de gezamenlijke ondertekening van de anterieure overeenkomst. In deze onderhandelingen is het van groot belang dat het plan in lijn is met het gemeentelijk beleid en de gemeente ervan overtuigd is dat het plan ontwikkeld moet worden.

De eisen die tijdens deze onderhandelingen worden gesteld, kunnen voortkomen uit beleid of kunnen tijdens het proces worden opgelegd. De eisen die tijdens het proces worden gesteld, veroorzaken de meeste problemen omdat deze niet vooraf bekend zijn bij de ontwikkelaars. Vanuit de gemeente worden deze eisen gesteld om de veiligheid, gezondheid en leefbaarheid van de stad te waarborgen. Een reden voor het stellen van projectspecifieke eisen is dat de praktijk vaak sneller reageert op nieuwe trends en ontwikkelingen dan dat de gemeente hierop anticipeert en beleidsdocumenten en regelgeving hierop aanpast. Het merendeel van de transformatieprojecten heeft daarom te maken met projectspecifieke eisen, omdat er maatwerk nodig is. De meest voorkomende eisen die problemen opleveren zijn programmatische eisen, duurzaamheidseisen, eisen ten aanzien van exploitatiekosten en parkeer-standaarden. Bovendien is het niet zozeer één specifieke eis die problemen veroorzaakt, maar eerder de stapeling ervan. Ook het veranderen van gemeentelijk beleid tijdens een onderhandelingstraject is een veelvoorkomend probleem.

Ontwikkelaars geven verder aan dat de gemeente de vrijheid heeft om te eisen wat ze wil, en daar zijn geen wettelijke grenzen aan gesteld. Ze geven ook aan dat je als ontwikkelaar een gemeente niet wilt tegenwerken en je de eisen van de gemeente vaak maar moet accepteren. Advocaten daarentegen geven aan dat er wel degelijk wettelijke grenzen zijn aan wat een gemeente mag eisen. Dit is geregeld in veel verschillende publiekrechtelijke wetten waaraan een gemeente ook moet voldoen als zij eisen stelt in een privaatrechtelijke anterieure overeenkomst. Jurisprudentie over gemeenten die worden aangeklaagd voor eisen die zij stellen is echter zeldzaam.

De optimalisatiemogelijkheden die worden gegeven voor ontwikkelaars is teruggaan naar de onderhandelingstafel met de gemeente, de kosten verlagen of de inkomsten verhogen. Als de ontwikkelaar eisen wil weerleggen, zal dit met goede argumenten moeten gebeuren. Om de kosten te verlagen worden de investeringskosten vaak opnieuw kritisch bekeken. En het ontwikkelen van kleinere eenheden kan de inkomsten verhogen. Andere, of meer gedetailleerde manieren van projectoptimalisatie worden door de geïnterviewden niet gegeven, omdat zij stellen dat het bij de meeste projecten neerkomt op de gegeven drie mogelijkheden.

Casestudy

Op basis van de vooraf vastgestelde selectiecriteria zijn de volgende transformatieprojecten gekozen om te gebruiken voor de casestudie:

- De Hooch: dit is een afgeronde transformatie van een kantoorpand naar een hoogwaardig appartementencomplex in het centrum van Amsterdam.
- De Karsp: dit is een afgeronde transformatie van een kantoorgebouw naar twee woontorens.
- Kabeldistrict; dit is een lopende gebiedstransformatie van een bedrijventerrein naar een woon-werkmilieu in Delft.
- Brandsmafabriek: dit is een lopende transformatie van een oude fabriek naar een woon-werkomgeving.

Alle projecten zijn individueel geanalyseerd en alle resultaten zijn uiteindelijk geanalyseerd in een cross-case analyse.

Resultaten

Een gevarieerd pakket van gemeentelijke eisen kan in de praktijk problemen opleveren voor transformatieprojecten. Deze eisen zijn projectspecifiek omdat er geen blauwdruk is voor transformatie-projecten. Er kan daarom niet in algemene zin worden gezegd welke gemeentelijke eisen de meeste problemen veroorzaken in transformatieprojecten. Ook kan worden geconcludeerd dat het niet alleen de eis zelf is die problemen veroorzaakt in de onderhandelingen voor de bestemmingswijziging, maar dat andere aspecten ook een rol spelen in dit vraagstuk.

Een van deze aspecten is dat het hebben van een transformatieplan dat voldoet aan al het gemeentelijk beleid, geen garantie is voor goede onderhandelingen en een succesvol transformatieproject. Het overtuigen van de gemeente van het belang van de transformatie kan worden gezien als een belangrijkere factor voor succes. Het hebben van een plan hebben dat voldoet aan verschillend gemeentelijk beleid kan de kans op overtuiging door de gemeente echter wel vergroten. Een andere mogelijke factor die problemen veroorzaakt bij transformatieprojecten is dat geen enkele ontwikkelaar een vooraf bepaalde onderhandelingsstrategie heeft waarin hij zijn focus in de onderhandelingen bepaald. Wanneer er wel een strategie wordt gemaakt door de ontwikkelaar, kan deze naast die van de gemeente worden gelegd. Hiermee kan duidelijk worden wat de doelen zijn van beide partijen en dit kan bijdrage aan een goede relatie. Deze goede relatie wordt door de gemeente gezien als een van de belangrijkste succesfactoren.

Wat betreft de projectoptimalisaties kan worden geconcludeerd dat dit niet vaak wordt gebruikt om de haalbaarheid van de geanalyseerde transformatieprojecten te vergroten. In slechts één van de geanalyseerde projecten heeft de ontwikkelaar gebruik gemaakt van een optimalisatiemogelijkheid door de plattegronden te wijzigen om aan de geluidsnormen te voldoen. Aangezien dit de enige gevonden optimalisatie was, kan worden geconcludeerd dat de ontwikkelaar bij moeilijkheden in de onderhandelingen meestal zal kiezen om terug te gaan naar de onderhandelingstafel met de gemeente. Optimalisatiemogelijkheden gebruiken om het project financieel haalbaar te maken is in dat geval niet de oplossing. De wijzigingen die zijn aangebracht in de ontwerpen van de projecten zijn gemaakt om planologische redenen en niet om de projecten financieel te optimaliseren.

Hoofdconclusie

In de conclusie van het onderzoek wordt een antwoord gegeven op de hoofdvraag van het onderzoek. Deze hoofdvraag luidde:

Hoe vormen gemeentelijke beleidseisen een obstakel voor transformatieprojecten en welke manieren van projectoptimalisatie zijn er voorhanden om alsnog een financieel haalbaar transformatieproject te realiseren?

Het eerste deel van de onderzoeksvraag richt zich op de vraag hoe gemeentelijke eisen een obstakel vormen. Uit zowel de literatuur als empirisch onderzoek blijkt dat gemeentelijke eisen zeker een obstakel kunnen vormen voor transformatieprojecten. Het is in dit geval vooral het stapelen van te hoge gemeentelijke eisen voor planologische medewerking in het wijzigen van bestemmingsplan of voor een omgevingsvergunning voor afwijking van het bestemmingsplan dat de meeste problemen veroorzaakt. Uit het literatuuronderzoek is geconcludeerd dat de eisen ten aanzien van het programma en de erfpacht de meeste problemen veroorzaken. Uit de exploratieve interviews is echter geconcludeerd dat naast de programmatische eisen niet de eisen ten aanzien van de erfpacht de meeste problemen veroorzaken, maar de eisen ten aanzien van duurzaamheid, parkeernormen en exploitatiekosten. Uit de casestudies is dan weer geconcludeerd dat geen van de zojuist genoemde eisen de meeste problemen veroorzaakt, maar dat het andere eisen zijn die bijvoorbeeld betrekking hebben op de hoogte van het gebouw en de geluidsnormen. Uit al deze verschillende bevindingen kan dus worden geconcludeerd dat in algemene zin niet kan worden gezegd welke gemeentelijke eisen de meeste problemen veroorzaken bij transformatieprojecten.

Wel kan worden geconcludeerd dat vooral de eisen die niet uit het beleid voortkomen, maar die tijdens het onderhandelingsproces worden gesteld, de meeste problemen in transformatieprojecten veroorzaken en een obstakel kunnen vormen. Het probleem van deze projectspecifieke eisen is dat deze niet vooraf bekend zijn bij de ontwikkelaar, waardoor het niet mogelijk is om ze mee te nemen in de ontwikkelplannen. Factoren die deze projectspecifieke eisen veroorzaken zijn dat het beleid in de loop van het onderhandelingsproces verandert of dat de gemeente gebruik maakt van haar beleidsvrijheid om af te wijken van bestaand beleid. Dit laatste lijkt veelvuldig te worden toegepast omdat bij de meeste transformatieprojecten maatwerk nodig is. De conclusie is dan ook dat het ontwerpen van een transformatieplan dat aan alle beleidseisen voldoet geen garantie is voor soepele onderhandelingen en een succesvol transformatieproject.

Het tweede deel van de onderzoeksvraag richt zich op welke optimalisatiemogelijkheden er voorhanden zijn om alsnog een haalbaar transformatieproject te realiseren. Uit het literatuuronderzoek is geconcludeerd dat er verschillende manieren zijn voor ontwikkelaars om hun transformatieprojecten te optimaliseren door ofwel de kosten te verlagen, ofwel de opbrengsten te verhogen of door andere financieringsmethoden toe te passen. Uit het empirisch onderzoek is echter geconcludeerd dat vrijwel geen van de in de literatuur gevonden optimalisatiemogelijkheden in de praktijk worden toegepast. De reden hiervoor is dat de gemeentelijke eisen zeker problemen opleveren voor het transformatieproject, maar niet zozeer in financiële zin. In de praktijk is het zo dat de plannen niet zozeer geoptimaliseerd worden om ze financieel haalbaar te maken, maar dat er meer planologische wijzigingen in transformatieprojecten worden aangebracht om aan de eisen van de gemeente te voldoen. In geval van problemen zullen ontwikkelaars er daarom vaak voor kiezen om terug te gaan naar de onderhandelings-tafel met de gemeente en te proberen de eisen met goede argumenten te weerleggen, waardoor het

financieel optimaliseren van projecten niet het passende antwoord op dit probleem is. Ontwikkelaars moeten zich in plaats daarvan richten op het overtuigen van de gemeente van het belang van de transformatie en het opbouwen van een goede relatie.

Aanbevelingen voor de praktijk

Op basis van het uitgevoerde onderzoek en de conclusies die hieruit zijn getrokken, kunnen verschillende aanbevelingen worden gedaan aan zowel ontwikkelaars als gemeenten die aan transformatieprojecten werken.

Ontwikkelaars

- *Ontwikkelen van een onderhandelingsstrategie*. Dit kan gebeuren door de belangrijkste aspecten en knelpunten vooraf te bepalen en de regels van het spel volledig te kennen.
- *Eisen contractueel vastleggen*. Hierdoor is het voor de gemeente niet mogelijk om haar eisen steeds te wijzigen, waardoor het project meer zekerheid krijgt.
- *Houd juridisch advies in achterhoofd*. Ontwikkelaars moeten er rekening mee houden dat gemeenten wel degelijk over hun juridische grenzen kunnen gaan. Het inwinnen van juridisch advies en het aanspreken van gemeenten betekent niet altijd dat een juridische procedure volgt.
- *Voldoen aan beleid is geen garantie voor succes; overtuig gemeenten van het belang van de transformatie*.
- *Focus op de relatie*. Dit kan door een goede dialoog met elkaar te voeren, transparant te zijn over dilemma's en een proces in te gaan met respect naar elkaar toe.

Gemeenten

- *Stel bouwteams samen*. Bouwteams met verantwoordelijken die beslissingen kunnen nemen en regelmatig met de ontwikkelaar kunnen overleggen helpen het proces sneller te laten verlopen.
- *Behoud beleid*. Er wordt meer zekerheid gebracht in transformatieprojecten als het beleid dat ten tijde van de initiatie van toepassing was, gedurende het hele transformatieproject behouden blijft.
- *Maak beleid meer adaptief*. Dit kan door te stellen dat het totale plan goed moet zijn, en dat het niet honderd procent hoeft te scoren op alle verschillende beleidspunten.
- *Wees duidelijk in de besluitvorming*. Gemeenten kunnen transparanter zijn over waarom nieuwe eisen worden gesteld of ontwerpen worden afgekeurd, en dit goed onderbouwen.
- *Moderniseer parkeerbeleid*. Een mogelijke oplossing kan zijn om per woning een minimumnorm vast te stellen in plaats van een maximumnorm.

Discussie

De resultaten van dit onderzoek laten zien dat wat wordt beschreven in literatuur en toegepast in de praktijk sterk verschilt. Zo is in de literatuur gevonden dat er juridische grenzen zijn aan de eisen die de gemeente kan stellen en dat ontwikkelaars dus in beroep kunnen gaan tegen besluiten van de gemeenten. Uit de exploratieve interviews is echter gebleken dat alle ontwikkelaars aangeven dat er geen grenzen zijn aan wat een gemeente kan eisen en dat ze bijna nooit een juridische controle doen om te zien of de gemeentelijke eisen wel gesteld mogen worden. Hetzelfde geldt voor de gevonden projectoptimalisatie-mogelijkheden; er zijn veel mogelijkheden in de literatuur gevonden, hoewel er in de praktijk bijna geen enkele daadwerkelijk wordt gebruikt.

De resultaten van dit onderzoek gaan ook in op een pijnpunt in het transformatieproces. Gemeenten stellen soms allerlei eisen waarvan juristen aangeven dat ze juridisch niet gesteld mogen worden, maar zowel gemeenten als ontwikkelaars spreken zich hier niet over uit. Ontwikkelaars willen immers de goede relatie met de gemeente niet verstoren, omdat ze de gemeente nodig hebben in toekomstige projecten.

Aanbevelingen voor verder onderzoek

Het onderzoek van dit rapport is afgelopen en er zijn conclusies getrokken, maar er is ook ruimte voor verder onderzoek. De belangrijkste aanbevelingen voor verder onderzoek zijn als volgt:

- *Voer casestudy's uit met niet-succesvolle transformaties*.
- *Voer hetzelfde onderzoek over enkele jaren opnieuw uit als de nieuwe Omgevingswet in werking is*.
- *Specificeer de reikwijdte van het onderzoek*. De reikwijdte kan nader worden gespecificeerd in bijvoorbeeld alleen kantoortransformaties, of alleen gebiedstransformaties.
- *Voer meer casestudies uit*. Bijvoorbeeld in dorpen, of in steden buiten de Randstad.

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Part I: Introduction & Methods

1 Introduction

This chapter is the introduction of this report and starts with discussing the relevant background information that has led to the problem statement of this research. After the problem is explained, the main question of this research will be presented and the sub questions that go along with it. This chapter will conclude with the societal and scientific relevance.

1.1 Problem field

The population of the Netherlands is growing to an estimated 18 million people in 2029 (CBS, 2018). This growth of population also increases the need for new homes. A coalition of real estate developers, investors and contractors stated that they want to build one million homes by 2030 (RTL nieuws, 2018). These new houses will have to be built somewhere in the Netherlands and the transformation of existing real estate can be part of the answer to this problem. In 2016, the Netherlands Environmental Assessment Agency (Planbureau voor de Leefomgeving) calculated that almost 75% of the need for extra housing can be accommodated in inner-city areas (Planbureau voor de leefomgeving, 2016). The national policy of the Netherlands is therefore focussed on developing within the existing city area (Infomil, n.d.a).

The transformation of existing buildings is an essential element in this solution. According to Stedelijke Transformatie (2017) 320.000 homes can be built in the existing city by transforming areas that now have a different function. Areas that fit well within the policy of inner-city development are the inner-city areas that used to accommodate industrial or commercial purposes and are now accounted for transformation or redevelopment, the so called ‘brown fields’ (Turner, n.d.). The term brownfield refers to land that has already been developed before (Alker, Joy, Robert, & Smith, 2000). Developing on these inner-city brownfields instead of greenfields outside the city is also a more sustainable solution, as there will be less traffic, more efficient use of the inner-city urban environment, and the already scarce green in the Netherlands is spared (Kohlman & Tragter, 2017).

According to these findings one could say that transformation is a possible solution to the housing shortage in the Netherlands. Nevertheless, the transformation process has its own complications and problems that come along with it. One of the biggest problems is that potential transformation projects can have unprofitable peaks and often show a negative bottom line (Brightspace, 2019; Van Walsum, 2019). This is because often investors see transformation as unfeasible, mainly because of the difference between the book value and market value of the building which is to be transformed (Sprakel & Vink, in Van der Voordt, Garaedts, Remøy & Oudijk, 2007). What is meant by this problem is that vacant real estate often has a high value in the books, while the current market value is much lower. The book value consists of the production costs of the building, as well as the price of the land, and is depreciated annually (Buitelaar, de Deugd, & Geuting, 2004). The market value, on the other hand, is the valuation value of the land and buildings (Jansen, 2012). This higher book value makes it difficult for the developing party to acquire the property to be transformed. It must be said that the difference in book value and market value is also depending on the economic cycle, during low economic times the difference is higher than during high economic times (Pijl, 2007). According to others, this is due to different calculation methods. The developer calculates the residual land or building value in the present, the investor focuses strong on future expectations. Because these two values are too far apart from each other a large part of the feasibility studies ends in ‘unfeasible’ (Gelinck, in Van der Voordt et al., 2007). Recent research in the context of the 'City Deal for Inner City Construction and Transformation' (‘City Deal Binnenstedelijk

Bouwen en Transformatie) shows for example that at complex inner-city transformation locations there is an average shortage of approximately €28.500 per dwelling (Fackeldey et al., 2017). According to the initiators of the 'Manifest Binnenstedelijke Gebiedstransformaties' there are certainly possibilities to reduce these shortages, but the fact remains that in many complex locations the revenues are insufficient to cover the costs (Fackeldey et al., 2017). Other problems which have been researched are for example fragmented land ownership in the transformation area (Hobma, Heurkens & Van der Wal, 2019), and the high clean-up costs of old industrial areas or the so called 'brownfields' (Van Lemmen, 2011).

There are also legal barriers that create impossibilities and entail high development costs, such as restrictive national regulations, like noise standards and environmental standards, and local policies such as parking standards (Verheul, Daamen, Heurkens, Hobma, & Vriends, 2017). There are especially barriers when the existing land-use plan has to be changed in order for new developments to take place. Problems in this case arise when municipalities demand so much of the developers that they cannot make a profitable business case anymore. The common statement of 'who has the land has the power' (Hobma et al., 2019) does not apply anymore in such cases. Even in heated markets like Amsterdam, which has a high housing shortage, transformation projects are struggling to get off the ground due to the high number of legislations (De Vlinder, 2015).

The problem statement of this research thus starts with the fundamental problem of the housing shortage in the Netherlands. It is said that the transformation of inner-city areas can solve this problem for 75% (Planbureau voor de leefomgeving, 2016), but the transformation 'game' has its own problems. One of these problems that has not been researched yet is the excessive requirements of municipalities when applying for a change in the land-use plan or environmental permit by the developer. This problem of municipalities stacking all kinds of requirements in order for planning participation in the transformation initiative will be central in this research.

1.2 Research questions

In this section the research questions will be discussed. First the main research question will be given together with an explanation, after which the sub questions will be given and discussed.

1.2.1 Main research question

The main question of this research is a binding of two research questions on the process of real estate transformation. The main research question that is formulated is as follows:

How do municipal policy requirements form an obstacle to transformation projects, and what ways of project optimisation are at hand to still make a financially feasible transformation project?

The problem statement shows that problems arise when the requirements of municipalities are too high for developers in order to still make a feasible project. The first part of the main research question is therefore focussed on the part of the municipality in this problem. It looks at the judicial boundaries of what the municipalities can ask when developers apply for a deviation of the land-use plan and how this can form a barrier. A clear distinction must be made between the fact that the research focusses specifically on applications for a deviation in the land-use plan or an environmental permit for deviation of the land-use plan, and not for tenders of public projects. The second part of the main research question doesn't focus on what municipalities may do wrong, but focusses on what developers could do better. This second part of the question aims to find an answer to what ways of project optimisation developers can

use in order to still make a feasible transformation project even though municipalities ask high requirements. In other words, it shows which buttons the developer can push to make a feasible project.

1.2.2 Research sub questions

In order for the main question to be answered correctly several sub questions have been formulated to have a deeper understanding of the problems. To answer the sub questions both theoretical and empirical research will be conducted, methods and techniques like literature study, explorative interviews and case studies will be used to do so. The sub questions that are formulated are asked in a sequential order, so that the knowledge that is gained from the previous sub question is used in the following questions. The first sub questions are concerned with the background of the research and help form the theoretical framework. The last sub questions focus more on the empirical part of the research and are concerned with the research subject in practice.

The first three research sub questions will be answered by conducting a literature research. These first three sub questions are formulated as follows:

i. What is the definition of transformation?
ii. What is the role of the municipality and the developer in the transformation process?
iii. What does the process of real estate transformation look like?

To get a clear view on the research subject it is important to know what is meant by the term 'transformation'. Therefore, a sub question is formulated in order to better define the term transformation. Furthermore, this research focusses on the negotiations in transformation projects between two stakeholders, namely the real estate developer and the municipality. Therefore, it is important to get a better understanding of the role of both parties in the transformation process. Finally, besides knowing what excessive requirements the municipality sets it is also important to know when they are set in a project. A sub question is therefore formulated to better understand what the transformation process looks like and when negotiations between developers and municipalities about changes to the land-use plan take place.

The fourth and fifth sub questions will be answered by conducting both a literate study and explorative interviews. The literature study will be conducted to form the theoretical basis, the explorative interviews will be held thereafter and contribute to the knowledge that could not be found in literature. These fourth and fifth sub question are formulated as follows:

iv. What does the legal process look like when developers apply for a change in the land-use plan or an environmental permit for deviation of the land-use plan, and what terms and conditions come along with it?
v. What is project optimisation and what possibilities can a developer use in order to still make a feasible transformation project?

The legal process and terms will be researched in order to gain more knowledge on the subject and see what the legal boundaries are of what requirements a municipality can set for planning participation. The fifth sub question is formulated to get a better view of what project optimisation possibilities can be found in literature and are used in practice.

The last two sub questions will be answered by conducting case studies. The findings in literature and interviews of the previous sub questions will be reviewed in practice in these case studies. These last sub questions are formulated as follows:

vi. What municipal requirements cause the main problems during the negotiations for a change in the land-use plan or an environmental permit for deviation of the land-use plan in practise?
vii. What ways of project optimisation do developers use in practise to make transformation projects feasible when a municipality sets excessive requirements?

Both the requirements set by municipalities in transformation projects as well as the optimisation possibilities will be analysed in the case studies.

1.3 Relevance

For any research it is important that the research has both societal as well as scientific relevance. The societal and scientific relevance, and added value of the research are discussed in this section of the report.

1.3.1 Societal

Transformation has become an increasingly important part of the building process, as mentioned in section 1.1 of this report. The housing shortage in the Netherlands is growing and the transformation of real estate can significantly help in solving this problem. That means that the notion of transformation has a direct influence on society, as it is the Dutch society which needs new housing. It is already stated in section 1.1 of this report that with the transformation of existing buildings 320.000 new houses can be developed (Stedelijke Transformatie, 2017). Besides the fact that new houses have to be built because the population is growing, there is also the problem that the population is changing. There is for example an increase in single-person households, elderly continue to live independently longer and the demand for smaller and social rental housing is increasing explosively (Asselt & Broekhuizen, 2015). The current products on the housing market are not a good match for this and need to be transformed. The additional knowledge that is gained with this research about optimisation and legal boundaries will benefit these future transformation projects that will help to solve the housing problem in the Netherlands.

The transformation of existing buildings is also beneficial to the already scarce nature in the Netherlands (Markus, 2019). Transforming inner-city areas, or the so-called brownfields, instead of developing new buildings outside the city on green fields saves land and nature (Kohlman & Tragter, 2017). Having more nature, or less nature taken away for new houses, is a direct benefit for the whole Dutch society.

Transforming existing buildings instead of building new ones also contributes to the vacancy problem in the Netherlands. There are approximately 279.000 vacant buildings in the Netherlands, which include offices, schools and shops (Centraal Beheer, 2018). This vacancy is costing the Dutch society a lot of money. Transforming these vacant buildings can be a solution to this problem.

The knowledge that is acquired by this research can benefit future transformation projects and also have a societal relevance on a more global scale, as it contributes to the problem of climate change. When existing buildings are transformed less materials are used, which reduces the carbon footprint of the building compared to newly built buildings (Fenner et al., 2018).

1.3.2 Scientific

One can find a lot of literature about transformation projects in the Netherlands. These books, articles and master theses discuss all types of problems and solutions that arise in transformation projects. Literature can be found on how to deal with risks during the transformation process (Van der Bent, 2016, De Kat, 2016), what ways of financing there in transformation projects (Schimdt, 2012; Kraag, 2015; Mulder, 2015), how one can best save costs in transformation projects (Mackay, 2007; De Groot, 2014) and there are different tools designed for finding the right new function for transformation projects (Stoffelen, 2016; Moritz, 2016). All this research focusses on different problems in the transformation process, yet little to no literature can be found on what requirements are set by municipalities in transformation projects, and how the negotiations about these requirements go between developers and municipalities. Books from De Zeeuw (2019), Peek and Gehner (2018) and Van der Voordt et al. (2007) do give more insights on what the process looks like when a land-use plan needs to change in order for transformation projects. They do however not go into further detail on what the negotiations between municipalities and developers look like, and what municipal requirements can be set that can form obstacles.

The findings of this research can thus contribute to the scientific literature on real estate transformation by filling the abovementioned gap in literature on the negotiations between municipalities and developers, and the municipal requirements set for planning participation in the change of land-use plans.

2 Research method

In this section of the report the research method will be discussed. An elaboration will be given on what type of study will be conducted, what methods will be used and how the data will be collected.

2.1 Type of study

The research is focussed on the negotiation and interaction between developers and municipalities. The research will therefore be a qualitative research because it is aimed at obtaining in-depth information by examining the underlying motivations, opinions, wishes and needs of the research group (Bryman, 2012; De Graauw, n.d.). Whereas in quantitative research the emphasis is on numbers, in qualitative research the emphasis is on words (Bryman, 2012). Strengths of a qualitative research according to Miles and Huberman (1994) are that the focus is on naturally occurring, ordinary events in a natural environment which gives a real picture of what it actually looks like. Furthermore, little has been written about the specific subject of the negotiations between municipalities and developers which makes this research explorative in nature (Kumar, 2011).

2.2 Methods and techniques to be used

Several methods will be used in this research, being a literature review, case study and interviews. Through these different methods and different ways of collecting data, triangulation can be realized. This means that the use of various methods for collecting data ensure that the data is correct and therefore contributes to the reliability of the research (Saunders, Lewis, Thornhill, Booij, & Verckens, 2011). Mertens (2010) agrees with this and adds that the weakness of one method compensate for the strength of the other, and therefore more valid conclusions can be drawn.

2.2.1 Literature review

Through a literature review it is researched what requirements the municipality can set in the event of a change in the land-use plan, and the legal limits associated with this. According to Brand-Gruwel and Woperis (2011) a literature review is a form of research in which the aim is to obtain a reliable and complete overview of the literature published on a particular subject. The literature can be assessed for reliability, precision, publicity, repeatability and validity. A literature review is also an unstoppable activity and therefore cannot be limited (Groat & Wang, 2002). The literature review is therefore used to place the project in the right theoretical starting point and to contribute to the state of knowledge of the subject. The information obtained through the literature review concerning the legal aspects, regulations, policy and the transformation process provides an overview of what is known in theory and contributes to the general knowledge about the subject.

The literature review is therefore the first step in gaining knowledge about the subject. It looks at what is already known about the problem, and for whom the problem is relevant. This creates a broader picture of the problem. The points that need to become clear from the literature review are:

- Knowledge about the problem;
- Examples of municipal requirements that obstruct projects;
- Examples of policy freedom in municipal policy;

- Legal boundaries of requirements that municipalities are allowed to set when changing land-use plans;
- Examples or articles of transformation projects that turned out not to be feasible due to excessive requirements or stacking municipal requirements;
- Clear picture of the initiation phase, with different negotiation moments;
- Which laws apply to which a municipality may refuse an application;
- Ways of project optimisation.

The examples mentioned in the literature, or articles, of projects that turned out not to be feasible due to municipal requirements can be used for the case study research at a later stage of the research.

2.2.2 Explorative interviews

An interview is a good method to collect opinions, attitudes and real estate knowledge on a subject (Baarda, 2001). With the knowledge of the literature research at hand, experts are interviewed. The interviews are held in order to gain more knowledge about the problem and to be able to answer the questions that could not be solved by the literature research. The knowledge gained during the literature search can also be checked with experts in the field to see whether this information is correct and still applicable. For the interviews various parties working on transformation projects will be interviewed, these are the developer, lawyer and municipality. The themes on which questions will be asked are:

- The initiation phase of transformation projects;
- Municipal requirements that may be an obstacle;
- Possible ways of project optimisation;
- Legal boundaries of what municipalities may require in order for planning participation;
- Municipal policy on transformation projects.

For this research semi-structured interviews will be used. It is important that the interview is not completely open, but deals with relevant subjects and questions that lead to the answering of the main question. The topics and questions are presented in an interview guide. Although the questions are fixed, the order is free and the participant is free to answer the question (Bryman, 2012). This makes it suitable for the study, because opinions are sought and the necessary flexibility and depth can be achieved in this way.

A guide will be used for the interviews. This guide does not contain detailed questions, but possible questions and several topics that need to be dealt with. The aim of this guide is to find out as much as possible on how the interviewee has experienced his or her experiences, what his or her vision on things is and how he or she gives meaning to the world around him or her (Heldens & Reysoo, 2005). In this case the semi-structured interview will have some room for manoeuvre but with a structure in the conduct of the interviews. In this way, additional information can be provided quickly for the qualitative research (Grit, 2005). In the end transcripts will be made of the interviews, which will then be returned to the interviewees for verification and validation, this is also known as ‘respondent validation’. The aim of this respondent validation is for the researcher to have interpreted the interview, and the conclusions drawn from it, correctly (Bryman, 2012).

2.2.3 Case studies

According to Nuytten (2008), a case study is an intensive qualitative study of one case that is investigated in all its complexity, looking for natural interdependence and other important factors that influence the phenomenon. Within the case study method, a distinction is also made between investigating a single case, where one case is investigated, and a comparative case study. The comparative case study, as the name suggests, compares the studied cases with each other (Verschuren & Doorewaard, 2007). Investigating several cases is important to increase the generalisation (Miles & Huberman 1994). According to Yin (1994), it is not possible to generalise with a single case. The essence of a case study is to explain the decisions or group of decisions, why they were taken, how they were applied and with what results. In the selection of the case studies it is therefore important to have cases in which problems occurred because of the requirements set by the municipality.

2.2.3.1 Selection criteria

A criterion for the cases is that during the cases problems arose because of the requirements that were set by the municipality. It is in this case important that the problems that arose were in fact caused because of excessive requirements that were set, and not because of other reasons such as that the developer payed too much for the land and buildings. The aim of this research is to study several cases to ensure the accuracy and quality. It is therefore desirable that the research has at least four cases in at least two different municipalities to compare with each other.

A last criterion is that there is enough information at hand to make a good analysis. The real estate developer should therefore provide enough information on the following points:

- Situation before transformation
- Design
- Financial picture
- Municipal requirements
- Negotiation process

2.2.3.2 Interviews

In practice, interviews will be held with experts as part of the case studies, being developers and municipalities. The expert interviews provide more in-depth information on the subject and the cases as the experts have a lot of knowledge and experience on the subject and have worked on the selected cases. The interviews are held with the parties that were involved in the project and know in detail how the negotiations went and if there where bottlenecks and how they were eventually resolved. These interviews are more in-depth, where the explorative interviews and literature study are more broadly oriented.

2.3 Data analysis

A document analysis is used to support the literature review and the case studies. Documents that can be used for document analysis are products with a communicative function. These can be private documents, but also non-personal or public documents. Examples are notes, letters, annual reports and newspaper articles. In addition to written products, communication products such as drawings, works of art, maps and films are also included in this analysis (Reulink & Lindeman 2005).

2.4 Research design

The research design for the research of this report is illustrated in figure 1. The research questions form the basis of the research and both theoretical as well as practical findings help answering these questions. The literature study has the focus on gaining more knowledge about the legal process, municipal requirements and optimisation possibilities. The interviews that will be held for the case studies will be held with the developer as well as the municipality that worked on the transformation project.

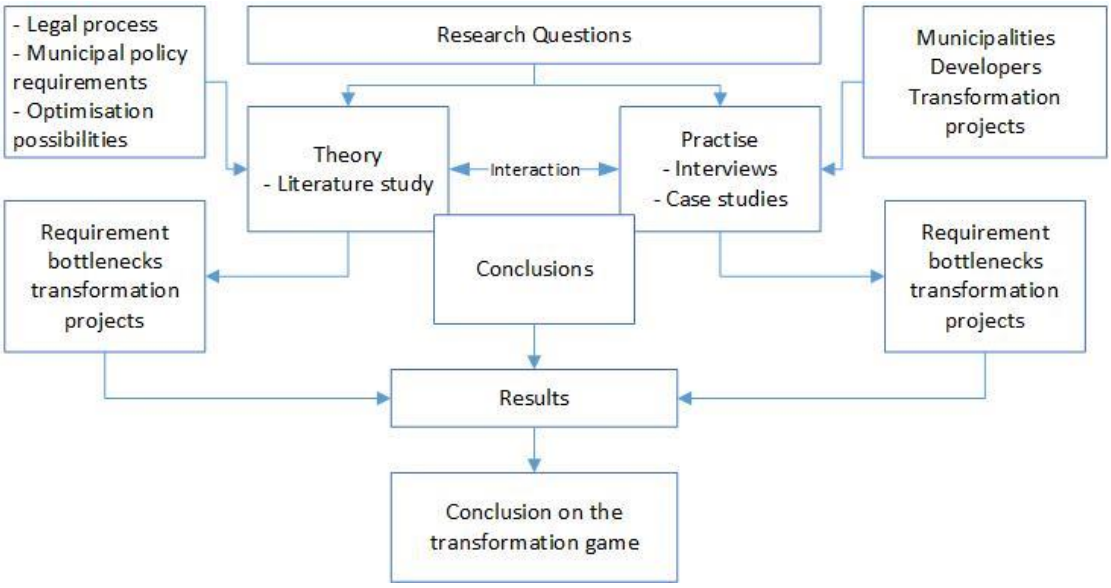


Figure 1 Research design (own illustration)

The literature review, case studies and interviews will eventually show what the bottlenecks are in the application for a deviation in the land-use plan, and what ways of project optimisation are at hand for a developer. These findings and conclusions will in the end form the result of the project, being a manual for developers on how to play part of the transformation game.

2.5 Data plan

The data used for this research will be used according to the FAIR guiding principles (Wilkinson et al., 2016). These principles state that the data must be findable, accessible, interoperable and reusable. The data of this research will therefore be stored in the TU Delft repository to make sure that the data is findable. This repository has an open access which makes the data also accessible. What is meant with interoperable is that it must be possible to combine datasets with other datasets. To achieve this, the data must be described in a standard way, so that both other researchers and computers can read the data (ELSI, 2018). All the references of the data will be mentioned in APA-style to assure the data is interoperable. To make sure the date is reusable it will be ready for immediate use by other researchers.

2.6 Ethical considerations

When performing research with human participants, as will be done by conducting interviews, researchers are obliged to conform to a number of ethical rules. These rules are drawn up to protect the rights of participants (Rijksuniversiteit Groningen, 2019). The most important ethical aspects that must be followed

are the minimisation of harm of the participants, respect for individual autonomy, and the preservation of privacy of the participants (Traianou, 2014).

In order to ensure the privacy of the participants and to protect the data that is collected during the research, the General Data Protection Regulation is used. The guidelines of this regulation tell to collect as little data as possible, make use of trusted software, request permission, work securely and to destroy data when it is no longer needed (Groot Kormelink, 2018).

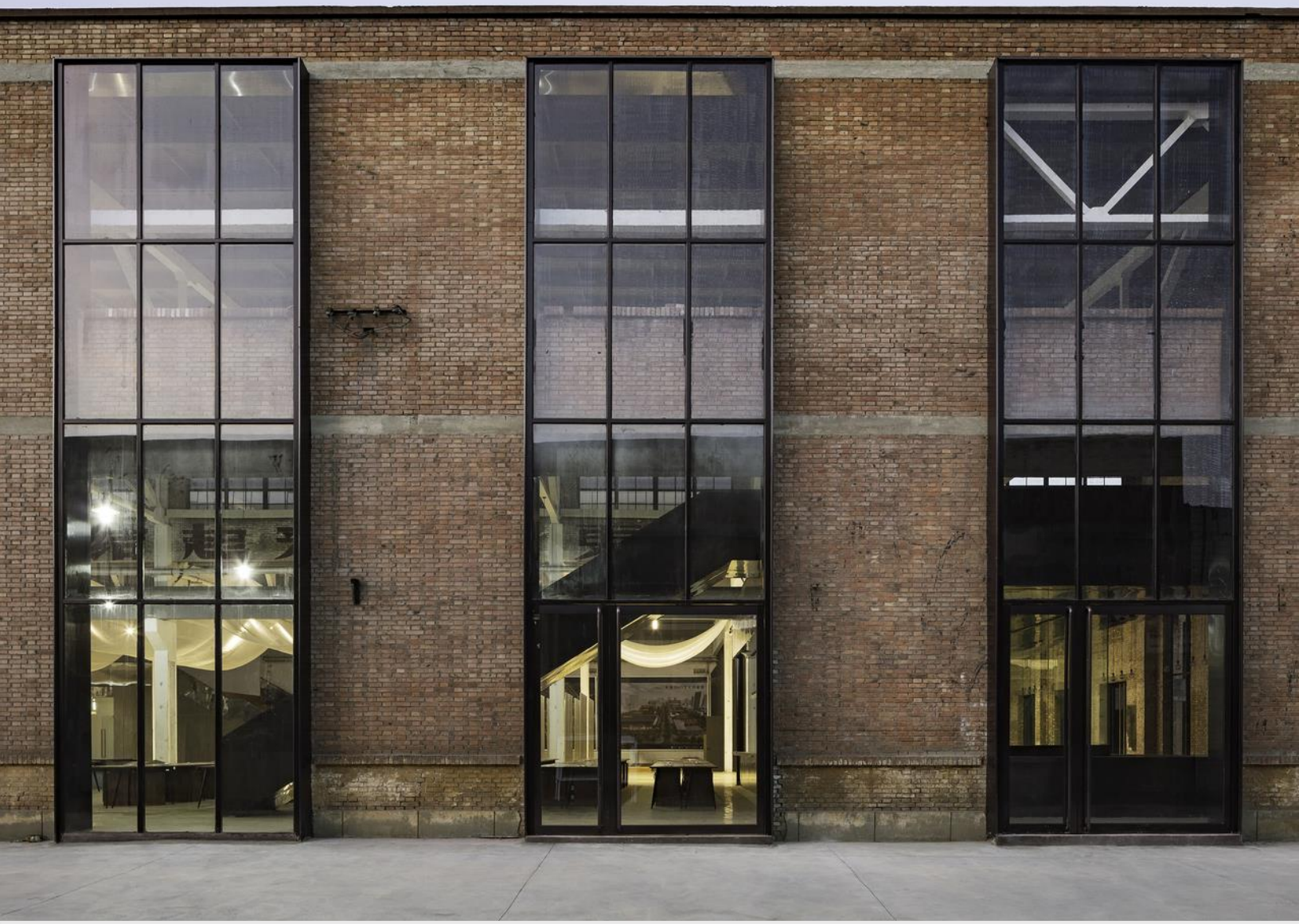
The participants in this research will participate on a voluntary basis to make sure that they are not harmed and their privacy and autonomy is preserved. All participants will participate anonymously and not be mentioned by name in research. The only way in which their name will be mentioned in the research is in a list of participants who were interviewed including their function. This list of names is only visible to the mentors and will not be published. There will be no further mentioning in the research of who said what in their interview. The results will be anonymously implemented in the research. There will also not be made transcripts to collect as little personal data as possible. Before any interview is held the participants will also be well informed on what the research is about, how the results of the interviews will be used in the research, and if the interview can be recorded. As mentioned before in this report, all participants participate on a voluntary basis . They will therefore not be obligated to answer any question if they do not want to. The recordings of the interviews will always be deleted whenever they are analysed and implemented in the research.

2.7 Goals and objectives

The aim of this research is to fill the gap in literature and show which municipal requirements can form an obstacle in transformation projects and how developers can optimise their projects. By doing so, the ultimate goal is that the results of this research improve the transformation process and therefore contribute to new developments. The results of this research should function as a guideline or advice that developers can use in challenging transformation projects.

2.8 Dissemination and audiences

The research aims to help the transformation process in general. The developers involved in the project, as well as the municipalities, can be helped with the outcome of this research. In the end both public and private parties want transformation projects to be developed. This research can give an inside to municipalities in how their restrictive regulations can form a barrier for projects to start. However, its is assumed that developers can benefit most from this research. For them, the research will give an inside on how to deal with a high demanding municipality and, in the case that the municipality can actually set the high regulations, what you as a developer can do to still make a profitable business case.



Part II: Theories

3 Literature research

In this section of the research a summary of the literature research will be given. The research is divided in different research themes. At first a better definition will be given on what exactly is the meaning of ‘transformation’. By clarifying what is meant by 'transformation', the research is delineated at the same time. From there, a clear focus can be placed on what kind of projects in the built environment the research will relate to. Secondly, the role of the developers and municipalities within a transformation project will be discussed. This will make clear what both parties contribute to the process and what is expected of them. The focus will be on the policy requirements that the municipality may impose. Lastly a literature research will be made on the legal process and terms when applying for a deviation from the land-use plan, and ways of project optimisation that can be useful for developers in projects that seem unprofitable due to excessive requirements imposed by the municipality. In conclusions answers will be given based on the formulated sub questions.

3.1 Definition of transformation

The Reiswijzer (2019) looks at area transformation and says that transformation projects are inner-city area developments which are complex because they are often wedged between existing buildings. This often involves former business or industrial sites, and port or rail sites, that are located at a disadvantage compared to the centre of the city or village, and which are transformed into inner-city multifunctional areas, often with houses and shops in combination with social functions like schools etc. Often they are large areas, sometimes up to several hundred hectares. The transformation always brings a clear change of functions and change of the land-use plan. As a result of the old (industrial) function, it is often necessary to remediate the soil and sometimes demolish the properties. The number of people involved is high and the development requires high investments.

De Zeeuw (2007) looks at transformation projects more on the building level and calls them 'city repairs'. De Zeeuw (2007), Remøy and van der Voordt (2014) and Sturm-Reijnders (2010) have identified the following barriers and opportunities of transformation developments:

- High risk profile
- Difficult land acquisition
- Uncertainty about financial feasibility
- Change of land-use plan needed
- Mix of functions (shops, homes, parking, facilities, etc.)
- Upgrading of non-performing area
- High pre-investment
- Long start-up phase

Other characteristics that have been identified by Jansen (2012) and Van Swam (2008) are:

- High building density; since on the one hand the demand for land with an urban function is high and on the other hand the supply is limited.
- A large number of actors are (in)directly involved in the restructuring process.
- The land and real estate properties are often owned by different owners, resulting in difficult and expensive acquisitions.

- The urban land often has a long history of spatial interventions; possible remediation problems.
- Construction projects are more complex because of the inner-city context; it is more difficult to connect to the existing environment and to design construction sites.
- It has a multitude of laws and regulations, including in the field of air, noise, climate regulations, the environment and soil remediation.
- Longer duration; partly due to legal or planning procedures; more involved actors can lead to several conflicting interests and objections.

3.1.1 Adaptive reuse

The term transformation is also often referred to as the 'adaptive reuse' of buildings. In the dictionary adaptive reuse is explained as converting outdated or unused structures, such as buildings of historical value, to make them suitable for new methods of use or application in a different context (Ensie, 2019).

Adaptive reuse is described as something that has been done for many years. For a very long time, buildings have changed functions because the original use was no longer relevant, but the building itself still was. In the reuse, the qualities of the old building have been preserved, such as detailing and character, but the programme has been completely changed (Duurzaam Gebouwd, 2008). When buildings are adapted this is not only good for the building itself but also for its surroundings. In their research Remøy and Wilkinson (2011) state that adaptation retains embodied energy, promotes urban intensification and encourages the use of public transport. A well-known example are the Amsterdam canal houses, which first served as warehouses and then served as a combination of retail, hospitality, apartments and townhouses (Remøy & Van der Voordt, 2014).

3.1.2 Conclusion

In this conclusion an answer will be given to the sub question: *(i) 'what is the definition of transformation?*'.

The terms 'adaptive reuse', 'redevelopment' and 'transformation' can be seen as different terms with the same definition. In this report the term 'transformation' will be used consistently to be exact and avoid confusion. Transformations projects can take place at area level as well as building level and always bring a clear change of functions and change of the land-use plan. Some of the possible characteristics of the projects are that they have a high risk profile, financial uncertainty and a long start-up phase.

3.2 Position of municipalities and developers

This section of the report will provide an overview of the role municipalities and developers have in the transformation process. From both actors their present position in the development market will be discussed, as well as how they have come to this position.

3.2.1 Municipalities

Municipalities often take on the role of director in transformation projects, which can be explained by the objectives municipalities have (Jansen, 2012). After all, a municipality has the social task of ensuring a wide range of housing opportunities, whereby the socio-economically weaker groups in society are also eligible for affordable housing. In addition, the municipality is responsible for public space and enough real estate for social facilities or public functions such as schools and hospitals. A third objective of the municipality is to limit negative external effects, like environmental damage and noise nuisance (Ministerie van VROM, 2005).

The municipalities therefore have a broad political-administrative responsibility, which is divided among various municipal actors (Van der Weerd, 2007). The Mayor and aldermen or Municipal Executive form the daily management of the municipality, the Municipal Council is the directly chosen representation of the people, together they form the municipal administration. For example, the Municipal Executive delivers the draft land-use plan to the Municipal Council who then decides to approve or reject it.

3.2.1.1 Changing role

In recent decades, the role of the central government has changed, decreasing its involvement in the transformation process. Adams and Tiesdell (2012) describe the retreating government as a reaction to the government's failing interference and lengthy bureaucracies. Despite these changes, financial support from the government for part of the area transformations in inner-city areas remains necessary, as appears to be so in many cases. Financial support can range from public infrastructure investments to operating contributions. This financial support has been in place since the 1970s, since then the government has always provided direct or indirect financial support for inner-city construction and transformation. This is in fact government intervention to strengthen the relatively weak market position of inner-city housing compared to the relatively stronger market position of urban expansion. This means that the same 'housing product' for housing consumers in inner cities is relatively expensive compared to urban expansion and satellite cities (Verheul et al., 2017). However, this line of financial support has been interrupted after half a century. Some of the subsidies (Investeringsbudget Stedelijke Vernieuwing) that ended in 2014 are still in use in existing projects, but the consequences of the termination of financial support will become visible in the coming years (Platform 31, n.d.).

3.2.1.2 Changing policy

At the policy level, many legislative changes have also been made to speed up and simplify the transformation process. This concerns the reform of regulatory complexes in order to improve the quality and speed of public decision-making, thereby improving both directly and indirectly the framework conditions for private investment. In legal terms, this involves deregulation, harmonisation and acceleration. In economic terms, it is about changing the regulatory environment to create more favourable conditions for private investment (Verheul et al., 2017).

In 2014, the legislator has already taken a number of major steps. On November 1st, the amendment to the Environmental Law Decree came into force. This new regulation makes it easier to deviate from the land-use plan, for example for the transformation of vacant offices. Time is saved because it is now possible to obtain an environmental permit through a regular procedure of a maximum of 8 weeks, instead of a standard extensive procedure of 6 months (De Vlinder, 2015).

Despite all these changes Remøy, Pallada, Hobma and Franzen (2015) stated in their research on the covenant approach of the office vacancy rate in Rotterdam that still many legislations and procedures slow down the transformation process. Verheul et al. (2017) also stated in their research on area transformation that national regulations and local policies can still be constraints to transformation developments. They state that municipalities could better facilitate the transformation process by not imposing unnecessarily restrictive municipal standards. The solution is to clean up the municipal assessment frameworks for area development (memoranda, visions and regulations) and to 'relieve' the local regulatory requirements. It is also stated that municipalities must set realistic requirements in the programme of requirements. If, for example, many societal functions are included, this means low land yields, while inner-city costs are often high due to high acquisition. In addition, municipalities must not expect a standard percentage of social

housing that must be realised, but should examine carefully whether this is desirable or necessary (Verheul et al., 2017).

3.2.2 Developers

In many cases, the developer is the actor who realises the real estate and achieves his objective by selling it to the user or investor (Van Dijk, 2011). A project developer has specialist development knowledge and a high risk profile (Wolting, 2008).

3.2.2.1 Types of developers

Different types of developers can be described and various classifications are used in literature. According to Peek and Gehner (2018) five types of developers can be distinguished. The developers associated with a construction company, or originating from a construction company, form the largest group. Examples are developers such as Volker Wessels and BAM.

The second group are independent developers. Within this group, new, independent companies are constantly being created that can quickly become successful through a specific approach or by tapping into a 'niche' (Haak, 2015). Examples include Blauwhoed and Provast. A third group concerns developers associated with institutional investors. These are developers who mainly develop for their own portfolio. This group includes housing corporations such as Vesteda, but also developers such as Amvest. The fourth group consists of developers who are associated with financial institutions or originate from them. Finally, there are developers who are part of companies with a different core business. Think of parties such as NS railway stations or Schiphol Real Estate.

In addition to these five types, developers can also be classified according to the sector in which they operate. JLL (n.d.) has classified possible sectors in which developers operate, this is illustrated in figure 2.

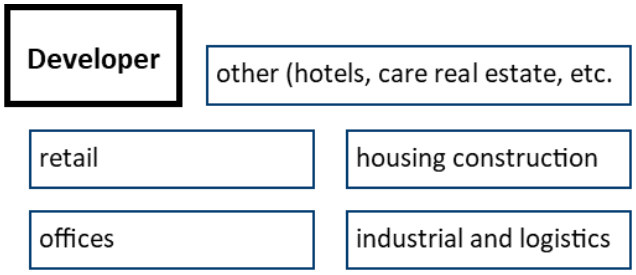


Figure 2 Classification of developers (own illustration)

The sector for mixed-use real estate can be added as the sixth sector. Of course it is possible that a developer is active in several sectors at once.

3.2.2.2 Changing role

From the 1990s until the economic crisis in 2008, the development sector experienced enormous growth. Turnover and returns continued to grow. This resulted in a large growth in the number of active parties within the sector and, consequently, increased competitive pressure (Van Mierlo, 2010). The developers occupied a central position in the value chain, being between the initiation phase and the realisation phase. In order to be able to operate from this central position, developers possess a number of core competencies. These include risk-bearing investment in land, building and plan development, project management, product development and knowledge of the sales market (Putman, 2010). Putman's research makes two important observations relating to these core competencies. The first is that both the

availability of capital and the costs thereof were highly advantageous in the period before the economic crisis. As a result, it was relatively easy to raise capital and make risk-bearing investments. The second observation is that the competence 'knowledge of the sales market' was scarcely developed during this period. Market conditions created a supplier market in which there was no need to consider the sales side of the value chain. The focus was mainly on the acquisition of a position, and therefore often on the municipality.

The economic crisis in 2008 was a major turning point for the development sector in the Netherlands. Not only did the crisis had direct consequences for the developer itself, because they were less able to use external capital easily, but it also had consequences on the demand side. Consumers, companies and governments wanted to spend less and also had more difficulty in getting a loan (Putman, 2010). This led to a decline in demand and a large oversupply, which resulted in a demand-driven market (Deloitte, 2010). For developers, the lack of available capital meant that one of their core competencies, risk-bearing investment, came under severe pressure. In addition, sales of the developer's products also decreased. The position of the developer was therefore under pressure both in the initial phase, the start of projects, and in the final phase, the purchase of products (Putman, 2010). With these new developments, the developer increasingly lost his central role in the project. This eventually made way for a new type of developer, the delegated developer. These types of developers are also called 'fee developers' and they accepts paid assignments for third parties, which in many cases are investors (Peek & Gehner, 2018).

3.2.3 Conclusion

In this conclusion an answer will be given to the sub question: *(ii) 'what is the role of the municipality and the developer in the transformation process?*'.

The municipality often takes the role of director in transformation projects because of its social and public tasks and to ensure a good living environment. The municipality is represented by The Mayor and aldermen, or Municipal Executive, and the Municipal Council, who together form the municipal administration. The municipality has over the years decreased its involvement in transformation projects, though in many cases financial support from government is still needed.

In types of developers one can distinguish those associated with a construction company, independent developers, those associated with institutional investors, those associated with financial institutions, those that are part of companies with a different core business and delegated developers. Since the economic crisis developers are losing the central role they always occupied in the value chain and their core competence that always has been to make risk-bearing investments. In transformation projects this can mean more and closer cooperation with the municipality and third parties.

3.3 Phases of project development

Different sources see different phases. For example, Wamelink, Geraedts, Hobma, Lousberg and Jong (2010) see four different phases, namely initiation, preparation, implementation and management. However, five phases are also distinguished by, among others, the Netherlands Standardization Institute (Nederlands Normalisatie-instituut, 2002). These phases can be divided into initiation phase, definition phase, design phase, realisation phase and control phase. The process is also subdivided into six phases: initiative phase, definition phase, design phase, preparation phase, realisation phase and after-care phase (Wijnen, Renes, & Storm, 2001).

3.3.1 Initiation phase

For this research, the first phase of project development is the most important, i.e. the phase in which the plan is initiated, thus the initiation phase or initiative phase. In this report, the term initiation phase will further be used. In this phase, the developer studies a potential development location or idea for a real estate concept in terms of sales opportunities and feasibility, both socially, technically and administratively (Nozeman, 2010). The aim of this phase is to investigate whether the project is feasible. It also examines whether there is sufficient support for the project.

When a transformation project requires a change in the land-use plan, this is an important factor for the feasibility of the project. The requirement set by the municipality in order for planning participation in changing the land-use plan thus have a big effect on the feasibility of the plan, and are therefore set in the initiation phase. In this phase developers will go to the municipality with a rough development plan and enter into negotiations about the requirements set by the municipality. Once agreement has been reached on the municipal requirements the plan must comply with, the initiation phase ends and the next phase begins, during which the plan is defined and designed.

3.3.1.1 Letter of intent

A document that appears regularly in the initiation phase is the letter of intent. In cases where there is an increasing complexity of projects that often require a substantial investment of manpower and finance, an agreement with the most important stakeholders is often used (Van Duijvendijk, n.d.). In this way, the initiator is assured of guarantees. Such an agreement stipulates that the parties will enter a research phase in which the feasibility of the overall plan, that is formulated in advance, will be examined. The parties agree that the cooperation will be exclusive for a certain period of time, that information will be exchanged between them, and that the cooperation will be continued if it proves feasible (Nozeman, 2010).

3.3.2 Conclusion

In this conclusion an answer will be given to the sub question: (iii) *'what does the process of real estate transformation looks like?'*.

In development projects one can distinguish different phases, for example the initiation phase, definition phase, design phase, realisation phase and control phase. In the first phase of transformation projects plans get initiated. In this phase municipal requirements are set for the change of the land-use plan and negotiations between the developer and municipality take place. The initiation phase of transformation projects is therefore the most important phase for this research, and will be further discussed in this report.

3.4 Legal process and terms

In order to understand which and how excessive requirements of municipalities when applying for a change in the land-use plan by the developer can form an obstacle for transformation projects, one must first understand the legal process and terms. This legal process, and the relevant legal terms and documents, will therefore be discussed in this section.

3.4.1 Land-use plan

The use of al land in the Netherlands is regulated in the land-use plan. There are roughly three types of land-use plans (Stadig & Minderhoud, 2010), being a rigid, flexible and half-flexible land-use plan.

In a rigid land-use plan all uses are prohibited except what is expressly permitted. Plots or blocks of buildings here have the designation 'housing', 'offices', 'businesses', 'social facilities', etc. The opposite can be seen in a flexible land-use plan, in which everything is permitted that is not prohibited. Such plans often apply in city centres because changes of use often occur there. Most plots or blocks of buildings then have, for example, the designation 'mixed use' or 'centre purposes'. In principle, everything is allowed here, except for nuisance-causing functions such as bars and restaurants and disturbing businesses. These nuisance-causing functions are only permitted if this is explicitly indicated in the rules and on the plan map for the plot in question. In between these forms there is the half-flexible land-use plan. This plan stipulates that the Mayor and Aldermen may change the plan, must work it out or may deviate from it within certain rules (Spatial Planning Act, art. 3.6, c. 1).

3.4.2 Change or deviate from the land-use plan

There are different ways in which a land-use plan can be changed or how one can deviate from the existing land-use plan for the benefit of a transformation project.

3.4.2.1 Changing an existing land-use plan for an entire area

In this variant, the Municipal Council adopts a new land-use plan in which existing destinations are expanded. Existing office destinations or industrial destinations are then, for example, supplemented with residential or retail destinations. This implies a complete land-use planning procedure and is especially evident when larger areas are transformed. The municipality could then turn all, or part of, for example, the office or industrial destinations into mixed destinations. The duration for this change, without a preliminary phase, is 26 to 31 weeks (Infomil, n.d.c; Hollands Kroon, n.d.). This duration may be extended, there are however legal consequences to that extension.

3.4.2.2 Flexibility of the land-use plan

A less drastic way in which a new land-use plan does not have to be made is if the existing land-use plan is half-flexible. Article 3.6 clause 1 of the Spatial Planning Act makes it possible for a land-use plan to lay down rules within which the Mayor and Aldermen can change the plan, have to work it out or can deviate from it with an environmental permit. Of these three flexibility instruments, the application of the deviation seems to be the most appropriate in the event of re-use of vacant buildings. However, this deviation in the land-use plan must be objectively limited. The nature of the change, the size of the area to which the deviation relates and the reason for the deviation may be important in this respect. The extensive public preparation procedure of 6 months applies to the drawing up of an alteration plan. The alteration rules can, for example, mean that office destinations in industrial destinations can be changed up to a maximum of a certain number of dwellings. The applications for environmental permits are prepared using the regular preparation procedure of eight weeks with a possible extension by six weeks.

3.4.2.3 Stamp land-use plan for a specific vacant building

The municipality can also decide whether owner's initiatives should include land-use plans for individual vacant buildings. Such minor land-use plans are also known as postage stamp land-use plans or postage stamp plans. The preparation time is, compared to the previously mentioned variants, significantly less because the land-use plan relates to a small area and since, depending on the wishes of the owner, it is probably possible to work with specific final destinations.

3.4.1 Environmental permit

The environmental permit, which falls under the Environmental Licensing (General Provisions) Act, applies since 1 October 2010 and replaces a number of permits and exemptions in the areas of construction and renovation, monuments, the environment, nature and space. The objective of the Environmental Licensing (General Provisions) Act is to simplify existing decision-making procedures in environmental law and to create a single integrated environmental permit. There is no longer any reference to a building permit, but to an environmental permit, and building without this environmental permit is prohibited (Van Buuren, Nijmeijer, & Robbe, 2017). Construction is defined as the placing, complete or partial erection, renewal, alteration or enlargement of buildings (Environmental Licensing (General Provisions) Act, art. 1.1).

This single permit includes the former exemption from the land-use plan, project decision, building permit and user permit. This makes it easier and clearer for initiators to apply for permits now that they have been combined in a single permit. Previously, permits had to be applied for at various government bodies. In the case of transformation, application procedures do not differ substantially from the usual application procedures for new developments. However, it is often more difficult to obtain the information required to submit a building application (Andriessen, in Van der Voordt, 2007).

The municipality has to decide within eight weeks whether it will grant or refuse the environmental permit. However, if the building plan is in conflict with the land-use plan, other terms apply. In this case the extended preparation procedure applies, which has a statutory handling period of 26 weeks and can be extended once by 6 weeks (Hobma & Jong, 2016).

3.4.2 Building Decree

In order to qualify for an environmental permit for a building project, the building must comply with the requirements as laid down in the Building Decree. The Building Decree is based on the Housing Act, which contains technical regulations regarding the new building and the condition of existing buildings. The rules of the Building Decree impose requirements in the field of safety, health, usability, energy efficiency and the environment of existing buildings and new buildings.

Once the destination has been determined, it is in principle possible to issue an environmental permit for the conversion of the building. This is also tested against the Building Decree. A number of specific requirements have been included in the Building Decree for the alteration and transformation of buildings. It is a misunderstanding that when a building gets transformed and changes its function that by definition it must comply with the new building regulations for the new use function. For the vast majority of aspects, the legally obtained level applies. In practice, this is the current quality level that already existed before the transformation. In the case of transformation, the requirements for most aspects are lower than the requirements set for new construction (Rijksdienst voor Ondernemend Nederland, 2014a).

3.4.3 Municipal Building Ordinance

The Municipal Building Ordinance is a set of regulations that includes all kinds of regulations that have been drawn up by the Association of Dutch Municipalities as model building regulations (Festen-Hoff & Hobma, 2011). An ordinance is a type of law drafted by the local government. A building ordinance is a local, municipal law that every municipality in the Netherlands has to draw up. One can therefore not speak of ‘the’ building ordinance, in other words: in the Netherlands there is no mention of ‘the general’

building ordinance (Bouwadvies Nederland, n.d.). The rules that are set in the municipal building ordinance are however of limited importance and do not have a big effect on transformation projects.

3.4.4 External appearance committee

The External appearance committee assesses, for example, the spatial quality of buildings, degradation of the living environment, colours of façades and the use of materials. An environmental permit for transformation may not be granted if the building plan is in conflict with 'reasonable requirements of external appearance', unless the Mayor and Aldermen decide in a reasoned manner that it is still allowed. In an external appearance memo, the Municipal Council lays down criteria for which external appearance requirements apply to the area in question. An area or an entire municipality can also be made 'external appearance committee free', then no 'reasonable requirements of external appearance' apply, and an environmental permit cannot be refused on the grounds of its external appearance. The Municipal Council appoints an independent external appearance advisor, a committee or person, who advises the Mayor and Aldermen on the question whether a building meets the criteria. Since March 1st 2013, independent external appearance advice is no longer compulsory, and also municipal employees themselves can assess whether the structure meets the criteria (Federatie ruimtelijke kwaliteit, 2016).

3.4.5 Environmental permit for deviation of the land-use plan

Plans that do not fit in with the land-use plan go through a different process than corresponding plans. However, deviating from the land-use plan is not impossible according to the law. There are three ways to deviate from the land-use plan, namely internal plan deviations, minor exemptions and outer plan deviations.

3.4.5.1 Internal plan deviations

The land-use plan may include a possibility to deviate from the plan to a limited extent (Spatial Planning Act, art. 3.6, c. 1c). A permission to deviate may not lead to a change of land-use. Spatially relevant conditions must be included in these authorisations, which can be objectively verified. In general, these are minor deviations of which the feasibility can easily be demonstrated or is not necessary at all, since it concerns a limited expansion of an existing building, whereby, for example, the number of dwellings and land area do not increase (Infomil, n.d.d). A land-use plan often already includes a number of deviations, such as a deviation of 10% from the maximum gutter height or a deviation of 1 meter. Usually there are conditions attached to a deviation within the plan. The procedure is the same as that of a corresponding plan (Wat mag ik bouwen, n.d.).

3.4.5.2 Minor exemptions

The national government has identified a number of standard deviations, these are known as minor exemptions. These can be relatively minor deviations in which the normal procedure for an 8-week environmental permit is followed. An example of such a deviation is a roof structure or a dormer on the front (Infomil, n.d.d). However, on November 1st 2014, the Quickwins Decree and the remainder of the Crisis and Recovery Act came into force. On that date, a lot has changed with regard to deviations from land-use plans and management regulations, temporary licensing and permit-free constructions. The Quickwins Decree is an order in council with which various decrees are adjusted (BügelHajema, 2015).

Before November 1st 2014 the change of function could also be authorised via the minor exemption procedure. However, this was subject to a number of restrictions. It could be a change up to a maximum of 1.500 m2 gross floor area and the number of dwellings could not increase. These restrictions were

removed. This means that many more cases now fall under the minor exemptions procedure, i.e. function changes with a larger floor area and the number of dwellings can be increased without formal procedure. With the removal of the restrictions it became easier to solve the large vacancy rate of offices in the Netherlands. With the use of the minor exemptions regulation, transformation projects can be permitted within 8 weeks instead of the 26 weeks procedure. The minor exemptions regulation can also be applied for the reallocation of monuments. For monuments, there are no restrictions any more for the application of the minor exemptions regulation, which is different from permit-free building, which only applies to a part of the monuments. For municipal monuments the regular Environmental Licensing (General Provisions) Act-procedure applies. For national monuments, the extensive procedure usually applies, the advantage of the minor exemptions regulation does not there. These minor exemptions mainly concern the change of function of buildings within the built-up part of the municipality. For the rural area, only the housing of employees falls under the minor exemptions regulation and the regular procedure applies. In cases other than a change of function in the rural area, one of the other environmental permits must be applied for (NRP Werkgroep Wet- en regelgeving, 2015).

3.4.5.2.1 Combining minor exemptions

At the same time as applying for the change of function of existing structures, one can also apply for an accompanying structure (Environmental Licensing Decree, Annex II, art. 4, c. 1). An accompanying building may concern both a building that is functionally subordinate to the main building as well as an extension of the main building itself. The accompanying building is not bound to a maximum surface area. An extension of a building by, for example, 500 m 2 is also included. The Explanatory Memorandum to the Quickwins Decree explicitly states that it is possible to combine different cases of minor exemptions. This means that the transformation of a building combined with an extension of that building can be granted with the same environmental permit, even if the extension conflicts with the land-use plan. This may involve an extension in terms of surface area, but also includes the extension of a building in height, i.e. increasing the building height with, for example, an extra floor. When extending a building or building a subordinate structure, the number of dwellings may not increase; for this case the restriction still remains (NRP Werkgroep Wet- en regelgeving, 2015).

3.4.5.3 Outer plan deviations

Some projects are of such a scale that the minor exemptions regulations do not apply anymore. These plans follow an extensive procedure that takes more time, municipalities must be willing to cooperate in this case.

3.4.5.3.1 Procedure

The extended procedure of 26 weeks applies to these 'outer plan' deviations from the land-use plan (Hobma & de Jong, 2016). The period can also be extended by 6 weeks. A decision must be made within the first 8 weeks as to whether the term should be extended by 6 weeks.

The granting of an environmental permit in deviation from the land-use plan is the responsibility of the Municipal Executive, but the environmental permit may only be granted if the Municipal Council has issued a so-called statement of no objection. After all, the adoption of land-use plans is a responsibility of the Municipal Council. The Council can issue a statement of no objection for a category of cases. This means that a separate statement of no objection does not have to be issued for each application (Infomil, n.d.e.). When issuing a statement of no objection, the Municipal Council can give regulations and set requirements to the development. An overview of the procedure when applying for an outer plan deviation of the land-

use plan is illustrated in figure 3. When applying for this deviation the applicant has to make up a kind of minor land-use plan.

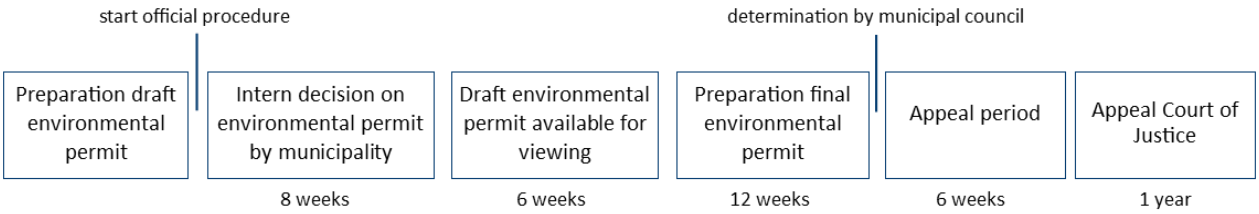


Figure 3 Extended procedure environmental permit to deviate from the land-use plan (Adapted from Kubiek, n.d.)

If the advice from the statutory pre-consultation has been processed by the applicant and the Municipal Council has not indicated that a statement of no objection is required, then the plan will be submitted for public inspection. The draft environmental permit together with the spatial substantiation and the accompanying drawings will be submitted for public inspection for a period of 6 weeks (Gemeente Rotterdam, n.d.). During this period anyone can submit a view against the draft environmental permit. The inspection period for the decision is 6 weeks and is not part of the 26 weeks decision period. If views have been submitted, a views report will be drawn up with the cooperation of the applicant. When replying to the views, interests are weighed up. If the views are refuted, the final permit is granted. This is followed by a possible appeal to the Court of Justice and an appeal to the Council of State.

3.4.5.3.2 Application

A so-called spatial substantiation must be made for such a deviation. This is a document containing research on all kinds of aspects, such as noise, flora & fauna, water, archaeology, etc. Most municipalities have a deviation policy so that the same assessment rules apply to all deviations (Wat mag ik bouwen, n.d.).

An application for an outer plan deviation must also be provided with a spatial substantiation. The application must clearly show what the application relates to. The Environmental Licensing Decree specifies what it must comply with. A spatial substantiation is therefore comparable to the explanatory notes of a land-use plan. The need for development and the choice of location must also be justified. This justification can often be more concise than an explanation of a land-use plan, as it is aimed at a specific, concrete development.

Article 3.1.6 of the Environmental Licensing Decree states, among other things, that the consequences of the development for the water management and cultural history must be discussed. The application must contain location drawings of the current and future situation and data on current and future use. In addition, the consequences for spatial planning must be indicated. The application must also indicate the nature and scope of the project. The submission requirements are specified in articles 1.3 and 3.2 of the Environmental Law Regulations.

The application for an environmental permit for planning deviations from the land-use plan must also be tested against: (i) good spatial planning with careful consideration of interests, (ii) obligations of environmental legislation, and (iii) declaration of no objections by the Municipal Council (Infomil, n.d.d).

3.4.5.1 Temporary deviations

A deadline can be attached to the single permit for temporary use in contravention of planning rules. This may involve all kinds of variants. Think for example of a period of two or five days to, for example, ten or fifteen years or more (Infomil, n.d.d).

3.4.6 Municipal policy

Within the boundaries of central government, the province and possibly the region, the municipality is free to make its own policy. Municipal policy in the field of transformation is not only spatial, it has common ground with various other policy areas (Rijksoverheid, n.d.). They come together at the municipal level. Development plans are tested against these policies. If a developers' plan complies with municipal policy in advance, negotiations about the land-use plan change will have a better chance of success. The municipality draws up policy for various areas that a developer's plan must comply with.

3.4.6.1 Spatial policy

In its spatial policy, a municipality can, for example, indicate where it wants to maintain office functions and where there is room for transformation to residential functions. The municipality can also give direction to the future of public real estate. The most appropriate instrument for this is the structure vision, because it brings together all policy areas (Rijksdienst voor Ondernemend Nederland, 2016).

3.4.6.2 Economic policy

Regional agreements on office capacity are laid down in economic policy. Translating these agreements into policy can mean that the municipality designates areas where offices will remain and areas where transformation to other functions is desired. This does not always have to involve transformation to housing. The economic policy may also contain starting points for transformation to other functions such as retail, hospitality industry, business activities and various combinations of functions.

3.4.6.3 Housing policy

The housing policy can indicate the types and numbers of dwellings required. Within the municipal housing policy, transformation can be an effective instrument to increase the diversity of the housing stock and promote circulation. It expresses the wishes regarding the distribution of housing segments, such as the desired percentage of social rent housing and mid-rent housing for all new developments.

Municipalities can also have set up policy that in some cases developers can ‘buy off’ the social housing that is required in the development project. The developer then transfers money into a municipal fund for social housing, instead of developing social housing (Gemeente Bodegraven Reeuwijk, 2016). This is mostly possible in smaller projects. An example is the municipality of Bloemendaal in which it is possible to buy off the social housing for €30.000 to €140.000, depending on the housing type and location (Gemeenteblad, 2019).

3.4.6.4 Parking policy

Sufficient parking space is an important condition for all municipalities. A parking standard is used in which the required parking space is determined according to the number and type of dwellings. Transformation to housing often leads to a different parking demand. Sometimes solutions are possible, such as creating parking space in the neighbourhood, setting up a parking fund or adjusting parking standards. If those solutions are not available, transformation to alternative functions may be possible. In all cases it is important to take parking policy into account when making a vision on transformation (Buitelaar, Segeren, & Kronberger, 2008).

3.4.6.5 Financial policy

A transformation project requires substantial pre-investment from the initiators. As a result, the financial risks are relatively high. These include fees for permits, costs for planning procedures, costs for adapting the public space and possible planning damage. The municipality can promote transformation by setting different financial requirements or by making a financial contribution through the creation of funds (Rijksdienst voor Ondernemend Nederland, 2016).

3.4.6.6 Environmental policy

Municipalities also have an environmental policy, which is especially important when offices are being transformed. Many office buildings are located at noise-exposed locations, such as near industrial estates, arterial roads, highways or railways (Rijksdienst voor Ondernemend Nederland, 2014b). Environmental legislation is often seen as a bottleneck here. However, when the municipality finds that there is a need for the transformation, i.e. a demand for housing, it can lead to a more flexible use of municipal standards for some locations. Many municipalities have noise or air quality maps that give a first indication of the possibilities. Some optimisation possibilities to meet the noise standards are given by the Expert Team Transformation of the Rijksdienst voor Ondernemend Nederland (2014c).

It is, for example, in certain situations possible to attach a transparent screen to the façade, this is also called a deaf façade. Noise from outside can also be excluded by means of a so-called coulisse screen. Such a screen consists of vertical sound-absorbing louvres on the façade. The solution can sometimes also be found in the floor plan of the building. Functions that are sound-sensitive are then located on the quietest side of the building. Such solutions are possible for combinations of housing with small-scale working, retail, hospitality industry, short-stay or hotel functions.

3.4.7 Policy freedom

In principle, the competent authority has the policy freedom to decide whether or not to cooperate with an application to deviate from a land-use plan. In addition, the municipality can intentionally not draw up a land-use plan so that there is plenty of room for negotiation per project. After all, the municipality is authorised to adopt a land-use plan, but also authorised not to adopt a land-use plan (BHW Advocaten, 2015). However, even when there is a land-use plan in place, the municipality still has the policy freedom to choose whether or not to allow the deviation. This means that the municipality itself may decide when it does or does not want to apply the possibilities for deviation included in the land-use plan (Geodan Vergunningeninfo, 2017).

It is often easy to determine whether an authority has policy freedom by the usage of the word 'can' (Barkhuysen & Rahimian, 2018). That the municipality has freedom of policy in the event of deviation from the land-use plan is evident from the 'can' provision of article 2.12 clause 1 of the Environmental Licensing (General Provisions) Act. The use of the scope of this freedom of policy differs per project (Infomil, d.d.f.). However, the municipality never has the freedom to demand a spatial substantiation if a permit can also be granted on the basis of an internal plan deviation or is on the list of minor exemptions (Municipality of Cranendonck, 2017).

This policy freedom of municipalities can cause difficulties in transformation projects. Institutional investors, for example, discussed with the Amsterdam Municipal Council why investors see Amsterdam as a less and less attractive place to build new houses. The investors indicated that in addition to the 40-40-20 rule, it also involves high land costs, limited possibilities for rent increases and high sustainability

requirements. Apart from Syntrus Achmea REF, board members of Amvest, Vesteda, Bouwinvest and the IVBN (Association of Institutional Property Investors) also spoke (Cobouw, 2019).

The message from the investors is that the stacking of requirements by the City of Amsterdam means that institutional investors, who are eager to be a reliable investment partner for the municipality, hardly take part in tenders anymore. This has led to tenders be taken up by risky developers who may soon leave the City of Amsterdam empty-handed. This can lead to a major housing shortage, which the city of Amsterdam cannot afford (Cobouw, 2019).

In the same discussion with the Council Committee for Housing and Construction of the Municipality of Amsterdam, the speakers gave a few examples where municipal requirements were an obstacle to construction projects. For example, Frank van Blokland of the Association of Institutional Property Investors (IVBN) indicated that institutional investors no longer wanted to operate on the Amsterdam property market. According to Mr. Van Blokland, the main reason for this is that the city of Amsterdam is imposing too strict requirements on constructions such as the 40-40-20 regulation and inflation-led rental policy. What is meant by inflation-led rental policy is that the social rent may have a maximum annual increase that is in line with the inflation (Woon, 2019).

Robert Kohsiek of Wonam indicates that he often realises transformation projects. Because many requirements can make a process take a very long time, he sees that many projects will not be transformed in the end. The example he gives is of offices that cannot get transformed and are eventually sold as offices again, and therefore no new homes are built. Wim Wensing of Amvest indicates in the same conversation that Amvest had to return a project around the year 2016. They had bought an office to transform into 300 mid-segmented rental homes, but were unable to complete it due to the municipal requirements. In the end, the project was sold as an office again. Mr. Wensing also indicates that there is not one specific requirement that is an obstacle, but that it is the stacking of requirements that makes projects unfeasible (Gemeente Amsterdam, 2019).

Lastly, Annemarie Maarse of Syntrus Achmea gave the Sluisbuurt project in Amsterdam as an example in which stacking requirements made it difficult to make a feasible case. As an example, Ms Maarse indicated that Syntrus Achmea had to pay for a subsurface waste system of which the municipality does not yet know how much it will cost. The stacking of requirements for, for example, large dwellings, building heights and additional requirements, such as the subsurface waste system combined with all kinds of restrictions, makes proceedings on the project difficult (Gemeente Amsterdam, 2019).

3.4.8 Municipal requirements

In an earlier section of this report is it already stated that municipalities have the policy freedom to set requirements for planning participation during the process of the projects. It is for the real estate developer in this case not known in advance to what requirements the project will have to comply. Although there is not much stated in literature on what these requirements are, there are some articles written about projects that turned out unfeasible due to municipal requirements.

3.4.8.1 Building programme

One of these projects is the transformation of the business park Sloterdijk I Zuid in Amsterdam (Pots, 2019). Initiators Alex Letteboer of architectural firm JHK and project developer Henk Hartzema of Studio Hartzema state that all the municipal requirements formulated, not only on the segment but also on the size of the housing, make the transformation into a high-rise living and working area impossible.

This is because the current council explicitly wants to realise a new residential area with a ratio of forty percent social, forty percent mid-rent and twenty percent expensive housing. Hartzema describes the municipal council's ambitions as 'new communism'. For example, he disapproves of the prescribed density of an FSI (Floor Space Index) of 3.66. The FSI is the ratio between the gross floor area of the buildings and the total size of the plots on which the buildings stand (Harbers, Spoon, Van Amsterdam, & Van der Schuit, 2019). In his opinion, a higher density can contribute to more liveliness. He indicates that there are sufficient examples of projects with a higher density that can result in an attractive city. Among other things, he suggests that on some plots of land a proportion of the building space should be returned to the city and used for better public space. Subsequently, extra-high high-rise buildings can provide densification (Pots, 2019).

Arjan Klok, urban planner for the city of Amsterdam, says in the article that he is indeed interested in a certain exchange. The discussion is possible, but according to him there is no escaping the strict requirements of politics. He argues that the municipality has formulated the minimum housing sizes because the market is making increasingly smaller dwellings (Pots, 2019).

An other article writes about Kroonenberg Groep selling office tower Berghaus Plaza in Amsterdam-West to real estate developer Boelens de Gruyter. Kroonenberg Groep initially wanted to build 600 dwellings in the office, but withdrew because the project had become too complex due to municipal requirements (Van der Laan, 2020).

Initially it was intended that Kroonenberg Groep and Boelens de Gruyter would both develop part of the dwellings. Boelens de Gruyter was in discussion with the municipality of Amsterdam on behalf of the two parties. The latter was prepared to change the office use of the land, but under strict conditions. For example, the two buildings of Boelens de Gruyter had to contain social housing. Although Berghaus Plaza was on Kroonenberg Group's own land, the real estate investor was prepared to build half of the 250 apartments in the mid-rent segment. The other half would be in the high segment.

Nevertheless, it became an increasingly complex story along the way, says the director and owner of Kroonenberg Group in the article. He emphasises that they had been talking with the municipality for some time, but that there was still little prospect of a date on which the transformation could start. This eventually led to the project being sold to Boelens de Gruyter.

3.4.8.2 Ground lease

Other requirements that can form an obstacle to transformation projects are for example shown in an article on the transformation of the Keynes Building.

The sale of the Keynes Building office is the result of the failure of a plan for transformation to housing due to requirements of the municipality of Amsterdam (Hanff, 2019). A joint venture between Zone Capital and Flemyn bought the Keynes Building in Amsterdam from AG Keynesplein 4, a real estate company owned by the Dutch investment manager APF International and Angelo Gordon. APF had an advanced plan to transform the Keynes Building into homes, but the expected return came under pressure due to requirements from the municipality of Amsterdam. The municipality wanted lower-priced housing than the developers did. Moreover, just before the project was due to start, the municipality came up with a much higher than expected ground lease. The attracted office market eventually offered a solution, as the office building was resold as an office.

3.4.8.3 Stacking of requirements

An other article describes a project in Haarlem which is completely stalled due to the stacking of municipal requirements, despite the fact that the plan complies with municipal policy. The process has been going on for years and that is mainly because the municipality keeps coming up with new requirements and obstacles for the plans for the transformation of the old Brandsma Metalworking Factory (Meijer, 2020).

The most recent example of a municipal requirement is the division of working and living in the plan. The ratio has always been about fifty-fifty, but this was increased during the process to a distribution of seventy-thirty. Developer Van de Wetering Enterprise indicates that these ratios came out of the blue because they cannot be found in any municipal policy. Because of this new requirement, the developer had to go back to the drawing table for the umpteenth time in less than four years.

At the initiation of the project, the plan for the transformation project was drawn up based on, among other things, the land-use plan present at the time, the Structural Vision 2030 and the coalition agreement. After review and possible changes, the developer could start the project and the municipality would let go of the project, but this did not happen. The developer indicates that he is stuck in the bureaucracy because of 'unreasonable requirements' and additional requirements imposed over and over again.

The example given is the land use plan from 2013, which stated that the land had a business purpose and was also suitable for housing. At the end of 2016, the residential land-use suddenly turned out to be missing and was removed with a swipe land-use plan (veegbestemmingsplan). According to the developer, the application was already being processed at that time and he had not been informed of this. Meanwhile, more obstacles appeared, such as the obtained status of municipal monument. This happened after the purchase of the property and during negotiations, while the plan was 95% finished. With the new monumental status the developer had to carry out an additional building history research at his own expense (Meijer, 2020).

3.4.9 Legal boundaries

The legal boundaries of what a municipality is allowed to require from a developer are not clearly defined. In a general sense, public bodies, including municipalities, must adhere to the principles of good governance (Algemene beginselen van behoorlijk bestuur), which means that municipalities must treat everyone equally and may not impose unreasonable requirements (Van Goud Advocaten, 2020). The further legal limits of what a municipality is allowed to demand are regulated in many laws and regulations that fall under public law. These include among others the Housing Act, the General Provisions Act and the Spatial Planning Act. In order to guarantee the scope of the research, only the Land Development Act, the Building Decree and the Crisis and Recovery Act will be briefly discussed.

3.4.9.1 Land Development Act

The Land Development Act is part of the Spatial Planning Act. A municipality is obliged under the Land Development Act to recover its costs from the developer when the developer wants to realise a development plan and when the approval of this development plan requires an amendment of a spatial decree, for example the change of the land-use plan. The costs that can be recovered are listed in the list of cost types in the accompanying Spatial Planning Decree (2017) articles 6.2.3 to 6.2.6. There are three ways for municipalities to recover costs:

- Entering into a private law agreement with the developer prior to the change of the land-use plan, also referred to as an ‘anterior agreement’;

- Entering into a public law agreement. This is done by establishing an obligatory exploitation plan;
- Entering into a private law agreement with the developer after establishing the exploitation plan, also referred to as a 'posterior agreement'.

3.4.9.1.1 Anterior agreement

The starting point of the Land Development Act is that it is preferable to reach an anterior agreement with developers in advance. In this agreement, both parties can make agreements with each other on all possible subjects. But in any case, agreements must be made about the costs to be recovered and, if necessary, also about the phasing and the requirements and rules that the municipality sets for the development. In an anterior agreement, agreements can also be made about financial contributions to spatial developments outside the plan location, i.e. in a larger area (Vijverberg Advocaten, n.d.).

3.4.9.1.2 Posterior agreement

If the municipality has not reached an anterior agreement with the developer, the municipality must draw up an exploitation plan. After an exploitation plan has been drawn up, the municipality can still enter into an agreement with the developer, this is called a posterior agreement. However, this agreement can only deal with matters that are also mentioned in the exploitation plan. Matters that can be arranged in the exploitation plan may not be arranged in a posterior agreement afterwards. The municipality can therefore no longer recover any costs under public law, unless this has been contractually agreed.

3.4.9.1.3 Exploitation plan

The exploitation plan contains a calculation of the exploitation contribution to be paid by the developer. In addition, matters can be arranged with regard to, for example, housing segments and payment conditions. The exploitation plan is drawn up by the municipality and must be approved by the municipal council (Nozeman, 2010).

3.4.9.2 Building Decree

The municipality may not, also when they wish to contract as a private party, impose stricter requirements on developers than those arising from the Building Decree. This is because of the two-way doctrine (tweewegenleer), if an administrative body has no authority under public law, it may not achieve the desired result by means of a deviation under private law (Smitt, 2018).

On information sites about sustainable construction and energy efficiency it is stated that it is possible to conclude an agreement with a developer on, for example, a higher EPC value and sustainable construction, provided that this agreement is reached on the basis of 'equivalence'. However, it is a misunderstanding that 'equivalence' can be a magic word to bypass the two-way doctrine and still make binding agreements on higher performance requirements than the Building Decree (Fieten, 2007).

3.4.9.3 Crisis and Recovery Act

Due to the Crisis and Recovery Act, a number of procedural accelerations have been regulated. This allows a municipality or province to make a decision about a spatial plan more quickly. The law also makes it possible to experiment with increasing environmental standards. In some desired spatial developments, administrators encounter limits under environmental law. In the current legislation and regulations there is little room for administrators to choose the desired development from the broader perspective of sustainable development in such a case (Infomil, n.d.b). The crisis and recovery act makes it possible that these developments can continue.

3.4.10 Conclusion

In this conclusion an answer will be given to the sub question: *(iv) 'what does the legal process looks like when developers apply for a change in the land-use plan or an environmental permit for deviation of the land-use plan, and what terms and conditions come along with it?*'.

The use of all the land in the Netherlands is regulated in the land-use plan, that can be either a rigid, flexible or half-flexible land-use plan. When, for the benefit of a transformation project, a developer wants to change one of these land-use plans he has three options. The most drastic is to change the existing land-use plan for an entire area. A less drastic way in which a new land-use plan does not have to be made is if the existing land-use plan is half-flexible. The municipality can also draw up land-use plans for individual vacant buildings, these are known as postage stamp land-use plans or postage stamp plans.

Besides changing the land-use plan a developer can also apply for an environmental permit to deviate from the land-use plan. He can either apply for an internal plan deviation, external plan deviation or for a minor exception. In addition, these minor exceptions can be combined so that larger transformations can be realised. For the internal deviations and minor exceptions the normal procedure of 8 weeks applies, for the outer plan deviations the extended procedure of 26 weeks applies which can be extended by 6 weeks.

In order for planning participation in the change of the land-use plan or environmental permit to deviate from it, the municipality sets requirements to which the transformation plan must comply. These requirements mostly come forth out of municipal policy that is drawn up for various areas. Plans must for example comply with spatial-, economic-, housing-, parking-, financial- and environmental policy. The municipality also has the policy freedom to set other requirements than stated in policies, or to not cooperate at all with an application. In various articles it is stated by developers that due to these requirements the feasibility of transformation projects is being comprised, making that sometimes offices are not transformed at all and being resold as offices again. Especially the building programme and the height of the ground lease can cause big problems. The percentage of social housing can even have such an impact that transformation projects turn out unfeasible. In addition, all developers also stated that it is mostly the stacking of requirements that cause projects to turn unfeasible. In one of the articles it is stated that a transformation project is completely stalled due to the stacking of ever new requirements, despite the fact that the plan complies with municipal policy. From this article one can conclude that there should be a willingness from the municipality to cooperate. If a municipality does not want to cooperate the transformation can take a very long time and can maybe in the end not be developed at all.

There are however legal boundaries to the requirements that municipalities can set. In a general sense municipalities must adhere to the principles of good governance and may not impose unreasonable requirements. The further legal limits of what a municipality is allowed to demand are regulated in many laws and regulations that fall under public law. These include among others the Housing Act, General Provisions Act, Spatial Planning Act, Land Development Act, the Building Decree and the Crisis and Recovery Act. Once agreement has been reached on the requirements, this is often laid down in an anterior agreement.

3.5 Project optimisation

The transformation of buildings can be a long process in which the project can be optimised in different phases of the process. This section of the report will show what costs and calculations are made in the transformation process, and which buttons can be pushed in a project. A distinction is made between the investment and the financing of transformation projects. These can however not be seen completely separately from each other because pushing one of the buttons also moves the rest of the calculation scheme.

3.5.1 Costs and calculations

In order to know how a project can be optimised it is good to know how a project works. This section of the report will therefore start with an overview on how calculations are made, and what types of costs there are in transformation projects.

3.5.1.1 Calculation methods

There are different ways of calculating the intended construction costs of a transformation project. The possibilities are with key figures, on the basis of a budget, with cash flow calculations or by calculating the residual value (Mackay, 2007). These possibilities are briefly discussed with examples from the book 'Transformatie van kantoorgebouwen' in which several transformation projects are analysed (Van der Voordt, 2007).

3.5.1.1.1 Key figures

The first method of calculation is calculating with key figures. Giesbers Maasdijken Ontwikkeling applied this method of calculation to the transformation of De Stadhouder in Alphen aan de Rijn. On the basis of rough sketches the residual land value including buildings was determined. Based on this calculation the price negotiations for the existing building were started. No instruments were used to determine the transformation potential. Also for the Willem Lodewijk State project in Appingedam calculations with key figures were made. The architect himself performed calculations based on the required cubic meters and data from reference projects of the architect himself (Van der Voordt, 2007).

3.5.1.1.2 Budget

The second method of cost calculation for a transformation project is based on a budget, as for example is the case in the Wilhelminastaete project in Diemen. A building cost expert, together with the client, the architect and a structural engineer investigated what, in view of the financial feasibility, the possibilities were for the sales price and the volume to be built (Van der Voordt, 2007). In order to calculate a budget, a building cost expert is needed, for whom making a budget with a deviation of less than 10% takes a lot of time. In many cases, a cost expert also works with key figures at an early stage, as there is not always sufficient information to make an estimate at that time. These key figures are often based on the cost expert's own experience (Mackay, 2007).

3.5.1.1.3 Discounted cash flow

In a Discounted Cash Flow (DCF) calculation, future cash flows are expressed in present value. Expressing cash flows in present value is also referred to as discounting, and is done using a discount rate that reflects the risk of the cash flows. The higher the risk, the more return is required and therefore the higher the discount rate will be. When all cash flows have been discounted, the balance sheet can be drawn up. The resulting total amount is called the net present value. This amount determines whether the investments can be earned back and therefore whether the project is financially feasible. The rule that applies here is

that if the net present value is higher than 0, the investment will be recovered, but if the net present value is lower than 0, the investment will not be recovered (Geltner, Miller, Clayton, & Eichholtz, 2006). The net present value can also be applied when choosing between the demolition and new construction or the transformation of a project. The variant with the highest net present value will be preferred (Mulder, 2015).

3.5.1.1.4 Residual value calculation

A residual value calculation calculates the residue of a project. In the most common form, the residual land value calculation, all costs and revenues are calculated except for land costs. After that it is easy to calculate what amount is left to spend on the land. If it concerns housing that is offered for rent, a Gross Initial Yield (GIY) is usually calculated for the income. In the same way that the land value can be determined as a residual value, the construction value can also be determined as a residual value. It is important to know all other items. This is simpler for transformation projects than for new construction projects, as in transformation projects more is known about costs, as the buildings already exists (Mackay, 2007).

3.5.1.2 Practice

Of these different calculation possibilities, Mackay (2007) has investigated that in most cases the developer uses key figures, from both in-house and external reference projects. Specifically in transformation projects, developers use common sense to identify risk factors and respond to them in terms of potential costs. In a later phase, the input of the architect can also play a role. However, experience is needed to use the right key figures in the right way. In addition, in the case of transformation projects, much more attention must be paid to possible risks (Mackay, 2007).

The other methods have drawbacks that make them not much used. For example, the disadvantage of making a budget is that it takes a lot of time. In addition, not every developer has the knowledge or expertise of a cost expert and in some cases would have to turn to either a cost calculating expert or an external agency. The downside of a calculator is that in general the calculations are far too precise for the phase in which the budget has to be made, as this takes a lot of time and requires detailed information about the project (Mackay, 2007).

3.5.1.3 Cost types

When looking at the costs and benefits, it is important to realise whose costs and benefits they are. In the transformation process different actors are distinguished, being the developer, the investor/owner and the user (De Groot, 2014). The NEN2699:2017 (NEN, 2017), which is a norm and agreement that market parties have voluntarily made with each other, divides the various costs into:

- The costs & benefits of the investment (from the developers' point of view)
- The costs and benefits of the exploitation (from the point of view of the investors/owners)
- The costs & benefits of accommodation (from the users' point of view)

This research focuses on the developer and will therefore mainly look at the investment costs.

3.5.1.3.1 Investment costs

NEN 2699:2017 provides the definitions and classification of investment costs of buildings (NEN, 2017). The investment costs of a building include the land costs, construction costs, installation costs, additional costs, unforeseen costs, taxes, and finance costs.

Investment Costs						
land costs	construction costs	installation costs	additional costs	unforeseen costs	taxes	finance costs

Table 1 Investments costs (Adapted from NEN, 2017)

3.5.1.3.2 Construction costs

The construction costs are one of the largest cost item of the investment costs (Fakton, 2019). According to the NEN 2699:2017, the construction costs are divided into costs for the building and costs for the site. These costs are then subdivided into costs for construction works, installations and permanent facilities (NEN, 2017). The subdivision of the construction costs is illustrated in table 2.

Construction Costs				
construction works	installations	permanent layout and facilities	site	general implementation cost

Table 2 Construction costs (Adapted from NEN, 2017)

A distinction must be made between the construction costs of transformation projects and that of new construction projects. The difference is that in transformation projects the construction costs depend on the characteristics of the current building that is to be transformed and on the future building after transformation. Whilst in the case of new construction projects the costs of construction depend only on the characteristics of the new building (De Groot, 2014).

3.5.1.3.3 Building process

The building process can be divided into several phases. There are five main phases, and eleven sub phases, each with its own budget.

Main Phase	Sub Phase	Budget
program phase	initiation	initiation budget
	feasibility study	feasibility budget
	project definition	feasibility budget
design phase	structural design	SD-budget
	preliminary design	PD-budget
	final design	FD-budget
development phase	tender	management budget
	price determination	application budget
realization phase	work preparation	work budget
	execution	
	delivery	
operational phase		

Table 3 Relation between phases and budget (Adapted from NEN, 2017)

This research focuses on the early phases of the building process which are defined in the table above as sub-phases of the program phase.

3.5.1.3.4 Information and assumptions

In cost calculations in the early phases of a new construction process, element estimates are used. The quantities of the building are adjusted after these estimates in order to make a feasible calculation (Gerritse, 2005). Assumptions are made in these early phases because the quantities are not yet known. On the other hand, during a transformation process, a large part of the quantities is known at an earlier stage because the building will remain partly standing. Information is available relatively early in the building process, which would normally only be available later in the building process. With this information, the feasibility calculation can be carried out with a relatively large amount of information, which reduces the assumptions. This means greater reliability in the calculation model. In this early phase, the budget level according to NEN2699:2017 is a feasibility budget (NEN, 2017).

3.5.1.4 Construction costs of transformation projects

In his study on construction costs in transformation projects, Mackay (2007) indicates that there are some factors that often turn out to be the largest cost items in transformation projects. The largest cost generator is the façade, followed by the general implementation costs and the interior walls. Other items that determine the costs to a relatively large extent are project-specific items. The item 'mechanical installations' also appears to be a solid and stable cost generator. In addition, the construction costs for the foundations, roofs and site are often determined two-sided; something must be done about it, or it stays as it is (Mackay, 2007).

Schmidt (2012), Huysmans (2011) and Veen (2012) also focused in their research on construction costs. They use the Pareto principle in order to determine the most important construction costs of transformation and respectively to classify the risks of transformation. The Pareto principle is an economical rule also known as the 80-20 rule and was established by the Italian economist Vilfredo Pareto in 1906 (De Groot, 2014). Joseph Juran generalized the rule and describes the effect as 80% of the results are caused by 20% of the causes (Grosfeld, Ronen, & Kozlovsky, 2007). In their research Schmidt, Huysmans and Veen classified the façade costs, the structure costs, the installations, and the inner walls as the most important elements of the construction costs of transformation projects.

3.5.1.5 Value of heritage

In some cases the buildings that are to be transformed can have a value of cultural heritage. In the research of Persoon (2019) on the value of cultural heritage she concludes that the transformation of cultural heritage has a positive impact on the market price of the surrounding buildings. She states that the narrative and story behind the building are the most important values and separates transformed buildings from newly built buildings. The narrative is an overarching concept that incorporates all the non-economic values such as the emotional, architectural and social values. It is seen as a heritage premium above the normal market price of a building (Persoon, 2019).

3.5.2 Optimisation possibilities

With the knowledge of transformation costs and calculation, the next step can be taken and optimisation possibilities can be investigated. The cases studied by Gelink and Strolenberg (2014) in their book 'rekenen op herbestemming' of are used in this section of the report as practical examples to explain the different possibilities of project optimisation. In possible ways of optimisation, a distinction is made between the investment and financing of transformation projects.

3.5.2.1 Land usage

According to Nozeman (2010), the use of the land has the greatest impact on revenues and costs. One of the ways to optimise this is by 'double land use'. Think of built parking under housing or offices, or green areas on parking garages. Another way is to intensify the use of land, for example by using parking spaces in a living-working area during the daytime by people who go to offices or shops and in the evening by residents who can park their cars.

3.5.2.1.1 Densification

Densifying the plan and increasing the FSI (Floor Space Index) can also significantly increase yields. This densification almost automatically leads to the construction of more apartments and less ground-bound dwellings (Buitelaar, Segeren, & Kronberger, 2008). De Zeeuw (2019) specifically states that with a densified plan and smaller and more expensive dwellings, the revenues from the land exploitation will increase. These revenues then outweigh the high location costs. In this way, a balanced land exploitation is within reach and subsidies to cover the unprofitable peaks will no longer be necessary. Though, densification and high-rise buildings are sometimes the appropriate formula, but not always and to a certain extent. Literally, because construction costs will increase disproportionately when one builds higher than six layers . And sometimes dilution of the buildings in the land use is more favourable than densification.

3.5.2.2 The investment costs

One of the elements on which developers can optimise and save money are the investment costs. In the previous section of this report a more elaborate definition is given of what the investment costs in transformation projects are.

3.5.2.2.1 Building in phases

The time between investing, exploitation and utilization can in transformation projects be shorter than in traditional project development. In 16 of the 26 projects investigated by Gelinck and Strolenberg (2014), the building was in use within a year and a half after the initial plans were drawn up. In a number of projects in which the buildings were transformed to a live-work concept, some users were even already working before the buildings had been completely transformed. These projects show that it is possible to bring buildings into operation and transform them at the same time. The buildings are then not rebuilt in one go, but in two or more phases, with each investment leading to a different exploitation picture. This exploitation picture with investment and revenues is illustrated in figure 4.

The cash flows on the left side of figure 4 illustrates a transformation project in which the building is first completely transformed. The investment precedes a long operating period with income and expenses from exploitation. The result of income and expenses must be positive and sufficient enough to pay the capital costs each year. The future value of the building is not included in this scheme. The cash flow on the right side of figure 4 is that of a transformation project which is built in phases, with each phase its own investment. In the ideal situation, the income increases after each investment and, or the costs decrease (Gelinck & Strolenberg, 2014).

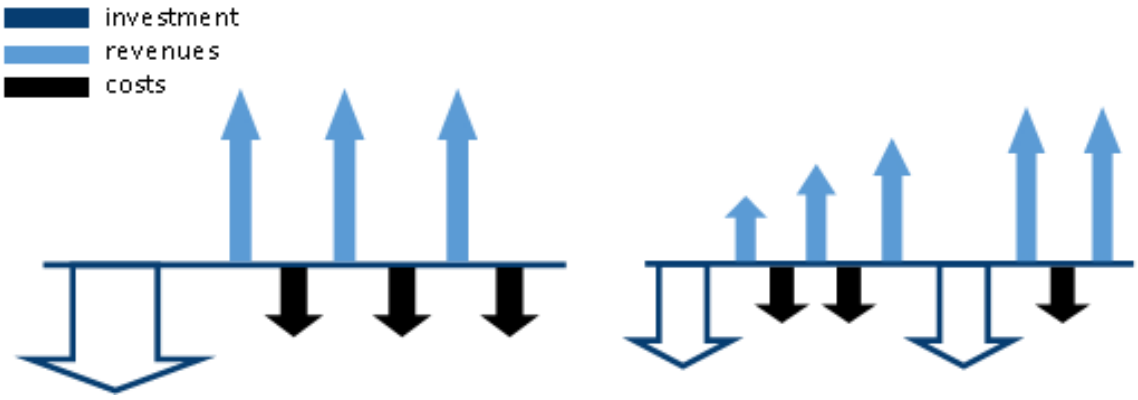


Figure 4 investment and revenues (Adapted from Gelinck & Strolenberg, 2014)

Two projects that were investigated by Gelinck & Strolenberg (2014), and transformed in phases, were rented out at a lower level than the actual cost to the owner. The rent was determined on the basis of what the users could pay, despite the fact that the rents were not sufficient to cover all the costs incurred by the owners. This seems irrational. The building owner will then lose money on renting out the property. But there is a different logic behind it. The projects have in common that they are rented out for a certain period of time with the aim of bringing new life to buildings that would otherwise be vacant. The purpose of both examples is also to use the building to give an impulse to the transformation of the area. The buildings were used as an 'intermediate step' to initiate a transformation. It is an enterprising solution, which offers the owners another advantage, namely that the book value is put on hold. Thinking in intermediate steps is therefore an interesting strategy for the owner and not only applicable in the case of buildings that are to be demolished.

In addition, transformation in phases has the advantage of being able to respond better to technical developments, and even to changing trends in people's perceptions and design (Sanvido, Grobler, Parfitt, Guvenis & Coyle, 1992). From a financial perspective, it is possible that the ratio behind the method of phasing differs. The pace of investment can be adjusted to market demand, to cash flow, to financing or to take advantage of opportunities that may arise. Phasing is a familiar phenomenon for the development of areas. If area development is accompanied by the transformation of buildings, phasing is then a much used strategy.

3.5.2.3 Construction costs

The construction costs are the next important factor on which costs can be saved. After all, the construction costs are one of the largest cost items, along with the building and land costs. It is said earlier in this report that the façade, general implementation costs and the interior walls are the largest cost items in the construction costs of transformation projects (Mackay, 2007).

Many projects therefore show all kinds of solutions to save on these construction costs. The easiest solution is, of course, to remove parts of the list of works to be carried out. This is stated by Buitelaar, Segeren and Kronberger as simplification of dwelling and surroundings. This can be done by, for example, using cheaper materials for the dwellings, but also savings in the design of the living surroundings. However, in order to optimise the project, one can also look at how work can be carried out or organised differently, so that they lead to different calculations. The solutions vary from in-house construction, self-reliance by users to the acceptance of unorthodox solutions. Table 4 shows that many projects

investigated by Gelinck and Strolenberg (2014) save on several cost items simultaneously, it must be said that not all of 26 investigated projects are shown, but only those who were initiated to make a profit.

	building not part of investment or leased at low cost	saving on contract price	under our own management: saving on additional costs	users invest	investment by market demand	adapting investment to financing
Acta	X	X		X		
A Lab	X	X	X	X		
Atoomclub			X		X	
C-mill			X		X	
De Nieuwe Stad				X	X	
Marienbosch		X				
Rohm & Haas		X	X	X		
Strijp S			X	X	X	
#ZW32	X	X	X		X	

Table 4 List of projects and costs savings (Adapted from, Gelinck & Strolenberg, 2014)

In addition to the contractor, users can also be involved to carry out work and save costs. User involvement is however only possible if the future owner or investor is involved. Usually this involves work on the design and finishing of the building. This may involve, for example, users painting the walls themselves and taking care of the walls and fixtures themselves. The savings can even go beyond finishing and furnishing, whereby the users partly replace the contractor. This is the case, for example, in the Acta building, where the students themselves installed walls and insulation in exchange for a ten percent discount on the rent (Blom, 2012). Interestingly, the contractor did provide the students with expert guidance during the work. Due to the self-activity of the tenants, almost fifteen percent of the contract price was saved. Partly as a result of this, new student rooms were built for less than €300 per m2, which was one of the cheapest in Amsterdam at that time.

Another advantage of self-activity is the higher involvement of the residents in the residential building, which results in a lower degree of mutation within the tenants. Self-activity also promotes involvement between co-residents, which results in higher social cohesion (Mulder, 2015).

3.5.2.3.1 Other costs reducing possibilities

Other options to optimise development projects and reduce costs are described by De Zeeuw (2019). In his book on area development, he states that he provides a number of opportunities for realistic cost reductions without compromising essential qualities. A note must be made that the optimisation possibilities that he gives all relate to area transformation, and not so much to transformations at building level.

One of the options he gives for developers is to change the way the outdoor space is used. A high quality outdoor space can lead to significantly lower management costs, for example with more greenery and less stone. Capitalised, this benefits the development costs. Other optimisation possibilities for developers that he gives are:

- Smarter organisation of parking, e.g. bundled instead of on one's own site. Another example is at ground level instead of built-up parking, this does not always mean an essential reduction in quality.
- Questioning whether relocation of the existing infrastructure is really necessary, the associated costs of relocation of cables and pipelines are immense.
- Further implementation of a phased approach, for example in the purchase of land and buildings, the construction of public outdoor space and the realisation of built parking facilities.
- Setting sharper priorities in archaeological research, excavations and conservation measures
- More inventive mix of demolition, preservation and partial transformation

He also gives optimisation possibilities to reduce costs in the transformation process in general. He for example suggests a cheaper and more function-oriented remediation of soil pollution, with a real risk approach. Van Giezen says in De Zeeuw (2019) that sometimes municipalities have stricter requirements for certain materials than is necessary to protect people. Projects can therefore be optimised by taking a close look at the requirements for soil remediation and whether these are realistic.

An other general optimisation possibility that he is gives is to avoid expensive technical environmental provisions that do not substantially contribute to the environmental quality. An improvement would be to look first at the qualities the development area already has. For example, the already existing green structure could be strengthened. Another example is the linking of thermal energy producers and customers with each other if this is technically and financially feasible.

Lastly, he gives three optimisation possibilities for municipalities to reduce the costs and make transformation projects more feasible. Firstly, he suggests to remove inappropriate cost components from land use, such as main infrastructure, the construction of schools and other social facilities. This balancing of investments should be done at urban level and should be charged to general resources and not to land exploitation. This also applies to administrative costs which are essentially general policy work and have little relation to the development itself.

The second option he gives is lowering the parking standard in high-urban areas. In these areas, car ownership will decrease as residents choose other means of transport (Province of Zuid-Holland, 2017). Reducing the parking standard and the number of parking spaces will increase the financial feasibility and improve the quality of the use of space within the plan.

Thirdly he suggests to remove or moderate additional quality requirements imposed by the municipality in the areas of architecture, traffic and the environment that are not appreciated by end users.

3.5.2.4 Revenues

The feasibility of a project can, besides reducing the costs, also be improved by increasing the revenues. What determines the revenue of a project are the market, the location and the building characteristics. Muller (2008) conducted a research into the different possibilities to increase the revenues of transformation projects. He found that the factors that have the largest impact on the revenues are the possibilities for a commercial function on the ground floor, the possibilities for changing the floor space surface, and the plinth function.

Since a developer cannot change the location of a building, he will have to look at the different intervention options of a building. There are a number of possibilities to adjust the surface of a building. These

possibilities have been listed by Brandes, Van Dijk and Van der Schans (2000) and concern the following adaptations:

- Thicken: involving outdoor space such as balconies
- Down-topping: removing building layers
- Excavating: removing parts of floors and breaking open the façade
- Attaching: adding (outside) space by adding extra floor surface to the hull
- Combining floors: merging floors into one dwelling
- Topping: adding floors
- Adding new build: adding new construction to the building
- Plinths: using the plinth and shifting the façade

In addition to being used for residential purposes, the plinth can also be used for functions such as retail, office or business premises. Other functions such as health care, fitness centres and nurseries are also possible. Adding a plinth function can be a good way of filling in the ground floor of an apartment building, a level where apartments are often difficult to fit in due to the large degree of exposure that then arises. For this reason, nowadays many apartment buildings are built with a semi-sunken parking garage so that the apartments above it are half a floor higher than ground level, which reduces the exposure. Furthermore, a plinth function also provides a mix of functions, which increases the liveliness of a location. This in turn has a positive influence on the lettability of the homes (Mulder, 2015).

De Zeeuw (2019) gives a few other examples of how revenue can be increased in projects. One these is to make the programme more in line with the market and thus more precisely in line with the wishes of end users. This could relate to the mix of functions, planning, housing typology, design of public space and parking.

A second possibility that he gives is to deal with the water storage task in a more inventive way. This can lead to value creation, such as living by the water and more attractive public space, and more efficient use of space. Examples include the construction of water-permeable parking spaces and the deepening of water squares.

He also states that one can create rental income from temporary or continued use of the existing buildings. These can have a positive influence on the exploitation and contribute to value creation, because the area is positioned in a positive way. This positive influence that renting out existing buildings can have is also stated by Gelinck and Strolenberg (2014) and was mentioned in an earlier section of this report.

A possibility he gives for municipalities to optimise transformation projects and increase revenues is to reduce the proportion of social rental housing with a very low rental price. Possibly these homes can be partially replaced by social owner-occupied homes.

3.5.2.5 The financing

In an earlier part of this report it was already indicated that the government has taken on an increasingly reluctant role over the years. This means not only one potential initiator less, but also one potential financier or project partner less. Developers will therefore often have to go to a bank, investor or other institutions in order to obtain financing. In table 5 an overview is illustrated of the different financing sources of the projects investigated by Gelinck and Strolenberg (2014).

	initiator	bank	project partner	subsidies	interest-free loan	crowdfunding
Acta		X				
A Lab			X	X	X	
Atoomclub	X	X	X			
C-mill	X	X	X			
De Nieuwe Stad	X	X				
Marienbosch		X	X	X	X	
Rohm & Haas		X		X	X	
Strijp S	X	X				
#ZW32	X					

Table 5 Financing sources of case projects (Adapted from Gelinck & Strolenberg, 2014).

In the table it can be seen that many projects needed the help of the bank financing, but also the initiator had to invest own equity. Municipalities can also help in financing transformation projects through an inter-free loan, as was the case in the transformation of the St. Jacobs church in 's-Hertogenbosch. An amount of 1.500.000,- was granted as an interest-free loan. It was agreed that for each year that the centre was in operation, the municipality would grant a 100.000,- remission of this loan. In ten years the loan could thus be reduced to 500.000,-, and only this remaining part would have to be repaid. With this form of subsidy, or business arrangement, the municipality acquired the guarantee that the centre would be a keeper (Vereniging van Beheerders van Monumentale Kerkgebouwen, 2008).

Although these different forms of financing sources do not decrease costs in transformation projects, they do increase the feasibility. If transformation projects are struggling to secure funding, the use of different financing sources can increase the budget and therefore make projects feasible (Janssen, 2018).

3.5.2.5.1 Ground lease

Developers can also look at special ways of financing. At the GAK office in Amsterdam, for example, ground lease has been used as a financing instrument for the transformation. The developer used the income from the land sale to finance the construction (Herbestemmingsacademie, 2013). The land transaction offered another advantage, namely that the owner-occupied apartments could be offered for sale without land at a lower freehold price. As a result, the apartments were sold more quickly.

3.5.2.5.2 Project partners

Another special way of financing that developed during the economic crisis is the usage of project partners. This was seen in the projects de Hallen and A lab in Amsterdam, the Atoomclub in Utrecht, and the Schieblock in Rotterdam. There it was agreed with the contractors, and sometimes also subcontractors, that they would not be paid in full upon completion of the work, but in terms of instalments. The developer does pay interest on the instalments, but the agreements give the developer the opportunity to better coordinate the incoming and outgoing financial flows. The financial advantage of this is that the request for financing from the bank is lower. In A lab and Schieblock it was even possible to renovate completely without a bank (Gelinck & Strolenberg, 2014). This form of financing also has the advantage that project partners become more substantively involved in the project. The constructing parties will contribute ideas

on how the project can be transformed as good and as quickly as possible. The success of the project also becomes their interest, delays as a result of incorrect construction works now also become their problem.

3.5.2.5.3 Crowdfunding

According to KMPG's Property Lending Barometer 2019, traditional banks in the Netherlands are granting fewer and fewer property loans. According to the study, the majority of Dutch banks are, if the financing volume is less than 20 million euros, only open to the financing of investment real estate, i.e. real estate projects with direct income. Development projects beneath this financing size of 20 million are therefore often rejected from the very beginning (KPMG, 2019).

Project developers should therefore make use of alternative forms of financing, such as crowdfunding. Especially in the initial phase of a project, crowdfunding can be an effective form of financing. For example, to purchase the land and then go through the permit procedure. By means of pre-sale or sale to a final investor, the loan can be paid off at the end of the term (Geurtsen, 2019).

Although this way of financing still plays a relatively small role, projects are increasingly being financed through crowdfunding (Gelinck & Strolenberg, 2014). One of the most recent and also one of the most successful examples is that of the Noordelijk Trade Center in Groningen. Paas Vastgoed Ontwikkeling had raised the requested € 4.850.000,- in funding through the crowdfunding platform 'vastgoedinvesteren.nl' for the acquisition and transformation of the Noordelijk Trade Center in Groningen (Vastgoed Journaal, 2019). Paas wants to renovate the old office building completely, make it more sustainable and build a fifth floor. Director Jacob Paas chose to finance part of the project through crowdfunding because he could not get a foothold at the banks (RTV Noord, 2019).

In addition, Gelinck & Strolenberg (2014) indicate in their book that the funds raised through crowdfunding are often not sufficient for the investments involved in transformation. It is more important that crowdfunding is able to involve the public because it is a funding based on trust. It is less about the idea, and more about the connection with the investors. It is precisely that connection and that trust that seems to be able to give a transformation project wings.

3.5.2.5.4 Financing methods

Besides the financing sources one can also look at how to optimise the financing methods.

3.5.2.5.4.1 Bathtub model

Characteristic for project development are the large pre-investments that remain 'locked up' for a long time. The locked up investments in the project are also referred to as the capital requirement (kapitaalbeslag) (Kennisbank Financieel, n.d.). The amounts involved vary enormously, depending on the nature, size and current use of the project. There is often a long period between the moment of the largest expenditure, i.e. the purchase of land and buildings, and the moment of the majority of the sale of the plots. In professional jargon one therefore speaks of the 'bathtub'. A lot of pre-investment funds remain locked up in that bathtub for a long time. Those who do not support this model speak disdainfully of 'avalanche capital' (De Zeeuw, 2019).

In an economic upturn, with favourable market expectations, the filling of the bathtub runs relatively smoothly. After all, investors and financiers expect higher issuing prices over time, from which the compensation for the capital made available can be paid: the repayment capacity.

This model brings with it many risks. The combination of the fact that the money from the pre-investment is locked up for a long time and the dynamic, unpredictable environment of the investment gives rise to specific risks and opportunities. Market conditions can change rapidly, and if the plan is realised and the sale starts while prices have just plummeted, big problems can arise.

The progress of the development process is never linear and orderly. A change of alderman, a court ruling, opposition from the surrounding area, a new legal measure, bankruptcy of one of the stakeholders, all these events can lead to a delay. This delay usually has a negative financial impact because the interest costs of the capital continue for a longer period of time.

3.5.2.5.4.2 Sink model

An optimisation option is given to reduce and shorten the risk of capital requirements. In the financial world, the aim is to shorten the balance sheet and improve cash flow. The latter means that expenditure is compensated by sufficient income in a certain period of time. In other words, making the bathtub shallower and shorter, i.e. turning the bathtub into sinks (De Zeeuw, 2019). What this financing looks like is shown in figure 5.

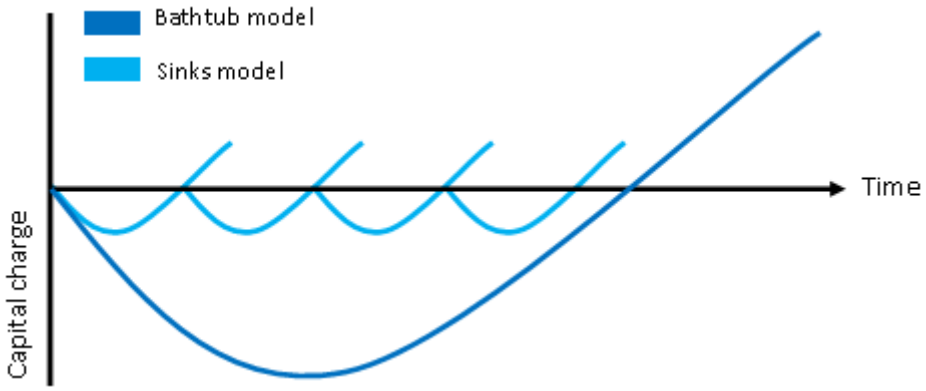


Figure 5 Difference in capital requirements of bathtub- and sink model (Adapted from De Zeeuw, 2019)

The possibilities of De Zeeuw (2019) how 'sink financing' can be realised mainly relate to area developments. For example, he argues that the ideal situation for this is when there is a plan for the entire area that requires hardly any 'own' pre-investment. For each subproject within that area, the investments will then be made, against which income from sales after realisation will be generated in the foreseeable future. With phased subprojects, the investment volume will then remain limited in size and time.

Usually, however, investments at plan level will be unavoidable. Purchases of land and buildings are often not in line with the phasing of the sub-plans. Moreover, flexibility is part of the purchasing strategy. Think of the necessary expansion of the infrastructure required for the transformation. This infrastructure cannot be cut up into sections. Also in the case of other physical structural elements such as the green structure, the pace of investment can seldom be cut up entirely according to the phasing of the subplans.

Another method of limiting capital requirements and improving cash flow is to wait with purchases until the sales price drops, but that is of course not always possible. A different distribution of risk between the landowner and developer instead of unconditional purchase in advance can also limit the capital requirements. An example is that the purchase only becomes final when the environmental permit is granted.

3.5.3 Conclusion

In this conclusion an answer will be given to the sub question: *(v) 'what is project optimisation and what possibilities can a developer use in order to still make a feasible transformation project?*'.

Whenever after calculations a transformation project turns out unfeasible, developers can optimise their projects in an attempt to still make it feasible. To do these calculations developers can either use key figures, base their calculations on budgets, use the discounted cash flow method or do a residual value calculation. However, developers will most of the time use key figures when the optimise and recalculate transformation projects.

Two important ways to optimise projects is by reducing costs and increasing revenues. These costs that could be reduced are the investment costs from which the construction costs are the largest cost item on which money can be saved.

The investment costs can be optimised by building in phases. The project is than transformed in one go, but in two or more phases, with each investment leading to a different exploitation picture. In the first phase building can also be rented out at low levels to give an impulse to the area. In addition, transformation in phases has the advantage of being able to respond better to technical developments, and even to changing trends in people's perceptions and design.

Form literature it can be concluded that if a developer needs to lower the construction costs he first must look at his costs for the façade, structure, installations, inner walls and general implementation, as these are the largest costs on which a developer can lower his expenses. The easiest way to do so would be to simplify the development plan by using cheaper materials and remove parts of the list of works to be carried out. Developers could however also organise work differently, like in-house construction and user involvement, which lead to different calculations. A more inventive mix of demolition, preservation and partial transformation, questioning whether relocation of the existing infrastructure is really necessary, more function-oriented remediation of soil pollution and avoiding expensive technical environmental provisions that do not substantially contribute to the environmental quality can also help decreasing costs. Municipalities can on their part optimise transformation projects by removing inappropriate cost components from land use, lowering the parking standard in high-urban areas and removing or moderating additional quality requirements in the areas of architecture, traffic and the environment that are not appreciated by end users.

There are also various ways to optimise the revenues of transformation projects. The market, location and building characteristics are the most important factors that determine the revenue of a project. Since the developer cannot change the location of the project he must look at possibilities to optimise the building by, for example, adding or combining floors or use the plinth. Other possibilities to optimise the revenues is by making the programme more in line with the market, or to deal with the water storage task in a more inventive way. Municipalities can on their part optimise revenues of transformations projects by reducing the proportion of social rental housing with a very low rental price and partly replace them with social owner-occupied homes. Another possibility is optimising the usage of land by intensifying or densifying the development plan and increasing the FSI. Though densification and high-rise buildings are not always the right formula and sometimes dilution of the buildings in the land use can be more favourable.

Besides reducing costs and increasing revenues the other important possibility to optimise projects is by using different financing sources and methods. Financing sources as and sales and taking ground lease,

crowdfunding or using project partners are financing sources that can increase the feasibility of transformation projects. Developers can also use other financing methods to reduce and shorten the risk of capital requirements. This can be done by phasing the development in subprojects, the investment volume will then remain limited in size and time. In other words, turning the bathtub model into a sinks model.

Part III: Practice

Empirical research

This chapter of the report deals with the empirical part of the research thesis. At first, the results from the exploratory interviews will be given, followed by the case study analysis. In the conclusion an answers will be given based on the formulated sub questions.

4 Explorative interviews

The explorative interviews were conducted in order to learn more about the research problem and subject, and to answer the questions that could not be found in the literature. In order to get a good picture of the subject, different parties were interviewed who can shed light on the research problem from different angles. The parties that were approached were real estate developers, lawyers, municipalities and advisors. A condition for selecting the interviewees was that they had worked on transformation projects and had experience with municipal requirements when applying for a change in the land-use plan. In this part of the research, only the most important results and conclusions from the interviews will be discussed. The interview protocols and detailed summaries of all interviews can be found in Appendix I and II.

4.1 Interviewed parties

All interviews with the parties were semi-structured interviews in which, in addition to the questionnaire drawn up in advance, there was room for additional questions that could arise from the interviewee's answers. A different questionnaire has been compiled for each party in order to be able to ask targeted questions that the party in question, with his or her specialist knowledge and experience, could properly answer. All the experts that were interviewed for the explorative interviews are listed in table 6, the names have been shielded to guarantee the anonymity of the interviewees.

Interviewee	Name	Company	Function
A		Kondor Wessels Vastgoed	Real estate developer
B		Kondor Wessels Vastgoed	Real estate developer
C		Kondor Wessels Vastgoed	Real estate developer
D		Egeria	Real estate developer
E		Kubiek Ruimtelijke Plannen	Consultant
F		Friso Advies	Consultant
G		Houthoff	Notary
H		Houthoff	Lawyer
I		Houthoff	Lawyer
J		Van der Feltz Advocaten	Lawyer
K		Gemeente Eindhoven	Project manager
L		Gemeente Den Haag	Project manager

Table 6 Interviewed experts for explorative interviews (own illustration)

4.1.1 Real estate developer

Real estate developers were interviewed about their experience and views on the negotiations in transformation project when a change in the land-use plan is needed. To find out more about the negotiation process between a developer and a municipality, the developer was asked what the initiation phase of a project looks like. First of all, questions were asked about what the initiation phase of a project

looks like in a general sense. Because the duration and scope of this phase can vary greatly, the developer was asked to divide the process even further into phases, and specify what each phase involves. The developer was also asked when negotiations would take place with the municipality about what the plan would look like in the period leading up to the change in the land-use plan. In other words, what the moments of negotiation with the municipality will be in the initiation phase. These negotiations on which the developer is interviewed, of course, only need to take place if the land-use plan needs to be changed. If the development plans are in line with the land-use plan, no negotiations between the developer and municipality need to take place. Finally, in the interview, it was asked whether things are laid down contractually in the negotiation process.

By asking these questions it becomes clearer what the negotiation process between a developer and a municipality looks like. This gives a better picture of when municipal requirements can be a problem in a project, and when negotiations are taking place about this.

4.1.2 Municipality

The municipality was interviewed mainly to find out more about how municipal policy is formed and project-specific requirements are established. When there is more clarity about why municipalities set the requirements, the research problem can be better examined. In this way, a better judgement can be made about how requirements can form a problem and why they are made.

The interviews began by asking the municipality what their general policy is on transformation. The aim is to find out which policy themes are important to the municipality and what it intends to focus on in projects. In addition, the interview asks how the municipality deals with its policy freedom regarding municipal requirements. Questions are asked to find out if it is already clear for initiators in advance what the requirements will be, and why the municipality has chosen a clear or non-transparent policy. Finally, the municipality's view on the requirements set in transformation projects is asked. They are asked whether the municipality often sets requirements that are higher than those described in the policy, whether they set project-specific requirements, and whether they can speak from experience which municipal requirements often cause a discussion and problems.

4.1.3 Lawyer

Since the research problem has many legal aspects, lawyers are also interviewed. During these interviews, mainly the legal boundaries of what a municipality is allowed to demand from a developer are questioned. The legal knowledge of the lawyer should also show whether there are any cases in which municipalities have been sued by developers because the municipality set requirements that they were not allowed to make. The lawyer is also asked whether developers often ask for his or her help with municipal requirements and which requirements often lead to disagreement between the municipality and the developer.

4.2 Results

The results of the interviews have been analysed and subdivided into the themes in which the questions were asked. Only the most interesting or similar results per theme are dealt with, as mentioned earlier, a detailed summary per interview can be found in the appendix. In order to guarantee the anonymity of the interviewee, the results and statements are not linked to the name of the interviewee in question.

4.2.1 Initiation phase

All developers indicate that a plan can be initiated in two ways, by the municipality or by the developer himself. If the initiative comes from the municipality, the project will be put out to tender and if it comes from the developer, it can be very diverse.

4.2.1.1 Tenders

In the case of a tender, the initiative comes from the municipality, whereby the frameworks of the plan have already been determined in advance and the requirements have already been drawn up. However, there is often a spread in the number of homes, level of finishing and sustainability requirements. The land-use and land value are already known in advance. In these projects, therefore, no changes to the land-use plan are required and there are no negotiations at all with the municipality, everything has already been laid down. In other words, the rules of the game of what is allowed and what is not allowed are determined in advance.

4.2.1.2 Initiative from the developer

The second option is that the developer initiates the plan himself, in which the possibilities for creation are very diverse. This can happen because a municipality issues a new structural vision or another policy document about how they see the future of the municipality. This may, for example, state that they want a business park to become transformed. As a developer you can use these documents to see at which locations there is potential for new developments and to initiate plans for them. This form of initiation does, however, give rise to some comments:

"As a developer, if you initiate a project based on these documents, you're usually too late because other parties already knew about it. Policy is usually the result of conversations that have already taken place" (Interviewee C, personal communication, March 24, 2020).

Another possibility is for a developer to have a location of his own and to go to the municipality with his own initiative. This could be through the developer's network, for example, but it could also be by chance that someone comes to the developer with an idea for a development on his or her land. In this situation too, there are two options for the developer, either the developer buys the property or the plot of land with risk, or the developer first examines whether his project has a chance of success with the municipality. The advantage of speculative land purchase where it is not yet certain that the location can be transformed is that the land price is lower. The uncertainty if developments can start arises in this case only if the land-use plan needs to be changed. If this is not necessary, no negotiations between the developer and the municipality need to take place. Land intended for agriculture, for example, has a clearly lower value than land intended for housing. One of the developers states about purchasing a site at risk:

"The question here is whether all the requirements that the municipality subsequently sets have been included by the developer in his purchase price" (Interviewee B, personal communication, March 23, 2020).

This statement addresses the fact that the sooner a developer buys the land, the cheaper the land price, but the more risk he faces. A developer comes up with a rough plan for what he wants to develop on the land, he does not know with certainty what requirements the municipality sets in order to change the land-use plan and he faces the risk that his plan turns out not to be feasible. In addition, the developer also faces the risk that the municipality will not provide any planning cooperation at all, as a result of which the developer is left with expensive land that he is unable to use. One of the interviewees who stated that

he worked for a risk-bearing developer said that when he bought properties he was never completely certain if the transformation would be allowed. In this first orienting phase, the developer only wants to know whether the municipality considers the intended transformation to be a good idea in general. During these initial discussions, the developer already has the volumes in mind and knows roughly how many dwellings he would like to develop and what type of dwellings.

The less risky way is when the project starts with an exploratory phase in which the developer first assesses whether the project has a chance of success with the municipality before the land is purchased. The process starts with negotiations with the landowner about the land price. The developer first carries out a financial and economic feasibility study. The developer looks at what is possible at the location, what the target group would be and whether there is a demand for the concept. If all this is correct, so it has been negotiated with the landowner, there is a market for it and it is financially feasible, then the developer goes with those plans to the municipality. So a developer first wants to know the conditions of the selling party. Negotiations with the municipality and the landowner often take place at the same time, in other words:

"So you play chess on multiple boards" (Interviewee A, personal communication, March 3, 2020).

Once the municipality has expressed its interest in the development plan, the initiation phase begins in which you always work from rough to fine. Several developers indicate that in this phase it is always important to convince the municipality that the plan needs to be developed, the following is said about this:

"If your initiative relates to one of the policy documents, you can work out the plan from there and highlight its social importance" (Interviewee C, personal communication, March 24, 2020).

One of the developers indicates that it is important to look at what the unique points of the project are. This is also called the intrinsic value. It must be possible to come up with a unique concept for that project. An example project is mentioned in which fix-up-homes were realised in an old flat that was purchased for 1 euro and of which only the outside of the building had been refurbished. People had to refurbish the entire interior themselves, with one house still nicely intact and the other burned out. Because the project was a unique concept, the municipality wanted to cooperate in the development of the plan. The developer says about this:

"By creating something that isn't there yet, you create your own market" (Interviewee A, personal communication, March 3, 2020).

4.2.1.3 Contracts

One of the developers indicates that sometimes an exclusivity agreement is used when initiating a project. In this case, the developer has the exclusivity to investigate the potential of a location. This usually only takes a few months and is agreed upon with the landowner or main leaseholder. As a result of this agreement, a letter of intent can be concluded with the landowner. A letter of intent or cooperation agreement can also be concluded with the municipality. In this agreement, the intention and the final outcome to be reached by both parties is stated (Van Duijvendijk, n.d.). Another form of contract mentioned for this phase is the advance agreement. In this agreement it is stated that the developer pays the costs that the municipality has to make in order to design the plan together with the developer. This gives the developer some certainty that the municipality wants to see the plan developed.

A contract form that is appointed by all interviewed developers is the anterior agreement, this is what you work towards during the negotiations. How this agreement looks like varies greatly from project to project. This can be a simple agreement in which only the distribution of the costs for public facilities is included, which is then called an exploitation agreement. This can also be a comprehensive agreement of about 45 pages containing agreements on how you will spend 15 years together in a development process. These are agreements about how much programme you are allowed to make, in which segments, sustainability requirements and the layout of the public space. It therefore depends on the size and complexity of the project how much will be included in an anterior agreement. It also depends how much framework is already known in advance from the municipality, and thus how much initiative the developer takes in a project. The following is stated about the negotiations about the anterior agreement:

"You work towards an anterior agreement, along the way negotiating article-by-article. The draft contract is therefore becoming more and more extensive, with some remarks remaining along the way" (Interviewee B, personal communication, March 23, 2020).

4.2.1.4 Conclusion

Plans can be initiated by the municipality, by means of a tender, or by the developer. When the plan is initiated by the developer, he can buy the land speculative at an early stage with risk, or he can first discuss the building possibilities with the municipality. When developing the plan, the developer first looks at the financial and economic feasibility which should result in a special concept, with these starting points the developer enters into consultation with the municipality. Negotiations with the municipality about changing the land-use plan start with exploratory conversations and work towards the joint signing of the anterior agreement. This form of contract is gradually being formed article by article.

It is very important that the plan is in line with the municipal policy and the municipality is convinced that the plan must be developed. At the same time, the developer is negotiating with the landowner if the land does not yet belong to the developer. It is therefore a business game in which chess is played on multiple boards.

4.2.2 Municipal requirements

Several project-specific examples are given by the interviewed developers of municipal requirements that formed a problem in the negotiations for the change of the land-use plan. However, it should be noted that in all the projects mentioned as examples, a final agreement has been reached with the municipality. A general remark that is made is that as a developer you need to have a good negotiating position. One of the interviewees says about this:

"How strong you stand and how difficult the negotiations will be very much depend on your ground position and how much you are in a hurry" (Interviewee D, personal communication, April 7 , 2020).

If, for example, you have an old office building that is vacant and for which you pay a ground lease, it costs a lot of money per year. In that situation, developers are more likely to agree to requirements. However, when the property is still rented out, a developer has longer time to enter into negotiations. The time of transformation in a location can also contribute to the negotiation position of the developer. One of the interviewees also indicated that the time of development in a certain location can also contribute to the negotiating position. If, for example, a developer in an area is the first to transform, that developer has much more of a pioneer status and the municipality is much more thankful that transformation is

happening, which gives the developer some more room to negotiate. If you are the last to transform in such an area then you will have that position less.

The requirements set by municipalities can be divided into requirements that are included in policy, and therefore known in advance, and requirements that became known during the negotiations.

4.2.2.1 Requirements from municipal policy

Almost all of the developers interviewed indicated that many of the requirements are already clear in advance, so as a developer, you can adjust to them. For example, you can look at visions and go through policy documents about housing. The ambition of the municipality is written in these documents. By including these ambitions in your plan, you will be faced with fewer surprises afterwards, which will increase the feasibility of your plan. Problems can arise, however, when projects take years and municipal policy changes during those years. As a result, new requirements can be set which in principle were out of the question and as a result the original development plan no longer appears to be feasible. One of the interviewees even indicates that of all the projects that eventually turned out to be unfeasible due to municipal requirements, this is because municipal policy was changed during the process.

One of the interviewees states that a requirement begins with the principle that it is laid down in policy. But if you, as a developer, can well substantiated state that requirements can be adapted, there may be room for this. For example, there may be a municipal parking standard, but if you can show that many parking garages are empty in the immediate surroundings of the project and there are many public transport points nearby, the standard may be lowered. About this is said:

"In this case it is important that you show the municipality that your plan must be realised. As long as they do not see this, they don't see why they have to change their requirements. If a municipality also wants something to be realised, you need each other" (Interviewee C, personal communication, March 24, 2020).

This statement can be related to a previously mentioned statement that as a developer in the initiation phase you have to convince a municipality that your plan needs to be developed. A well-convinced municipality is also more willing to adjust or adapt requirements later on.

Furthermore, all the developers interviewed mention housing standards as requirements that are included in policy and can cause problems in projects. An example cited is the new housing standard of the municipality of Alkmaar, which states that one third of all new developments must be social housing (Bakker, 2020). A similar type of regulation is the '40-40-20' regulation in the municipality of Amsterdam, in which all new developments must have a minimum of 40% social rent and 40% in the mid-rent segment (Gemeente Amsterdam, 2017a). One of the developers says about this requirement of the municipality of Amsterdam:

"The developer's power to say no is visible in the city of Amsterdam" (Interviewee A, personal communication, March 3, 2020).

The new situation that has arisen in Amsterdam is that all major investors have left the city of Amsterdam because they could no longer get their business cases feasible. Developers now choose to re-let the properties they wanted to transform until the regulation is adjusted, because development is no longer feasible. The municipality's new requirement therefore means that far fewer or no new developments at

all will be initiated. Given the fact that the municipality also wants new developments to take place, it is the power of the developer to say no until regulations are adjusted.

4.2.2.2 Requirements during process

The interviewees indicated that in most projects, problems arise when requirements are set that were not clear to the developer beforehand. One of the interviewees said about this:

"There is especially a lot of discussion when municipalities set requirements that are not specified in advance in policy, i.e. when they set higher requirements than those described in policy" (Interviewee B, personal communication, March 23, 2020).

Various examples are given by the developers of municipal requirements that were made during the process and caused problems. These requirements will be briefly discussed in the further section of this report.

4.2.2.2.1 Program

All the developers and consultants interviewed indicated that programmatic requirements can be a problem in transformation projects. These requirements relate to which segments the developer may and must develop. The percentage of social rent is mentioned by all developers as the biggest problem in projects.

In addition to the percentage of social rent, other examples are also mentioned, such as a project in which an office building was transformed into housing in a neighbourhood with only high-segment housing. The municipality demanded that a social component would be developed in the plinth in order to change the land-use plan. However, the developer's plans were developed for people in the high segment and these new residents would never share the entrance with the public, so the apartments would not be sold. Again, the developer's negotiating position was the power to say no because the municipality wanted the office building to be developed. The interviewee said about this:

"It is important that as a developer you have a good negotiating position, that the municipality also wants the development to happen so that, for example, an empty office building is transformed" (Interviewee A, personal communication, March 3, 2020).

An other example that is given is a project in which an old farm that had been designated a national monument was transformed into dwellings. Disagreement arose with the municipality about the number of dwellings that could be developed. The interviewee sees the number of dwellings recurring as a point of discussion in transformation projects and says about this:

"Friction arises here, and often in other projects as well, because the municipality almost always wants less housing than the developer has in mind" (Interviewee E, personal communication, March 18, 2020).

Eventually, a solution was found in the project by allowing more houses to be developed elsewhere on the site. The interviewee indicates that negotiations could take place because the municipality also had an interest in the development to be realised. It was in the municipality's interest that the old national monument would be redeveloped and thereby preserved.

In addition to the percentage of social housing, mid-rent and other segments, the size of the dwellings is also a common point of discussion, because the smaller the dwellings, the better their affordability. In an example project a plan was made for a gallery flat with many small apartments. However, the municipality

demanded that there should be a porch apartment block, as a result of which the number of apartments in the original design had to be halved because the apartments became bigger.

4.2.2.2.2 Sustainability

Sustainability requirements can be experienced as an obstacle in a project in times of low economic activity, because in times of high economic activity these requirements can be profitably incorporated in the plan. What is indicated as a new requirement that can be seen more often in projects are requirements concerning nitrogen. In that case requirements no longer just concern the final plan, but also how the building process will look like, and how nitrogen emissions are taken into account. How much nitrogen is used in a building process can be the determining factor whether a municipality will cooperate with a plan.

4.2.2.2.3 Exploitation costs

Many of the interviewees see requirements such as how high the exploitation contribution should be as a common problem. These are costs such as official costs and costs for public facilities. The problem in this case mainly concerns the municipality's justification of the costs demanded of the developer. One of the interviewees said about this:

"Because there is no national standard on how much an exploitation contribution must be, it is up to the justification whether a requirement is found to be reasonable" (Interviewee C, personal communication, March 24, 2020).

4.2.2.2.4 Parking standard

A parking standard that is set is a requirement that can be the subject of much discussion when a standard is set that is higher than indicated in the latest policy documents. Municipalities calculate with standards that are too high, the actual parking demand is often much lower than required. The example is given of a project in which a high parking standard was set, whereas in comparable projects this standard was much lower. After a well-substantiated argumentation and the developer's own calculation on the basis of the CROW standard, the municipality went along with the decision to lower the parking standard.

Several interviewees indicated that the requirements of a municipality can be refuted, on the condition that this refutation is well-founded. One of the interviewees said about this:

"As a developer, you can always well-argued refute requirement*s. The important thing is that you not only say that these* requirement*s make the project unfeasible, but also show that the* requirement*s are unreasonable and can be refuted" (Interviewee C, personal communication, March 24, 2020).*

4.2.2.2.5 Environmental legislation

One of the interviewees mentions environmental legislation as a requirement that can cause problems in a transformation project. Although laws clearly stipulate that research must be carried out into flora and fauna, the amount of research is often still a point of discussion. Ecologists are called in to see if research can be combined and when research can best be carried out. Soil pollution is also mentioned as a point of discussion, and in particular how remediation will be carried out.

4.2.2.2.6 Noise standards

Particularly when offices are transformed into dwellings, noise standards can be a problem because these offices are often located in noise-sensitive locations. The regulations on noise standards are well regulated, but it is up to the Mayor and Aldermen to allow exceptions. This can lead to a lot of discussion and

negotiation. Whether exceptions are allowed depends on how badly the municipality wants an office building to be transformed into housing.

4.2.2.2.7 Ground lease

Some interviewees indicated the amount of the leasehold as a requirement that could cause problems, especially in combination with other requirements. One of the interviewees said about this:

"The situations I know always have to do with a combination of overly strict regulation with an overly high ground lease" (Interviewee D, personal communication, April 7 , 2020).

One of the developers interviewed gave the example of a project in which an old flat was developed into fix-up homes. Problems arose in this project because the municipality was going to determine new ground leases because the old flat had rental housing and the new fix-up homes were going to be sold as owner-occupied homes. The ground lease of the flat was at the time of the original construction redeemed for €3,000,-. The new ground lease was determined by the municipality at €35.000,- per apartment, which increased the selling price of the apartments from around €65.000,- to €100.000,-. This requirement was eventually negotiated with the developer's position that otherwise they would not transform the flat. Also in this project the municipality wanted it to be developed, because the developer was going to make houses again in a flat that was on the list to be demolished.

4.2.2.3 Difference in municipalities

In the interviews, varying answers were given to the question of whether there is a difference between municipalities and the requirements they set. Half of the interviewees indicated that there is a lot of difference in municipalities and where their focus lies, the other half indicated that there are small differences but in general municipalities have the same policy.

The interviewees who see many differences in municipalities see this mainly in the focus of municipal policy. They mention, for example, that the municipality of Nieuwegein a well-organised transformation policy has and that they are very inviting to developers. For developers, it is clear upfront where they stand when it comes to transformation projects. The municipality has indicated in policy documents that they would like to transform and that they will use a faster procedure to do so. Municipalities of Driebergen and Utrecht are appointed as municipalities that place great importance on sustainability. One of the interviewees mentioned about the municipality of Driebergen that:

"As a developer, you know in advance that if you have a green plan, it can count on a lot of common ground with the municipality" (Interviewee E, personal communication, March 18, 2020).

It is also indicated that there have been many problems with negotiations between developers and municipalities in recent years, and that this depends on your position as a developer and the municipality in which you operate. For example, some projects in Amsterdam require you to negotiate housing regulations under public law, and the amount of ground lease under private law. So here the municipality has a lot of instruments to make it difficult for a developer and to force is own policy on a project. Things are very different in Rotterdam, where there is little ground lease and a lot of land in own use, and there is a land-use plan for the entire centre that is broadly drawn up. So there you see that if a developer has his own land and housing is allowed, the municipality has very little to say.

The other interviewees indicated that many municipalities have the same policy issues, though the difference between large and small municipalities is mentioned. For example, large municipalities are

more reluctant because they see more initiatives coming their way, and small municipalities have more and faster personal contact. The larger the municipality, the larger the projects there and also the more people who work there. Large projects in small municipalities can then take longer because the people who work there are less specialised and experienced. It can also be seen that large municipalities are at the forefront of small municipalities in terms of policy. An example is given that many municipalities now have new policies for the regulation of mid-rent segment, which started in Amsterdam and is now reflected in many smaller municipalities.

4.2.2.4 Conclusion

There are municipal requirements that arise from policy and are therefore known for the developers in advance, and there are municipal requirements that are imposed during the process and are therefore not known for the developers in advance.

An important matter raised by all developers is that a municipality must be convinced of the necessity of the project. If the project is also in the interest of the municipality, you as a developer have a point of negotiation with which you can adjust municipal requirements. If you want to refute requirements, it is important that this is well argued and that you, as the developer, can demonstrate that requirements are unreasonable. As a last resort, a developer always has the power to say no.

The requirements that cause the most problems are those that are made during a process and were not clear to the developer beforehand. Much discussion and negotiation arise because the requirements are not laid down in policy. In addition to the different project-specific requirements presented by the interviewees, there are also corresponding answers showing that the most common requirements are programmatic requirements, sustainability requirements and requirements regarding exploitation costs and parking standards. Furthermore, all interviewees indicate that it is not so much one specific requirement that causes problems, but rather the stacking thereof.

Interviewee	Programme	Parking standard	Sustainability	Exploitation costs	Ground lease	Noise standard	Environmental legislation	Building height
A	X			X	X			
B	X	X	X	X				
C	X	X		X				
D	X	X	X		X			
E	X	X	X			X	X	
F	X		X	X				
J	X		X	X				
K		X	X					X

Table 7 Responses of interviewees on which municipal requirements causes problems (own illustration)

In addition, the interviewees indicated that at the time of the economic crisis municipalities let go of many requirements because otherwise nothing at all would be developed. From this it can be concluded that if the market is good, the demands of the municipality will increase.

4.2.3 Legal boundaries according to developers

In principle, any plan must always comply with good spatial planning. This is a law that must be complied with, but can also be interpreted very broadly. This law does however oblige developers to meet certain requirements such as municipal policy, provincial policy, noise standards, nature legislation and the soil

must be suitable. Besides these laws to which developers must comply, all interviewees indicated that, in a general sense, municipalities are allowed to go quite far in setting requirements. On the other hand, it is true that if a municipality imposes many or high requirements, in the end nothing is developed because they cannot get the market on board. One of the developers interviewed even indicates that municipalities have the freedom to require whatever they want, and that this is regulated in law. One of the interviewees indicates that the new Environmental Act will only make this more broadly applicable. For example, a municipality is not yet allowed to set higher energy requirements than the national standard, but with the new Environmental Act (Omgevingswet) this rule will no longer apply. The requirements of municipalities can nevertheless always be refuted by developers, as one of the interviewees said:

"As a developer, you can have your own opinions and argue why a municipality is wrong, but in the end the municipality always has the policy freedom to set these requirements. In addition, a municipality must always be able to justify why they set certain requirements" (Interviewee E, personal communication, March 18, 2020).

A municipality can therefore be judged wrong with good arguments, but often, as it is pointed out, a municipality already agrees during a process. The fact that a municipality set very unrealistic requirements, or that a whole council was judged to be wrong, has never been experienced by several developers in their entire careers.

An interviewed consultant gave an example of a plan once made for a location on the side of a river. The plan met all the policy requirements and every effort had been made to produce a beautiful plan. In the end, the municipality did not want to participate in the plan and kept the land as a meadow. The initiator did not agree with this and wanted to go to court to be proved right after all. This was discouraged by the consultancy because the judge will always say that the municipality is entitled to decide that, they may reject plans. It is the competence of the municipality to cooperate or not. One of the interviewees raised this point:

"Whether or not plans should be approved is more of a political discussion, whether or not it benefits the municipality. This is not so much a legal issue because a municipality will always be judged in its right because they have that freedom of policy" (Interviewee E, personal communication, March 18, 2020).

Ultimately, there must also be benevolence from the municipality because they do not have to cooperate in a development. If, as an example, land is bought speculatively with the idea of developing houses on it, and if the municipality then says that there will be no houses on it at all, then the plan simply does not go ahead. This may also have to do with who in the municipality a developer is dealing with. An example is given of a project that did not go ahead because the employee of the municipality's planning department indicated that the area would remain green as long as he was there, so no houses would be built on it. Now that the same person has retired, talks have been restarted and a plan has been drawn up for developing housing.

After asking a few questions, some of the interviewees also indicated that there are limits to what a municipality can require. For example, that a municipality may not set unreasonable requirements. It is said that sometimes requirements from the municipality go beyond legal limits, but in practice the developer never addresses this issue. This is because the developer does not want the municipality against him and this process often takes too long. The interviewee says about this:

"The easiest way is that of least resistance, so if requirements can be incorporated into the plan, you do that" (Interviewee C, personal communication, March 24, 2020).

4.2.3.1 Check by lawyers

The developers were also asked whether the requirements set by the municipalities are checked by lawyers. Often developers can check with their own knowledge whether the requirements of a municipality can be set. All the developers interviewed indicated that the requirements are never submitted for a check by lawyers. A lawyer will often check during negotiations, but mainly whether everything is contractually correct. The content of a development plan such as municipal requirements are not checked by a lawyer.

4.2.3.2 Conclusion

The interviewed developers say the municipality has the freedom to require what they want, there are no clear legal limits to this. However, a developer can always well-argued refute requirements. When it becomes a legal issue, however, the interviewed developers state that municipalities will always be judged in their legal right because they have the freedom to make the requirements. Developers indicate that you do not want to antagonize a municipality, so as a developer you have to accept the municipality's requirements. However, a political change, or the resignation of employees, can change the benevolence for cooperation. Furthermore, the requirements imposed by a municipality are not checked by a lawyer, but by the developer himself.

4.2.4 Legal boundaries according to lawyers

The question of what the legal boundaries are of what a municipality can require from a developer is a broad one, as many laws and regulations come into play here. For example, there are requirements that are reflected in the land-use plan, such as building heights, but there are also other requirements such as the distribution of costs for amenities such as infrastructure. This distribution of costs is not regulated in the land-use plan, but in the Land Development Act, which in turn is included in the Spatial Planning Act. Other requirements regarding building technology, such as how the developer should insulate and what the energy value of the dwellings should be, are not laid down in the Spatial Planning Act, but in the Building Decree. One of the lawyers interviewed indicated that it is therefore difficult to say what the boundaries are of what a municipality is allowed to ask for, this is not in one law or article but in a hundred different articles and case-law. It is said about this:

"Administrative law, which states what the government may and may not do, is not grafted onto what a development may do, but what a government may regulate" (Interviewee J, personal communication, April 10, 2020).

For example, there is a law on environmental management, a law on nature conservation, a law on spatial planning, a law on technical requirements for construction, a law on water management, and so on. All these laws regulate what the government is responsible for and what it is allowed to do in that area. A municipality must also comply with these laws under public law when it imposes requirements on a developer in, for example, a private law anterior agreement.

An important difference between public law and private law is that through public law the municipality can impose certain requirements on developers, for example it can force them to pay certain costs. Again, there are many rules attached to what a municipality is allowed to demand in public law for costs of a developer. So when developers and municipalities start negotiating, they will always look at what the fall-

back scenario is if they do not come to an agreement together, and that is public law. So as a developer you know what you can expect in terms of costs if you do not come to an agreement , namely the costs that the municipality can force you to pay. It has to be said that municipalities are also allowed to set higher or lower requirements then is stated in public law if all parties agree. If a certain development is more expensive than normal but the developer agrees with the high costs, this can also be agreed upon. One of the interviewees says:

"A municipality may not impose requirements under private law that may not be demanded under public law. A municipality must therefore remain within the public law framework, then things like reasonable and proportional count" (Interviewee I, personal communication, April 6, 2020).

So there are limits to what a municipality can demand and it must be in relation to. The requirements set by a municipality may thus not be disproportionate. If a municipality sets unreasonable requirements, as a developer you can refute them. Even if a municipality sets requirements that are outside the frameworks that they have included in policy, a developer can also try to refute these requirements and indicate that these requirements did not apply in other projects.

The lawyers do indicate that in general municipalities can go very far in setting requirements. Municipalities have a lot of resources to enforce their policy with regard to housing, for example. The question is how far the developer wants to go with these requirements.

4.2.4.1 Public law

One of the lawyers indicates that if the requirements of the municipality are checked, he always looks first at what the municipality is actually allowed to regulate in public law. The question is then whether the municipality is doing something in line with public law, or is the municipality doing something that it would normally not be allowed to do but is now taking advantage of because of its dependence on the developer. If a requirement is contrary to public law you get abuse of authority, also called détournement de pouvoir. The whole of public law then relates to this question. It is just a matter of which law applies to it. For example, the lawyer will look at the Building Decree, the Land Development Act, the Housing Act or the Spatial Planning Act; this very much depends on the requirements. Some of these public laws are briefly highlighted by the interviewees.

4.2.4.1.1 Building Decree

In general, the municipality may not set higher requirements than those set out in the Building Decree. After all, if, for example, the Building Decree sets certain requirements with regard to energy efficiency, and a developer applies for a permit that meets these requirements, it must be granted in the normal course of business. It cannot be the case that if the municipality is in the middle of this, and thus, for example, has to approve a change in the land-use plan, all of a sudden you set much higher requirements. This is also regulated in article 122 of the Housing Act, which states that the municipality may not deviate from the requirements set by the Building Decree. In the land-use plan, for example, no lower EPC standard can be included than that stated in the Building Decree. However, this is quite different on the grounds of water management, for example. In public law, the municipality is allowed to set many more requirements for this, and it is therefore also allowed to do so in an agreement.

4.2.4.1.2 Land Development Act

If a municipality cannot agree with a developer on the division of costs, it must fall back on its public law instruments, which means that it must make legislation on the cost recovery of a project, i.e. the

exploitation plan. The exploitation plan states that a developer must pay certain costs because otherwise he is not allowed to build.

4.2.4.2 Problematic requirements

One of the interviewees indicated that it is difficult to say in a general sense which requirements cause problems, because often discussion arises when municipalities make requirements that are not normally made. By definition, these requirements are never the same and it is therefore impossible to say which requirements cause problems. In a general sense, however, it can be said that points that often recur in agreements and parties disagree about are cost issues, so what should the developer pay, what percentage of social housing should be provided, and the energy transition. However, these are not very unusual requirements, you do not have to agree on these requirements. One of the interviewees says about this:

"In this situation you do not so much bump into legal boundaries, but more that you do not reach an agreement" (Interviewee J, personal communication, April 10, 2020).

An example of such a situation is mentioned where in a transformation project there was a lot of discussion about the costs for the developer to the municipal administration, the contribution to the parking fund and the contributions to the area around it. Here, it was mainly about how high the contributions were and when they had to be paid. In the end, agreement was reached on the contributions, but it was stated that they were not paid when the anterior agreement was signed, but only when the land-use plan had been changed. So here it was not so much a discussion whether a municipality was allowed to make such requirements.

Another problem mentioned is that policy, and therefore requirements, can change during a process. An example is given of a project in The Hague in which very long negotiations with the municipality took place. And when an agreement was finally reached after five years, another department of the municipality came up with a new policy to regulate the mid-rent segment. One of the interviewees says about this:

"A municipality is in less of a hurry than a developer" (Interviewee H, personal communication, April 2, 2020).

Because of this position, developers are more likely to agree with municipal requirements that may not have been set. Negotiating about these requirements for too long can cause the developer a great deal of delay and high costs.

4.2.4.3 Advising developers

Not all of the lawyers interviewed are asked by developers to check the requirements of municipalities to see whether they are legally allowed to be asked. In fact, two of the interviewees have never been asked by developers whether certain requirements may be demanded. They can, however, imagine that this question is being asked.

The other interviewees indicate that developers do come to them, both during the negotiations and afterwards. During the negotiations, developers ask whether certain requirements can be made; after the negotiations, the lawyers are involved if something has gone wrong. Both developers and municipalities come to them with the question of what costs they can recover from each other. The developer asks questions about whether they have to pay certain costs, and the municipality asks what costs they can claim from the developer. The question then asked is whether the costs can be recovered if they fall under a public-law regulation.

4.2.4.4 Case law

Some examples are given of procedures between developers and municipalities on agreements that should not have been made. An example is given of an old Supreme Court ruling on social housing. In this case, the municipality entered into a contract with a developer who wanted to build four dwellings. The municipality indicated that it wanted to change the land-use plan, but in order to do so the developer had to meet two requirements. Firstly, the developer was only allowed to allocate the dwellings to people from a certain category, i.e. with certain financial resources. Secondly, the developer was only allowed to sell the dwellings to people who were already living in the municipality at that time. The developer did not agree with this requirement and went to court. The Supreme Court ruled that the law does provide the basis for municipalities to regulate housing segments, but the law does not provide a basis for the municipality to regulate in a general sense where buyers come from. And therefore, if a municipality is not allowed by law to demand it, it may not try to regulate it by means of an agreement. Otherwise the municipality abuses its dominant position to impose things for which it has no authority at all.

Furthermore, disagreement can also arise about costs. For example, if an agreement has been signed and the municipality subsequently recovers costs from the developer but the developer does not want to pay because he considers the costs to be unreasonable. In this situation, this can lead to a case. However, this does not happen on a large scale, the times that real litigation has taken place are rare. As a developer, you take a big risk to enter into an agreement that contains points of disagreement. It is unrealistic to sign the agreement and then start litigating for a few years.

One of the interviewees says the thinks that many agreements are being made that are not entirely legal, but no one wants to litigate, so everyone sticks to it. Litigation often costs a lot of money, and as a developer, you suffer damage to your image to that municipality, so in the end it does not pay off and developers prefer to meet unreasonable requirements. Another lawyer who was interviewed also indicated that municipalities are not so likely to be sued over requirements that are laid down in private law in an anterior agreement because developers do not want to disrupt the good relationship with the municipality. The interviewee says about this:

“If you're in this initial phase of the project, you don't want any lawyers at all and you don't want to ask whether requirements can be made” (Interviewee H, personal communication, April 2, 2020).

One of the interviewees stressed the fact that developers need municipalities to develop, especially local developers. So when they start fussing about municipal requirements, they know that in the next project they will be on the side-lines. Another interviewee also says about this:

“There is a legal avoidance because everyone works around what is allowed and what isn't, because that's not what you think is strategically useful at that moment” (Interviewee G, personal communication, April 2, 2020).

Furthermore, no concrete example is given, but it may also be that a judge rules that the requirements of a municipality are not well enough justified. The municipality will then substantiate the requirements with more reports, so that these are subsequently accepted. A municipality can thus do a great deal.

4.2.4.5 Conclusion

In general, municipalities can make far-reaching requirements and have a lot of resources to enforce on their policy, for example with regard to housing. The legal boundaries are regulated in many different laws. Among other laws, this is regulated in the Land Development Act, the Spatial Planning Act, the Housing

Act, the Building Decree and so on. A municipality must also comply with these public-law laws when it imposes requirements on a developer in, for example, a private law anterior agreement. If a requirement is in conflict with public law, there is otherwise an abuse of power. A municipality may not impose requirements under private law that may not be demanded under public law and must therefore remain within the public law framework. Furthermore, the requirements may not be disproportionate. Even if a municipality imposes requirements that lie outside the frameworks that they have included in policy, a developer may try to refute these requirements.

In general terms, it can also be said that issues that often recur in agreements and parties disagree about are the cost recovery, the percentage of social housing and the energy transition. In this situation, however, it is not so much a question of a legal boundaries, but rather that no agreement is reached. Changing municipal policy during a negotiation process is also a common problem.

Furthermore, there is some case law on municipalities being sued for the requirements they impose; however, the times that real litigation has taken place are rare. As a developer, you take a big risk to enter into an agreement that contains issues on which you do not entirely agree. It is unrealistic at that point to sign the agreement and then start litigating for a few years. This often costs a lot of money and as a developer you do not want to disrupt the relationship with the municipality.

4.2.5 Municipal policy

One of the municipal project managers interviewed indicated that initially the municipality is very happy with developers and investors, because the municipality needs those parties because otherwise nothing will happen. The municipality indicates that they also want development to take place, so they would rather make it easy than difficult for the developer. One of the interviewed municipal project managers, however, also indicates that he thinks that municipalities sometimes have a lot of questions and that it can be quite a script that you have to go through as a developer. But the reason they set these requirements is to guarantee the quality of life and safety of the city. According to the interviewee, there are enough developers who understand that the municipality has certain requirements with regard to the quality of life in a city.

When asked how transformation projects can be made more successful, it is said that there is indeed room for improvement, but then it is more about the behaviour of the residential consumer. One of the interviewees says about this:

"If they don't always want a parking space and take their bikes more often, and switch to electricity, the developers don't have to include these requirements in their designs either" (Interviewee K, personal communication, April 6, 2020).

The municipal project manager thus argues that the problem is not so much the excessive municipal requirements but rather the needs of the consumer. The municipality must set these requirements in order to guarantee the quality of life in the city, but because the consumers then demands too much of their dwellings, developers get into trouble.

4.2.5.1 Background policy

A municipality like Eindhoven is short of housing and has a lack of construction land. The municipality is therefore mainly busy with densifying or transforming. So if the municipality can participate in transformation projects, it will certainly do so. However, it should not be forgotten that there will be

people living in those dwellings, and it is precisely those people that the municipality wants to protect. That is why a developer will have to deal with environmental issues such as whether the soil is healthy, whether there is not too much noise pollution and whether there are not too much fine particulates. Legal requirements have been drawn up for this; these are standards with which the projects must comply. One of the interviewees said about this:

"It is the task of the municipality to monitor the safety, health and liveability of projects and the city" (Interviewee K, personal communication, April 6, 2020).

4.2.5.2 Municipal focus

The Municipality of Eindhoven has a lot of things they consider important and not so much one specific focus. For example, they consider sustainability to be important, but also, for example, parking, water and climate adaptation. It is argued that these themes score high in every municipality. However, the focus may change per period, for example in the municipality of The Hague the policy lines are set out on the basis of the coalition agreement. This coalition agreement, however, changes per coalition, so the focus can also shift.

4.2.5.3 Requirements from policy

A municipal project manager of the municipality of Eindhoven indicates that all requirements can be found in policy, which is published on the website of the municipality. For a developer it is therefore completely clear in advance what his plan must comply with. The developer can do a lot of homework himself in advance. He can find all policy rules and rules of the game on the website. As an example, the document 'De Rode Loper' of the municipality of Eindhoven is mentioned. This clearly describes what new building initiatives have to comply with for approval by the municipality. So when a developer requests a change in the land-use plan, he can clearly see in this document what his project has to comply with.

If a project can meet these policy requirements, little contact with the municipality is required. If, however, these requirements cannot be met, or if it concerns a special project, this means that customised work will have to be carried out and a collaborative process will be created. It is indicated that what the province says is also important here, so the plans of developers are also tested against provincial policy.

However, the municipal project manager interviewed also indicates that projects can take a long time and municipal policy can change. So you never know in advance whether projects will actually look as you had thought of them beforehand. About this is said:

"Because the market is also changing, the municipality must remain flexible in the requirements it sets" (Interviewee K, personal communication, April 6, 2020).

It is also said that nowadays it is increasingly seen that from the beginning of the project to the end, changes in the plan are made all the time. Projects are therefore constantly changing and being adapted, where previously a plan was determined in advance and that was the plan to be realised.

4.2.5.4 Project-specific requirements

It is also stated that in theory the policy is all there, but that in practice customised solutions still need to be provided. An example of this is that there is a policy on high-rise buildings so that you can see how high you can build at any location. Subsequently, the size of the apartments will have to be determined for each project, as well as who will live there and what parking requirements will apply. A solution will also have to be found for each project if, for example, the developer's own land cannot be used for greenery and

water storage and asks whether this can be done at the neighbours' site or at another location. One of the municipal project managers interviewed indicated:

"The majority of the transformation projects for which a change of land-use plan is necessary involves project-specific requirements" (Interviewee K, personal communication, April 6, 2020).

One of the interviewees indicated that when different or higher requirements are set, this is because not everything is subject to policy and decision-making. This is because practice is often quicker than that the municipality has policy and regulations. One example given is that developers in the centre of Eindhoven would now like to build higher up. Exceptions have already been given for locations near the railway station to build higher than was included in the policy. However, in order to be able to say whether this is also allowed for the city centre, the municipality needs more time. About this is stated:

"Here the practice goes a little faster than the regulations can keep up with" (Interviewee K, personal communication, April 6, 2020).

Another example is given of a project in which the placement of the waste containers was handed over to the developer. The developer had to make agreements with the company of the waste container which was a more or less public party. The developer subsequently indicated that he preferred to place the containers on public land. The negotiations that arose about this project-specific requirement were something that was not clearly indicated in policy beforehand.

However, it is also mentioned that requirements differ from municipal policy because it makes a difference per location within the municipality what the plan must comply with. Each district is different so this also requires a different set of requirements. If the municipality considers the plan to contribute sufficiently to the city, they deviate from the land-use plan. And so too with policy, the municipality sometimes deviates from policy and gives a reasoned explanation as to why. However, it is said that these deviations from policy are not common.

4.2.5.5 Problematic municipal requirements

In general terms, it is stated that transformation projects are actually doing well so far. The Strijp S area transformation in Eindhoven is given as an example. One of the interviewees stated that this eventually turned out to be a successful transformation, but that they had been working on it for a very long time. This project eventually took twenty years to complete. One of the interviewees says that transformations usually succeed and says about this:

"If the will to transform is there, I don't see that because of municipal requirements it doesn't work, or you have to set very strange requirements" (Interviewee K, personal communication, April 6, 2020).

However, there are requirements that are often the subject of much discussion and negotiation. It is said that most problems arise with requirements that have already been defined in advance in policy. As a municipality, for example, you can say that 8 square metres of greenery must be placed for every new dwelling, but in many places there is no room for that at all. You will then have to look for solutions for each project. One of the interviewees also indicated that there is always endless debate about parking standards, and said about this:

"If you're not careful, fifty percent of the time it's about parking cars" (Interviewee K, personal communication, April 6, 2020).

Until five years ago, there was always a minimum standard. The city of Eindhoven has now turned this around and wants developers to build as few parking spaces as possible, especially in the city centre. The municipality has even developed a tool with which developers can calculate for themselves how many parking spaces their plan should have. The interviewee indicates that developers can always come up with other solutions to avoid having to meet requirements. For example, if the developer builds a public transport point close by, or if he works with shared cars in his plan, he will not need to build as many parking spaces. Additionally, in the inner city there is always discussion about the height of the buildings. The developer almost always wants to develop higher than the municipality would like to see.

Water storage is also often a point of discussion, for which the municipality of Eindhoven has also developed a tool with which the developer can see what kind of water storage he needs in relation to the square metres of surfacing he adds. The same applies to green space, for which 8 square metres of green space must be added per dwelling. To solve this, design solutions are then created by developers such as green façades and inner gardens. These concepts are then discussed with the municipality to see if all this is possible and allowed.

The municipality of The Hague often sees other requirements recurring that give rise to much discussion. Especially in Scheveningen, problems can arise about requirements with regard to mobility. The problem here is that there is only one access road and no by-pass because it is by the sea. With each new development the pressure on this road increases, so developments have to come up with creative solutions to solve this problem.

As a final remark, small land-use plans in existing urban areas are becoming more and more difficult. In order to be able to fit all the requirements into a plan, area development is a better solution because in this way the requirements can be incorporated and solved in a larger planning area.

4.2.5.6 Conclusion

In principle, the municipality is very happy with developers and investors. The municipality needs those parties because they too want the development to take place, so they prefer to make it easy for the developer rather than difficult. However, the municipality must also set requirements for developments in order to guarantee the safety, health and liveability of the city. Many of these requirements are expressed in policies that can be viewed by developers so that they know in advance what a project must comply with. However, projects can take a long time and policy can change during that time. Consequently, the project may no longer meet the new policy requirements. But even if the policy remains the same, customised work is often necessary in practice. The majority of the transformation projects that require a change of land-use plan therefore involve project-specific requirements. One reason for this may be that practice is often quicker than the municipality has drawn up policy documents and regulations.

The municipality has indicated that parking requirements in particular can lead to a lot of discussion. The municipality of Eindhoven has therefore changed the minimum parking requirements into maximum requirements and wants developers to create as few parking spaces as possible, especially in the city centre. Other requirements that cause a lot of discussion are water storage, greenery, and in the city centre there is always discussion about building height. Because of all these requirements, area development is often a better solution than small land-use plans, because in this way the requirements can be incorporated and solved in a larger planning area.

Nevertheless, the municipality sees that most transformation projects are feasible. Important here is that the will to transform is there and the municipality does not set very strange requirements. What can be improved in the transformation process is the behaviour of the residential consumer. If they have less demanding requirements for their dwelling, the developer does not have to implement them in their development plans.

4.2.6 Project optimisation

In general terms, all interviewees indicated that when a project becomes unfeasible due to municipal requirements, there are three options: either return to the table with the municipality, reduce costs, or increase revenues. Concerning municipal requirements and recalculations for a project, one of the interviewees indicated developers:

"In the end you have costs and revenues and there must be a 10% difference between them, then there is a business case" (Interviewee A, personal communication, March 3, 2020).

When all methods of project optimisation have been applied, the outcome may of course be that in the end the project turns out to be unfeasible. One of the interviewed developers says about this:

"The great thing about project development is that there is no standard, every project is examined on its merits. If it does not turn out to be a sound business case that does not fit within our parameters, we let it go. That also happens" (Interviewee A, personal communication, March 3, 2020).

4.2.6.1 Back at the negotiating table

As indicated in an earlier section of this report, a developer can always well-argued refute requirements from the municipality. It is important not only to say that these requirements make the project unfeasible, but also to show that the requirements are unreasonable and can be refuted. If, for example, a certain percentage of social rent is demanded and you can demonstrate that a municipality already has a higher percentage of social rent than normal, you have a chance of success, or that you say that instead of social rent, you will develop other affordable housing such as student housing.

An other example that is given to meet the nitrogen requirement is to build with electric cranes or to work with local contractors to minimize transport.

4.2.6.2 Reduce costs

One of the interviewees stated that in principle it should be the case that you, as a developer, have taken the municipal requirements into account in the assessment. After all, as indicated earlier in this report, the less is known about municipal policy and possible requirements, the less you pay for the land, and therefore leave more for cost-increasing requirements. This should be included in the developer's risk calculation, but these requirements should not be of such a magnitude that the entire plan is jeopardised, such as the '40-40-20' regulation of the municipality of Amsterdam.

In the interviews it is said that as an optimisation possibility to reduce costs, the investment costs are always re-evaluated to see if certain costs could be reduced after all. No further specific examples of cost-reducing optimisation possibilities were given.

4.2.6.3 Increase revenues

All interviewees indicate that in general all buttons are pushed to optimise a project. One of the buttons that can be pushed to improve returns is social housing. Municipalities sometimes demand high percentages of social housing, which of course affects the result.

An example is given of a project in which a municipality wanted affordable office space. The municipality had in principle already indicated that it wanted affordable office space, but this became more and more during the process, until a moment when if more was needed there was no feasible project anymore. In the end, the developer indicated that if more affordable office space had to be added, the social programme had to be adjusted so that more money could be made. The social dwellings were eventually made smaller, making them much more affordable. Making dwellings smaller is cited by several developers as an opportunity to increase revenues. One of the interviewees says about this:

"It must be said that many things in a project are a given that you cannot change. What you can do, however, to increase returns is to make more smaller housing units, so that you can sell more dwellings by increasing their affordability. This will subsequently have to be approved by the municipality" (Interviewee A, personal communication, March 3, 2020).

There are limits to this. One of the interviewees said that about five years ago, when social housing requirements were being imposed, all the developers started to develop smaller dwellings en masse. Because the rent was maximized at 700 euros, everyone started making apartments of 30 square meters, which increased the value per dwelling. Subsequently, the municipalities set new requirements that the dwellings had to be at least 50 square meters. So it is always an action and reaction of optimisation possibilities.

Finally, it is said that, as a developer, you also try to add the storerooms and balconies to the total living space of the dwelling. By making this count as a living space, you are quicker to reach the minimum size of social housing which benefits affordability.

4.2.6.4 Conclusion

When a project becomes unfeasible due to municipal requirements, there is a general possibility for the project developer to go back to the negotiating table with the municipality, reduce costs or increase revenues. If the developer wants to refute requirements, this will have to be done with good arguments. It is then a matter of jointly pushing the buttons until an acceptable plan for everyone is developed. In order to reduce costs, the investment costs are often critically examined again. And the revenue buttons that can be pushed are often to reduce the percentage of social housing or to develop smaller housing units.

4.1 Conclusion explorative interviews

In this conclusion an answer will be given to the sub questions: *(iv) 'what does the legal process looks like when developers apply for a change in the land-use plan or an environmental permit for deviation of the land-use plan, and what terms and conditions come along with it?'* and *(v) 'what is project optimisation and what possibilities can a developer use in order to still make a feasible transformation project?'*.

When transformation projects get initiated by the developer, he can buy the land speculative at an early stage with risk, or he can first discuss the building possibilities with the municipality. The negotiations that then follow about changing the land-use plan start with exploratory conversations and work towards the joint signing of the anterior agreement. In these negotiations it is very important that the plan is in line with the municipal policy and the municipality is convinced that the plan must be developed.

The requirements set during these negotiations can arise from policy or can be imposed during the process. The requirements imposed during the process cause the most problems because these are not known to the developers in advance. From the municipal side, they state they set these requirements in order to guarantee the safety, health and liveability of the city. One reason for project-specific requirements to be set is that practice is often quicker to responding to new trends and developments than the municipality has drawn up policy documents and regulations. The majority of the transformation projects therefore involve project-specific requirements as customised work is needed. The most common requirements that cause problems are programmatic requirements, sustainability requirements, requirements regarding exploitation costs and parking standards. Furthermore, it is not so much one specific requirement that causes problems, but rather the stacking thereof. Changing municipal policy during a negotiation process is also a common problem.

Developers state that the municipality has the freedom to require what they want, and there are no legal limits to this. They also indicate that as a developer you do not want to antagonize a municipality, so you have to accept the municipality's requirements. Lawyers on the other hand state that there are in fact legal boundaries to what a municipality may require. This is regulated in many different public laws to which a municipality also must comply when it imposes requirements in a private law anterior agreement. Case law on municipalities being sued for requirements they impose is however rare.

In order to optimise their transformation projects developers can go back to the negotiating table with the municipality, reduce costs or increase revenues. If the developer wants to refute requirements, this will have to be done with good arguments. To reduce costs, the investment costs are often critically examined again. And developing smaller units can increase the revenues. Other, or more detailed ways of project optimisation are not given by the interviewees as they state that in most projects it comes down to the given three possibilities.

5 Case studies

In this section of the report the case studies will be discussed. Multiple cases will be analysed in order to draw a well-founded conclusion. The method that is used to select and analyse the cases will be discussed first. The individual cases will thereafter be presented in different cases reports. This section will end with a cross-case analysis from which a conclusion will be drawn, and an answer is given to predetermined sub questions of this research.

5.1 Method

The case study method of Yin (2003) is the method used in this research and it consists of three steps. A visualisation of the research method and its steps is illustrated in figure 6.

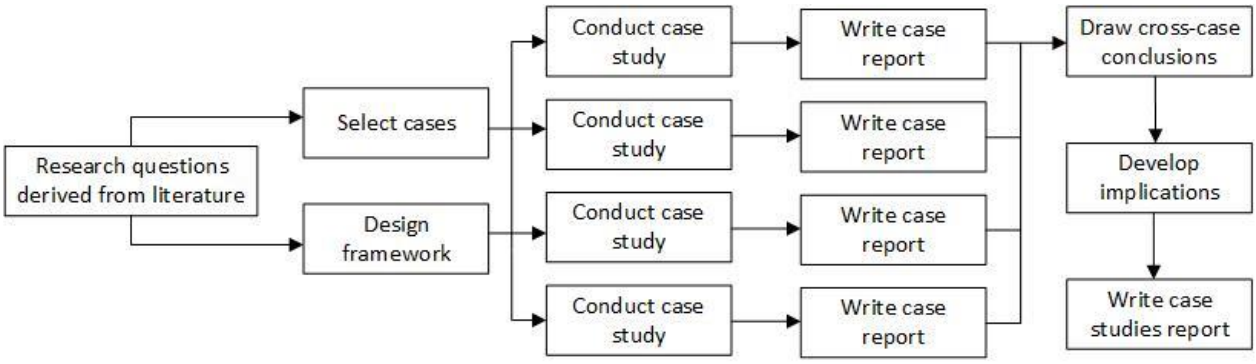


Figure 6 Visualisation of the case studies research method (own illustration, based on Yin, 2014)

The first step in the method is called 'define and design'. The literature research and explorative interviews are used in this step to develop research questions that formed the basis on which the cases are selected. During the literature research several cases were found of transformation projects that turned out not feasible due to municipal requirements, these cases will also be used in the case studies. Based on the literature research and explorative interviews an analytical framework is made. This framework makes it possible to analyse and compare the different cases that are not similar, because due to the framework the analysed cases are based on the same variables (Yin, 2014).

In the second phase which – is called 'prepare, collect and analyse' – the case studies are actually conducted. The data for the case analyses is collected by using multiple techniques such as project analysis, policy document review and stakeholder interviews (Bryman, 2012). The findings of these analyses, reviews and interviews will be documented in individual case reports. Each case report will have the same framework, so in the end a cross-case analyses can be conducted based on the same variables.

The third and last step of the method is called 'analyse and conclude'. In this last step a cross-case analysis will be made of the findings of all the different cases by identifying their similarities and differences. This cross-case analysis will show which municipal requirement can cause the most problems in transformation projects and how developers optimised their projects in that situation.

5.1.1 Cases selection

The cases that will be used for the case studies will be chosen based on several selection criteria. First of all, it is essential for the case analyses that problems have occurred during the project because of the requirements that were set by the municipality. For the cross-case analysis, it is also a criterion that the analysed cases are situated in at least two different municipalities, in order to analyse the differences. Other criteria on which the cases will be selected are:

- It must have been essential for the development that there was a change in the land-use plan, this can be done at both area and building level. This is because it concerns the problem of the planning power that municipalities possess in cooperation for a land-use plan change.
- There must be sufficient cooperation from the developer so that the necessary data about the case can be obtained.
- There must be sufficient information available about how the case was acquired. This is necessary to assess if the project has turned out to be unfeasible due to municipal requirements, not because the project was purchased for a too high purchase price.

Based on these criteria four transformations were found that will be used for the case studies, namely:

- De Hooch; this is a completed transformation of an office land-use into a high-end apartment building in the centre of Amsterdam.
- De Karsp; this a completed transformation of an office land-use into two residential towers.
- Kabeldistrict; this an ongoing area transformation of an industrial area into a live-work environment in Delft.
- Brandsmafabriek; this an ongoing transformation of an old factory into a live-work environment.

5.1.2 Design of framework

It is stated in an earlier section on this report that a framework has to be designed in order to analyse different cases in the same way. The literature study and explorative interviews are used as starting point for the framework design.

5.1.2.1 Data collection

In order to get the correct data for the framework, a data collection model is designed. The model consists of three steps and is illustrated in figure 7.

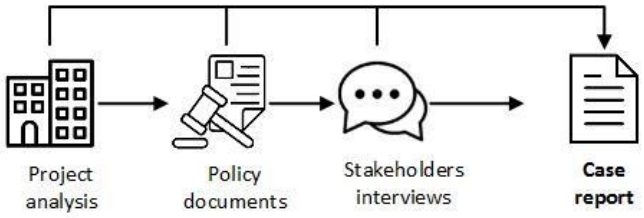


Figure 7 Case study data collection model (own illustration)

The first step consists of project analysis out of which a general description of the project will be given. In the second step, project documents and policy documents are used to understand the negotiation process and municipal policy. Finally, when more is known about the project, design and negotiations, stakeholders who have worked on the project will be interviewed. The interviews will be held with the

developer and the municipality. The aim of the interview with the developer is to find out what municipal requirements formed a problem and how the developer optimised the project to make it feasible. The aim of the interview with the municipality is to hear the other side of the story and find out why the requirements were set. These three steps will eventually be documented in a case report. Each case will have its own case report.

All the experts that are interviewed for the case studies are listed in table 8, the names have been shielded to guarantee the anonymity of the interviewees.

Interviewee	Case study	Name	Company	Function
A	De Hooch		Kondor Wessels Vastgoed	Real estate developer
-	De Hooch		Gemeente Amsterdam	Request refused
N	De Karsp		Wonam	Real estate developer
O	De Karsp		Gemeente Amsterdam	Project manager
P	Brandsmafabriek		Makeltrent	Real estate developer
Q	Brandsmafabriek		Gemeente Hilversum	Project manager
B	Kabeldistrict		Kondor Wessels Vastgoed	Real estate developer
R	Kabeldistrict		Gemeente Delft	Project manager

Table 8 Interviewed experts case studies (own illustration)

5.1.2.2 Case study framework

The aim of every case is to understand how the negotiation process between the developer and municipality looked like, what municipal requirements were set, and what project optimisation possibilities were used. The information found in the project analysis, policy documents and interviews are structured in all case study reports in the same way so that differences and similarities can be analysed of the different cases.

In order to ensure the scope of this report, a summary will be presented of the case report. The more elaborate versions of the case report can be found in appendix V. The content of these reports will be shortly discussed here.

5.1.2.2.1 Context.

The reports will start with an introduction of the project in which the context and general information of the case is given in a table. Aspects as which stakeholders were involved, the amount of GFA and the purchase price are presented here.

5.1.2.2.2 Design.

After this introduction, an elaboration will be given on the design of the transformation project. In this elaboration also floor plans and design images will be presented.

5.1.2.2.3 Situation before transformation.

The situation before the transformation will be discussed as the third section of the case report. The old situation and use of the building and grounds will be discussed here.

5.1.2.2.4 Initiation phase

In this section of the case report, the initiation of the transformation project will be elaborated on. Also aspects as to whether the developer contacted the municipality regarding the plans for transformation, and what has been discussed in these first meetings will be set out.

5.1.2.2.5 Timeline

In order to get a good understanding and overview of what has happened in the project, a timeline will be presented. The timeline will show the most important moments.

5.1.2.2.6 Policy

The relevant policy of the transformation projects will be discussed in this section. National, as well as provincial, regional and municipal policy on which the transformation plans are bases will be discussed.

5.1.2.2.7 Negotiations

The negotiations between the developer and the municipality for the change of the land-use plan will be discussed in this section. Municipal requirements that formed an obstacle to the project are discussed here. Also the negotiation strategy, adjustments to the design and general findings of the negotiations will be discussed.

5.1.2.2.8 Optimisations

In this part of the case report, the optimisation possibilities that were used in the transformation projects will be discussed.

5.1.2.2.9 Success factors (if applicable)

The success factors of the transformation projects that turned out to be feasible will be discussed in this section. These will be the success factors according to the developer and the municipality.

5.1.2.2.10 Points of improvement

In this section of the report, the points that could have been improved in the transformation project and negotiation process will be discussed. From the projects that turned out to be unfeasible the point that made the project unfeasible will be discussed. As regards the projects that turned out to be feasible or are still in the negotiation phase general points of improvement will be given. These will be the points of improvement according to the developers.

5.1.3 Cross-case analysis

The results of the analyses of all cases will as a final conclusion be analysed in a cross-case analysis. This analysis will show what the similarities and differences were in the transformation projects. From this, general lessons learned can be drawn, which can be used as advice to developers in future transformation projects.

5.2 Case study: De Hooch

The project 'De Hooch' is a completed transformation of land-use in which an old office building in the centre of Amsterdam has been demolished and a newly built high-end apartment building is realised.

5.2.1 Context

Figure 8 Old KPN office (Kondor Wessels Vastgoed, personal communication, April 23, 2020)

Figure 9 Design impression (Kondor Wessels Vastgoed, n.d.a)

Name project	De Hooch
Address	Hobbemakade 31, Amsterdam
Developer	Kondor Wessels Vastgoed
GFA Old building	7.028 m2
GFA New building	12.229 m2
Original year of construction	1909
Old use	Office
New use	Housing
Purchase price	[redacted]
Stakeholders	Timstra B.V., Syntrus Achmea, Boele & Van Eesteren, MVSA Architects
Signed contracts during negotiations	Anterior agreement
Date of delivery	Under construction
Duration of initiation phase	January 2014 till March 2017

Table 9 General details transformation project De Hooch (own illustration)

5.2.2 Initiation phase

In 2011, developer Kondor Wessels Vastgoed and the owner of the building at that time spoke to see if the project could be developed jointly. In the end, it appeared that it was not possible to reach an agreement then. After about three years the contact was initiated again and the developer and the building owner started a collaboration. The project was ultimately realised by a joint venture called Boerenwetering B.V., consisting of developer Kondor Wessels Vastgoed and former building owner Timstra B.V. Furthermore, the project was largely financed by Syntrus Achmea (Interviewee A, personal communication, May 1, 2020).

5.2.3 Policy

The design of the transformation project is based on several policy documents and decrees. The municipal policies on which the plan has been assessed are:

- Structure vision Amsterdam 2040 'Economisch Sterk en Duurzaam'
- Housing vision Amsterdam until 2020 'Wonen in de Metropool'
- Land-use plan Museumkwartier en Valeriusbuurt

5.2.4 Negotiations

In an interview with the developer it is indicated that the negotiations with the municipality generally went well. The first proposal took the municipal policy into account very substantially, which meant that the negotiations went relatively smoothly. The developer did not come up with a negotiation strategy in advance for these negotiations, which was held on to during the process. The developer indicates that he designs a development plan and that is his starting point. The first plan is then not a fully developed plan but rather a sketch, on the basis of which the developer enters into discussion with the municipality. Only regarding the building height and the pricing of the land exchange, quite a lot of discussion and negotiation has taken place.

5.2.4.1 Building height

At the beginning of the initiation phase, a lot of negotiations took place about the building height of the plan. The developer wanted to realise eight floors, but the municipality only allowed a development of seven floors. The urban planners of the municipality indicated that an eighth floor did not follow the line of the surrounding buildings. However, that was exactly the reason for the developer to build that eighth layer, so that you can look over all the surrounding roofs and have a view of the entire city. This eighth layer could therefore be sold for a lot of money, which would greatly improve the feasibility of the project. However, the municipality's reason for not allowing the eighth layer was that there would be too much resistance from the surroundings. After much negotiation on this point, the developer did not succeed in persuading the municipality and the plan was adjusted by reducing the height to seven floors instead of eight (Interviewee A, personal communication, May 1, 2020).

5.2.4.2 Land exchange

Further on in the process a lot of negotiations took place about a piece of land that was missing for the new plan, for which an exchange of land with the municipality had to take place. Negotiations then arose about the amount the developer had to pay the municipality for the piece of land. Initially, the municipality stated that the land was worth very high amount because the value was calculated over the entire height, because several floors would be built on the piece of land. After having many negotiations between the developer and the municipality the amount of compensation was eventually negotiated down to 15% of the originally demanded compensation. The price had dropped so sharply because the reasoning behind the municipality's pricing was very insufficient according to the developer. These negotiations eventually led to a delay in the project (Interviewee A, personal communication, May 1, 2020).

5.2.4.3 Legal check

The developer indicates that the requirements set by the municipality in this project were not discussed with a lawyer to assess if those requirements were allowed from a legal point of view. The developer indicates that this never occurs in any transformation project. He is even convinced that also other developers do not do this (Interviewee A, personal communication, May 1, 2020).

5.2.4.4 Design adaptations

The first draft environmental permit application was submitted by the developer in August 2015. After a discussion of the plan with the External appearance committee in which the committee did not agree with the submitted plan, the developer further developed the plan. The biggest change in the design was to reduce the number of floors from eight to seven. In October of that same year, the plan was adjusted and made known again. The second pre-consultation that followed with the External appearance committee once again caused the plan to be adjusted on a number of aspects (Interviewee A, personal communication, May 1, 2020).

5.2.5 Optimisations

According to the developer, no project optimisation possibilities were used in the project (Interviewee A, personal communication, May 1, 2020).

5.2.6 Success factors

According to the developer, the location of the project contributed to the success of the transformation. The project is located in the centre of Amsterdam with many dwellings in the area. The old office building did not fit well in this area anymore, so the municipality welcomed a transformation to housing. The municipality also felt that social housing was not appropriate at the project location in the centre of Amsterdam. This contributed greatly to the feasibility of the transformation.

In addition, the municipality was not a ground lessee in this project, as a result of which the municipality had less influence. According to the developer, this contributed to the developer's negotiating position and helped the process.

Furthermore, the developer entered into discussions with the local residents about the future building plans at an early stage. Everyone who had anything to do with the plan was approached, and information evenings were planned. Proper agreements were then made with the people who were so badly affected by the plans that they suffered damage. This strong participation in the neighbourhood ultimately led to the fact that when the land-use change was published, no objections to the plan had been submitted. According to the developer, this good and early neighbourhood participation also contributed greatly to the success of the project (Interviewee A, personal communication, May 1, 2020).

5.2.7 General lessons learned and points of improvement transformation process

In an interview with the developer, it is stated that negotiations never run smoothly because developers are pushing the limits. The municipality looks at what is good for the city and the developer looks at his calculations. How these negotiations, and the package of requirements from the municipality, could be improved is, according to the developer, a question that is difficult to answer in the case of transformation projects. After all, when initiators come to the municipality with ideas, the municipality has not yet thought about this, otherwise they would already set out tenders themselves. There is no blueprint for how transformation projects should proceed, which makes it difficult to say how it should be improved.

In this project, the developer has learned once again that everyone from the municipality facing you in negotiations is different, and at the same time every project is different. Therefore, as a developer, the challenge remains to see with all kinds of different angles whether you can get the municipality to participate in what you want as a developer (Interviewee A, personal communication, May 11, 2020).

5.3 Case study: De Karsp

The transformation project 'De Karsp' is a completed transformation of an old office building in the office district Bullewijk in Amsterdam into two residential towers.

5.3.1 Context

Figure 10 Old office building (Van Riezen & Partners, 2018)

Figure 11 Design image (OZ Architects, n.d.)

Name project	De Karsp
Address	Karspeldreef 4, Amsterdam
Developer	Wonam
GFA old building	7.215 m2
GFA new building	28.529 m2
Original year of construction	1992
Old use	Office
New use	Housing
Purchase price	€5.500.000
Stakeholders	OZ Architects, UBA Bouw B.V.
Signed contracts during negotiations	Letter of agreement
Date of delivery	March 2022
Duration of initiation phase	2017 till July 2019

Table 10 General details transformation project De Karsp (own illustration)

5.3.2 Initiation phase

The municipality had drawn up the Amstel III vision in which they indicated that they wanted to transform the now mostly offices into residential functions. The developer himself then took the initiative to transform the office building and entered into negotiations with the municipality before he purchased the office buildings (Interviewee O, personal communication, May 7, 2020). In these negotiations, agreements were made about whether housing could be realised at the project location and what volumes this could be, and what the new ground lease would be. In a short letter it was then agreed that the municipality was open to transformation to housing and additional agreements were made on a number of programmatic requirements. On the basis of this letter, the buildings were then purchased. The plans for the transformation were subsequently further developed and a letter of agreement was signed during the initiation phase.

5.3.3 Policy

National, regional and municipal policies are taken into account in the design. These different policies on which the project is assessed are:

- Implementation strategy Business and Offices Platform 3.0
- Structure vision Amsterdam 2040 'Economisch sterk en duurzaam'
- Strategy Decree Amstel III
- Area plan Amstel III and ArenApoort
- Land-use plan Amstel III Oost

5.3.4 Negotiations

According to the developer, the negotiations with the municipality went relatively well, partly because the municipality appointed a construction team for the project. There was also a lot of policy known that was taken into account in the first design. According to the developer, a negotiation strategy had not been drawn up for the subsequent negotiations about the design and the requirements set for it (Interviewee N, personal communication, May 1, 2020). The developer drew up a plan, which was then submitted to the municipality. They then negotiated about the plan with each other, there was no prior strategy that was held on to during the negotiations.

From the municipal point of the view their negotiation strategy was, seeing that the area was still in its pioneer phase, to help market parties get initiatives off the ground and realise transformation. The municipality also had set strict requirements that they could not deviate from, as for example the minimum size of the dwellings, and more flexible requirements like the desired size of the dwellings (Interviewee O, personal communication, May 7, 2020). Several requirements that were set during the negotiations also led to a lot of discussion.

5.3.4.1 Mid-rent

The requirement that led to the most discussion was the new regulation of the mid-rent segment. During the negotiations, the municipality of Amsterdam had drawn up new policy with regard to the regulation of the housing segments in all new developments in Amsterdam. As a result of this new regulation, and the fact that there was a ground-lease agreement with the municipality, the developer was suddenly only allowed to increase his rents in the mid-rent segment every year equal to the inflation rate. The developer already had an agreement with the municipality that they would realise affordable housing, but no agreements had yet been made on the indexation. In an interview the municipality also stated that prior to the transformation it was agreed that the building programme would focus mostly on the mid-rent segment, this was also a requirement that came from municipal policy (Interviewee O, personal communication, May 7, 2020). This new requirement had however initially not been included by the developer in his calculations, therefore causing the feasibility of the transformation project to be somewhat put at risk. Many negotiations subsequently arose in which the developer demanded an additional 1 percent on top of inflation rate each year to increase rents. In the end it was agreed with the municipality that for now the developer would agree to increase the rents only with the inflation rate, but if the policy ever changes, the developer may also benefit from this (Interviewee N, personal communication, May 1, 2020).

The developer stressed in an interview that when the policy on the mid-rent segment came on the table he had already invested a lot of money in the building. It was therefore no longer an option for him at that

time to cancel the transformation, because otherwise he would have lost too much money. If he had instead taken an option to buy, he would probably have decided not to proceed with the plan.

5.3.4.2 Noise

In this project noise also played an important role. The building is an old office located in an area with many other office buildings. Before the transformation there were two types of noise that the developer had to take into account, the noise coming from the roads and the noise coming from the surrounding buildings. On the other buildings there are installations such as air processing units that produce noise. The municipality can give a 'decree higher values' (besluit hogere waarden) so that the developer has more margin for flexibility in the noise standards. In this project, however, the municipality did not simply want to grant an exemption from the noise standard because this would restrict the rights of the surrounding building owners. The municipality therefore said that the developer himself had to go to the local owners in order to obtain permission for the higher noise values. If the surrounding property owners agreed to this, they would impose limits on noise levels on themselves. After all, in the previous situation, there were no sound-sensitive functions in the surrounding area and the property owner therefore had fewer rules regarding the noise it produced. This problem was only identified when the process had been in progress for a long time. The developer first thought that when houses were built in an office district, you could have up to 55 dB on your façade. It then turned out that the developer should not have taken an office district as the starting point, but a mixed area, with a maximum of 50 dB. In the end, all the surrounding property owners agreed to the higher noise value. The developer does admit that this problem was also partly self-inflicted because he himself could have been more critical of which standards applied to the transformation (Interviewee N, personal communication, May 1, 2020).

5.3.4.3 Legal check

In the interview with the developer it was also asked whether the requirements of the municipality have been reviewed by a lawyer to assess whether the requirements could be set legally. The developer indicates that this did not happen in the project because the municipality is allowed to demand whatever they want. It is said that municipalities are even allowed to set higher requirements than those set out in the building regulations. After the developer is told that municipalities are not allowed to set requirements in private law that they are also not allowed to set in public law, it is indicated that municipalities may not be allowed to set such requirements, but it does happen anyway. A remarkable example is given of a project where the municipality demanded an EPC of -0.3. At first the developer thought it was a typing error, but the municipality said that it always required this to see how the developer reacted, and from there work it out together (Interviewee N, personal communication, May 1, 2020).

In an interview with the municipality it is stated that detailed private law agreements were first made in the project, on the basis of which the ground lease transformation could take place. That contract was then used as the framework for the public law cooperation. According to the municipality, all of this was carefully legally checked (Interviewee O, personal communication, May 7, 2020).

5.3.4.4 Design changes

The largest adjustment to the design can be found in the top of the towers. The crowning at the top of the complexes has been adjusted several times. The supervisor of the municipality has strongly insisted on the fact that the towers at the top look crumbling. In his first design, the developer had intended to extend all floors to the top. Although this led to a lot of discussion during the negotiations, the developer indicates that he is very happy with the end result afterwards and the crowning is a real improvement for the design.

A second requirement of the municipality to adapt the design had to do with the fact that the buildings would catch too much wind. This is why the municipality wanted the positioning of the buildings to be adjusted. However, by the time the municipality demanded this, the plan was almost finished and could not simply be adapted again without the developer incurring high costs. In firm negotiations it was then decided that if the developer took measures to reduce the wind, the buildings could remain positioned as designed by the developer (Interviewee N, personal communication, May 1, 2020).

5.3.5 Optimisations

In an interview with the developer in which various forms of project optimisation are presented, the developer indicates that the project has not truly been optimised. The developer indicates that also in other transformation projects, project optimisations always come down to savings, with which, according to the developer, you can only win 5 to 6 percent. In this project, the contractor was involved from the beginning and immediately gave his view on the design and how things could be improved. Because everything always took place in good consultation, the plan was well designed in one go and was not optimised afterwards in order to become feasible. In addition, no other forms of financing have been used. The developer states that he always uses a financing that he thinks is best from the start (Interviewee N, personal communication, May 1, 2020).

5.3.6 Success factors

The biggest success factor of this transformation project is that it was the first transformation in an area that the municipality wishes to transform from a mono-functional office park into a mixed living and working area. Because the transformation of the Karsp was the first initiative and therefore had a pioneer status, the municipality was very willing to participate in the transformation. The developer indicates that he is now much more reluctant to buy other properties in the project area because there are now many more transformation initiatives. As a result, the municipality has started to set higher requirements for the transformations (Interviewee N, personal communication, May 1, 2020).

A second success factor, according to the developer, is that the property was purchased entirely at risk. It was an empty office building when the developer bought it. Subsequently, plans and designs were made, so a great amount of money was put into the plan. The detrimental risk (afbreukrisico) was therefore so big that it meant that a lot would have to be devaluated if the plan did not proceed. Gradually, the developer came across a lot of problems but at the same time he was very driven to solve them because otherwise he could not continue. It would have ended differently if the developer had not bought the property at risk, but had made an arrangement with the owner that payment would only be made once the land-use had been irrevocably changed. In that case, the developer is less driven and will sooner say that the project is not feasible and therefore will not proceed. The developer indicated that if the property had not been purchased at risk he would probably have cancelled the transformation due to the new mid-rent regulations and the discussion that arose about the repositioning of the towers. All these requirements could have delayed the project even longer, but because the developer was fully committed, everything was decided within two years.

In addition, the developer indicates that there was also a mutual commitment with the municipality to make it happen. Because the municipality also wanted the project to be realised, both parties put their shoulders to the wheel and made clear agreements, which led to a good collaboration with the municipal development team. The developer also concludes that the property was purchased in the right time, if the

property had been purchased three years later the plan would have looked very different (Interviewee N, personal communication, May 1, 2020).

The municipality indicates that, given the pioneering phase the project was in, it was mainly a question of helping each other get the project off the ground. Both parties needed each other. Mutual trust and the quick implementation of agreements in the project was also important in this project. In addition, it also helped that the developer not only tried to realise the building, but at the same time wanted to give the entire neighbourhood a positive impulse by embracing and facilitating placemaking initiatives, such as a ballroom on the ground floor of the old office building (Interviewee O, personal communication, May 7, 2020).

5.3.7 General lessons learned and points of improvement

In the interviews held with the developer and municipality, the interviewees were asked what they have learned from this transformation projects. These answers will be discussed in this section. Also some general remarks were given by the interviewees on how transformations in general could be improved.

5.3.7.1 The developer

In the interview the developer states that many municipalities in the crisis had to fire civil servants and now hire specialists for each project in return. However, these specialists are often only available for one day a week, which makes contact more difficult. In the transformation of the Karsp, a development team was appointed by the municipality, which meant that negotiations went relatively smoothly.

The developer also indicates that municipalities should make their policy more adaptive. Now it is regulated in such a way that transformation projects have to comply with everything and otherwise no transformation is possible. In other words, transformation projects must score a 10/10 for everything. However, municipalities could also submit the various requirements and indicate that an average of 8/10 should be scored. This makes transformation projects more realistic and more often feasible.

Municipalities could also be even clearer about the policy that applies as of the moment the project is initiated. It now happens too often that during the process policies change and adjustments have to be made that cause a lot of discussion and delay. If the policy that applied during the initiation of the project would be retained throughout the process, that would improve the transformation process.

The developer also indicates that parking policy is often outdated and can be improved. The policy has been drawn up on, for example, one parking space per dwelling, but this is based on single-family dwellings. When an apartment complex is built, this means that three layers of parking have to be added. Policy therefore needs to be updated and optimised.

5.3.7.2 The municipality

It has already been stated that the municipality saw mutual trust as a great success factor in this project, this is also something that the municipality will take into account in other projects. In the interview it was also pointed out that the developer was very transparent in sharing dilemmas with the municipality. It was learned from this that looking for solutions together generates more than relying of firm standpoints. This sometimes requires concessions from both the developer and the municipality. Finally, it is said that the dialogue must always be maintained, even if a solution has not yet been found (Interviewee O, personal communication, May 7, 2020).

5.4 Case study: Kabeldistrict

The case study 'Kabeldistrict' is an intended area transformation in Delft from an old cable factory into a live-work environment. The negotiations between the developer and the municipality for the change in the land-use plan are still taking place. The negotiations are however in their final phase. The anterior agreement is almost complete and will soon be signed.

5.4.1 Context

Figure 12 Kabelfabriek (Kondor Wessels Vastgoed, n.d.b)

Figure 13 Design image (Mei architects and planner, n.d.)

Name project	Kabeldistrict
Address	Schieweg 15, Delft
Developer	Kondor Wessels Vastgoed
GFA	81.126 m2
Original year of construction	1949 to 1962
Old use	Cable factory
New use	Live-work area
Purchase price	To be determined, maximum [redacted]
Stakeholders	Amvest, Mei architects
Signed contracts during negotiations	Cooperation agreement, Conceptual anterior agreement (not signed)
Date of delivery	2022-2032
Duration of initiation phase	Since 2017

Table 11 General details transformation project Kabeldistrict (own illustration)

5.4.2 Initiation phase

In April 2017, a head of terms was signed with the previous landowner and developer Kondor Wessels Vastgoed. In this agreement the parties agreed that the land will be purchased for its current value and an additional purchase price of a total maximum of [redacted] can be paid, depending on how much programme is eventually allowed, what the percentage of social housing would be, the exploitation costs and the total remediation costs. The project was then further developed under the joint venture of Amvest and Kondor Wessels Vastgoed called Kabeldistrict Holding.

Before the purchase was made, the developer first entered into discussions with the municipality. In this meeting the possibilities for the transformation of the area into a mixed urban area with a FSI of 3 were discussed, what the vision of the municipality was in the area, and whether it was possible to start the

transformation in the near future (Interviewee B, personal communication, May 11, 2020). Following the purchase of the land, in October 2018 the developer and the municipality signed a cooperation agreement for a period of 5 years. In the agreement the parties agreed that the municipality will revise the current land-use plan in order to include a land-use 'mixed urban environment'.

5.4.3 Policy

Different policies apply to area transformation. The national, provincial and regional policies that apply to the project are:

- Provincial vision of land and mobility
- Spatial economic vision Delft 2030
- Housing vision Delft
- Area vision Schieoevers 2030
- Development plan Schieoevers Noord

5.4.4 Negotiations

The negotiation process is now in its final stage and the anterior agreement will be signed soon. Along the way, there have been a number of points that have been the subject of many negotiations. On the one hand there were requirements that arose from municipal policy, which have not been the subject of many negotiations. On the other hand there were requirements that differed substantially from policy and have been the subject of much discussion, such as the idea and volume that may eventually be allowed. In an interview, the municipality indicated that they also wanted this plan to deviate from existing policy, they think it is a good thing that for example mobility is handled differently in this area than in the rest of the city (Interviewee R, personal communication, May 6, 2020). Therefore, new policy still needs to be made on these aspects, and which direction this new policy should go is a joint effort between the municipality and the developer.

5.4.4.1 Strategy

The developer had drawn up a strategy together with the other developer. Before they entered into negotiations, they had determined for themselves what they thought was acceptable and what was not, and how they should deal with it. The developer determined which parts had the greatest impact on the business case or which had the greatest impact on the quality of the plan; for those points the developer fought the hardest. Based on that, he also determined where some space was given and where, on the contrary, it was very strictly discussed.

5.4.4.1.1 Municipality

A lot of new policy is being drawn up for this area development. With this area the municipality has something completely different in mind than for the rest of the city of Delft. According to the municipality, it is therefore necessary to deal differently with all kinds of policy documents. Over the entire area there will be around 8.000 dwellings built, which equals 20 to 30 percent of the total Delft housing stock. The municipality believes that such a development can therefore be dealt with in a different way. However, new policy is not drawn up for all requirements, but on many aspects a new approach is being considered. The municipality emphasises that if it had been a smaller development, none of this would have been possible. It is because it is such a major development that policy can be adjusted.

In which direction the policy should be adjusted, the municipality must agree upon in cooperation with market parties, because the municipality has hardly any ownership in the area. For this reason, the municipality deliberately did not adopt a dictatorial role did not said how it should be and will be. The municipality had only set itself the objective of creating an intensive urban environment with a lot of living and working close together. Subsequently, in recent years, the discussion has arisen about how this should be done and many requirements have gradually been drawn up and incorporated into the plan. The city council did think about what they desired in advance, but how they should achieve this is a second matter. This discussion has also been the basis for the development plan and that is what will be put in the anterior agreement (Interviewee R, personal communication, May 6, 2020).

In addition, the vision and policy of the municipality gradually changes throughout the project; after all new councillors will be appointed and political colours will change, as a result of which requirements will also change again. In an interview, the municipality indicates that it is not as black and white as one might think, but it is more of a cooperative process.

5.4.4.2 Programme: adding working

There has been a lot of negotiation about the quantity, the program, and especially the addition of working space. The municipality wants working space to be realised in the area, but for the developer it is more profitable to realise housing. However, the municipality wants to create a living and working environment where living and working go hand in hand. According to the municipality, there is a large group of people who can work and live next to each other. The work that the municipality has in mind is also somewhat heavier industry such as steel processing companies. A big challenge therefore lies in developing living next to these kinds of functions (Interviewee R, personal communication, May 6, 2020). There was a lot of detailed negotiation with the municipality about how much working space had to be developed and how this space had to be filled in. Also concerning the other parts of the programme a lot of negotiations took place, such as how much the developer is allowed to realise and how it is divided into sale, rent and commercial (Interviewee B, personal communication, May 11, 2020).

The developer indicated in an interview that the municipality had said in advance that they wanted to realise housing, but were more private law agreements. In the end, political parties must also want this because if they do not agree nothing will happen. The municipality had thus said at the start that they wanted to cooperate, but according to the developer that does not mean that there is some kind of guarantee of success. There is always a risk that it will not work out (Interviewee B, personal communication, May 11, 2020).

5.4.4.3 Building density

There was also a lot of negotiation about the building density of the plan. Eventually an FSI of 3 was negotiated which is very high by Dutch standards. Requirements such as the FSI are points that were the subject of much negotiation because the municipality had not thought beforehand about what this should be like. The municipality had only stated that they would like to make something that they think is good. And that they wanted to create an urban climate in Delft so that young people do not immediately move to The Hague or other cities, but perhaps stay in Delft for once.

5.4.4.4 Existing companies

The first problems in the negotiations arose when the existing companies in the area indicated that they did not want any housing at all in the area. The transformation to the housing and work area was therefore one of the most important discussions. Also a lot of negotiations took place about the number of dwellings,

access, traffic, the environment and many more conceivable subjects. But the most important discussion was whether to live in the area, because the companies did not want housing in the area. This discussion lasted for 1,5 years, eventually the city council got all the businesses to agree and everyone accepted that it was now heading in the direction of a live-work environment.

5.4.4.5 Legal check

The developer indicates that various lawyers and tax specialists have been involved in the process to see if everything is going in the right direction. The municipality has however not been called to account for any requirements that may not have been set. Instead, the developer refuted requirements and indicated that some requirements could not be met (Interviewee B, personal communication, May 11, 2020).

The municipality indicates that the requirements they set are certainly checked by a lawyer that assessed whether the municipality is allowed to set those requirements. The municipality and the developer have also jointly involved a consultancy firm in the project that can say what is legally correct and what will eventually be approved by the Council of State. The interviewee also indicates that always an assessment is made to see that what is demanded under private law can also be demanded under public law. Certainly with such a major development in which many people are watching (Interviewee R, personal communication, May 6, 2020).

5.4.4.6 Design changes

The development plan and the urban design have been adjusted extensively. However, the developer feels that quite a lot of the original feasibility study has been retained (Interviewee B, personal communication, May 11, 2020).

5.4.5 Optimisations

On the one hand, the municipality wanted to create a lot of working, while on the other hand the developer had less work programme in his business case. But at a certain point the municipality also wanted more social housing, then the developer said it could not be one and the other. The municipality eventually agreed that less social housing could be realised, but also indicated that the developer had to push other buttons at the same time and help the municipality again (Interviewee B, personal communication, May 11, 2020). In this sense, the project has been optimised by renegotiating the requirements and agreeing on a solution together.

5.4.6 Success factors

As the anterior agreement is about to be signed, the municipality sees the project as a successful one so far. One of the factors for this, according to the municipality, is that the parties have found each other in a long-term objective. The interviewee thinks that both Kondor Wessels Vastgoed and Amvest are involved in the project to stay involved for a long time. The municipality would never have wanted to, and could never have done this project with a developer who is more involved as a traditional developer. Together with the developers, the municipality has found solid parties who will be involved for many years and have been in the business for years. These kind of aspects and characteristics have been very important in this case (Interviewee R, personal communication, May 6, 2020).

The developer indicates that everyone has given in on things, but overall everyone is quite satisfied with the project. In advance, the developer had a certain number of square meters to develop, and in the end, that number came out reasonably well. For such a large area, that is pretty accurate.

According to the developer, it was a success factor that there were many common objectives. Both the municipality and the developer wanted a good team. The developer has also sometimes experienced that he had to work with civil servants who were of no use to him at all, which resulted in seemingly simple projects taking a very long time. A good team with people is therefore extremely important.

Another success factor of this project according to the developer is that he focused on the most important aspects of the project and zoomed in on them. For example, it was agreed with the selling landowner that the additional price that would eventually be paid only depended on the four most important aspects, and for the remainder assumptions were made. The selling landowner first wanted this to depend this on as many as twenty variables. They also worked in the same way with the municipality, so you don't negotiate everything down to the micro level, but limit yourself to the essentials so that you can keep up the speed of the process (Interviewee B, personal communication, May 11, 2020).

5.4.7 General lessons learned and points of improvement

In the interviews held with the developer and municipality, the interviewees were asked what they have learned from this transformation projects. These answers will be discussed in this section. Also some general remarks were given by the interviewees on how transformations could be improved.

5.4.7.1 The municipality

The municipality has learned that it is good to enter a process with respect for each other. A certain openness brings you much further than closedness, so instead of holding your cards to your chest, put them on the table. Then you come to a cooperation that can last for many years. Over the course of the process, that openness has become even more important, that trust is a very important element for the municipality. As a municipality and developer, you have to work on this together, but it is difficult to get a sense of it because you have very different interests. Trust is essential for good negotiations. Not only do you get the trust from each other, you also need others to determine whether the points on which you negotiate are good enough and whether they can be improved. So it is partly a people' s work and partly you have to let third parties objectify it in order to get good negotiations in place (Interviewee R, personal communication, May 6, 2020).

5.4.7.2 The developer

The developer has learned that it is very much up to who you have in front of you from the municipality that determines whether negotiations go smoothly. Not every municipality is the same, but not every civil servant is the same either. The person from the municipality of Delft who worked on the project was very positive about it so that helped a lot in the negotiations.

Another lesson that the developer learned is that if you work with a smaller team the process goes faster and also better. The more people involved in a project, the more time and energy it takes to coordinate, catch up and make sure everyone stays on board. At a certain point, however, the project can become so big and comprehensive that a small team is no longer possible. But with a small close team with developer and municipality you can achieve a lot in a short time (Interviewee B, personal communication, May 11, 2020).

5.5 Case study: Brandsmafabriek

The case study 'Brandsmafabriek' is an intended transformation in Hilversum of an old metal factory into a live-work environment. The negotiations between the developer and the municipality for the change of the land-use plan are still ongoing.

5.5.1 Context

Figure 15 Old metal refinement building (Brandsma, 2019)

Figure 14 Design image (Makeltrent, personal communication, April 10, 2020)

Name project	Brandsmafabriek
Address	Mussenstraat 55, Hilversum
Developer	Makeltrent
GFA	2.217 m2
Original year of construction	1948
Old use	Metal processing factory
New use	Live-work environment
Purchase price	€587.000
Stakeholders	Archiworks
Signed contracts during negotiations	None
Date of delivery	Not realised
Duration of initiation phase	Since July 2016

Table 12 General details transformation project Brandsmafabriek (own illustration)

5.5.2 Initiation phase

Before the developer purchased the property, he had three meetings with the municipality in which he discussed the development possibilities at the location. In those meetings, the developer explicitly asked whether a housing land-use was possible, and the municipality indicated that there was a housing land-use on the site. The developer then bought the property with his own financing with the intention of developing housing there.

Then, just after the purchase of the property, a swipe land-use plan was submitted by the municipality to change the land-use for the project site from a housing land-use to a business land-use. In 2013, new land-use plans were adopted throughout Hilversum because it was a national requirement that all municipalities had to update their land-use plans. For the project location a mistake was made at that time and a housing land-use was allocated to it, although that was not the intention. All those years there was

a business land-use and the municipality had no intention of turning it into a housing land-use. This mistake applied not only to the project location but also to other parts of Hilversum, where over the years the municipality has discovered that a housing land-use had been allocated incorrectly. In order to rectify this mistake, a swipe land-use plan was adopted in 2016 stating that the municipality had made a mistake and that the housing land-use had to be removed from the designated area. This was also during the period that the developer purchased the land, as a result of which at that time there was still the incorrect housing land-use on it (Interviewee Q, personal communication, May 6, 2020). In an interview, the municipality acknowledged that this is very unfortunate for the developer. Because of this, the process and negotiations have been going on for a long time now.

The developer did protest against the swipe land-use plan, but it was rejected by the municipality. The view submitted by the developer was accepted, only the municipality indicated that they still wanted business activity at the location and that the housing land-use was a mistake (Interviewee P, personal communication, May 7, 2020). The municipality confirmed this and states that the area within which the project is located should be retained as a creative business park, as was stated in previous policy and now also in the updated policy (Interviewee Q, personal communication, May 6, 2020).

5.5.3 Policy

The developer's preliminary designs take the municipal policy into account. These will be discussed further in this section.

- Coalition Agreement Municipality of Hilversum 2018-2022
- Structure vision Hilversum 2030
- Land-use plan 'Kamerlingh Onnesweg'

5.5.4 Negotiations

In the initial design, the developer had taken into account the municipal structure vision and the coalition agreement. In an initial proposal that the developer sent to the municipality, he also elaborated on what the key points of the municipal structure vision were and how the plan met these points. The plan created for example creative activity, transformed an old business park and created a combination of living and working, all of which are points from the municipality's structure vision. The municipality had also indicated in policy plans that it wanted to develop the new way of working, namely working at home. In this way, the developer initially made the design by creating lofts where people worked on the ground floor and lived upstairs. However, this proposal was rejected, after which a long procedure arose about the land-use change and the possibilities of the location.

5.5.4.1 Strategy

The developer did not use a negotiation strategy to negotiate land-use plan change. In an interview the developer indicates that in future projects he wants to approach things differently by getting the municipality more enthusiastic about the project at an earlier stage (Interviewee N, personal communication, May 1, 2020).

The municipality indicates that the strategy is mainly to look at the overall plan and assess it. In other words, what residential space will be added, what business activity will remain and if the monument will be preserved accordingly. The municipality has also made a distinction in advance as to which requirements are more important to meet than others. Strict requirements of the municipality are, for

example, that the emphasis must be on creative activity, that the monumental and cultural-historical values must be preserved, and that living must be subordinate to working. The municipality also never deviates from requirements with regard to parking. In addition, there are also less strict conditions; for example, the requirement of a hundred percent working land-use may be deviated from. Negotiations subsequently arose about the ratio between living and working and surface areas and percentages that go with it.

The interviewee indicated that the one requirement is very strict and the other is more flexible, because when for example living is subordinate to working, as a municipality you can still make a reasonable spatial substantiation for this. In that situation, the economic activity remains and is therefore in line with the policy. However, if hospitality and catering is introduced there will no longer be a relationship with these business activities, which will make it very difficult to provide a good spatial substantiation. This also applies to parking. If the municipality would deviate from its parking policy for each project, there would be a completely different result in the view of the very high parking pressure in Hilversum. In that case it would not be possible to provide a good spatial substantiation (interviewee Q, personal communication, May 6, 2020).

5.5.4.2 Living/working

The negotiation process started because the developer wanted to realise housing but the municipality wished to see a work purpose at the project location. One of the first requirements from the municipality was that a spatial quality improvement had to be made, and that it was important for the Hilversum region that sufficient work locations remain. The developer refuted this requirement at that time by stating that in other policies the municipality itself stated that it was struggling with a surplus of office space and vacancy (Makeltrent, personal communication, April 7, 2020).

It has already been indicated that the requirement of hundred percent working was not a strict requirement of the municipality, this requirement has therefore been adjusted in the course of the process. In an interview with the municipality about this requirement it is said that in principle a municipality can deviate from the land-use plan, but then good spatial planning must always be kept in mind. It must therefore be acceptable for the living environment and the living conditions that the deviation is made, and all kinds of laws and regulations must be taken into account. In the course of the process, the requirement with regard to working has therefore been adjusted to the fact that living must be subordinate to working (interview Q, personal communication, May 6, 2020). This is because the coalition agreement states that employment and work locations must be maintained (Gemeente Hilversum, 2018). The coalition agreement does not specify any percentages of living and working, but rather that working must be retained.

Therefore, the municipality does want to deviate from this, only the vast majority must be working activities, because that is also the policy. So the municipality has said that in principle it wants to cooperate and think along with a housing function, but that must remain subordinate. The municipality sees the location and the surrounding terrain as a breeding ground for creative industry and also wants to offer it the opportunity to develop in the other buildings that are located there. If the municipality allows more and more housing here, the entire basis of the land-use plan will be lost (Interviewee Q, personal communication, May 6, 2020).

Subsequently, however, a discussion started again about what exactly is seen as subordinate. At a certain point, the municipality has indicated that it wants a ratio of 70/30, the developer in his turn believes that

this requirement is not reflected in any policy document. An additional point of negotiation is that the square meters of hospitality industry that the developer wants to realise may not be included in the ratio calculation (Interviewee P, personal communication, May 7, 2020).

5.5.4.3 Hospitality

The municipality has sent the frameworks with which the plan must comply for cooperation in a change in the land-use plan. A strict requirement was that there could be no hospitality industry, something that the developer had included in his design. The municipality only allows subordinate hospitality services for the workplaces. A permit may only be issued for independent hospitality if locations are labelled as 'pearls', i.e. places that are an enrichment for the municipality. According to the municipality, this project location is not one of them (Interviewee Q, personal communication, May 6, 2020). In an interview with the developer, he states that the conditions to be considered a 'pearl' are that the building has a monumental status and it is located near a nature reserve. These two conditions apply according to the developer to the project location, which means that a hospitality permit would have to be granted. The developer also believes that the hospitality services fit in well with the creative breeding ground that the municipality wants to create, and that he therefore deviates from this strict condition (Interviewee P, personal communication, May 7, 2020).

5.5.4.4 Municipal monument

During the negotiations, the municipality started a procedure to designate the building as a municipal monument. In February 2018 the Municipal Executive decided to designate the building as a municipal monument. As a result, there will be extra restrictions on the project location, because, for example, you may not demolish a monument without a permit. The developer's plan was to demolish part of the building. The developer now has to keep the building intact as much as possible. The procedure for granting a permit is still ongoing and has already been going on for a long time, the developer's objection is also still under consideration. The municipality indicates that they are also partly to blame for the fact that the process has already taken such a long time (Interviewee Q, personal communication, May 6, 2020). For this reason, during the negotiations, someone from the monument committee and an urban planner are also looking at what needs to be preserved. A choice will have to be made as to what needs to be preserved and how this needs to be done.

When the procedure for the monumental designation was started, the developer had already made plans with the province to demolish part of the buildings and remediate the soil. In the design, the old office building was demolished and the old factory hall was transformed. In the monumental nomination it was concluded that the monumental value of the building is mainly in the factory hall. Whether the office building can be demolished and what is to be kept of the factory hall remains a matter of negotiation between the developer and the municipality.

5.5.4.5 Legal check

When, at the beginning of the project, the housing land-use was removed from the plan, the developer had a lawyer take a look at it. Later in the process, a lawyer also reviewed the plan and indicated that the municipality cannot just keep coming up with new policies. On the other hand, the only thing the developer could do was claim planning damage (planschade), which according to the developer amounts to about five to six thousand euros. The developer did not address the municipality about the state of affairs because he rather wants to work it out together and realise his plan after all. The developer also indicates that he prefers to solve everything by mutual agreement instead of calling in a lawyer, because he also has

other projects in the municipality and he otherwise puts himself on the side-line in future projects (Interviewee P, personal communication, May 7, 2020).

The municipality indicated that in the project a planning lawyer and an internal advisory body including environmental advisors, planners and lawyers are involved. The municipality also wants to be sure that if they make a decision, this will also stand up until the Council of State. In an interview with the municipality it is indicated that if the municipality refuses to cooperate, and the initiator does not agree, the dispute about the decision may go to court. The judge will then re-evaluate whether the municipality has done its homework properly and acted correctly. If the municipality deviates from a rule, it must therefore always provide a good motivation and a good spatial substantiation (Interviewee Q, personal communication, May 6, 2020).

5.5.4.6 Design changes

In the first version, the developer had designed lofts for living and working, so-called live-work units. This was later adjusted because the municipality wanted to separate the two functions. Where the developer had, after adjustments, drawn six large lofts in the hall as a clearer division between living and working was desired, the functions were then completely separated from each other (Makeltrent, personal communication, April 7, 2020). However, the developer did not find anywhere in policy that these functions had to be separated. The developer had based his design on the new way of living and working that was included in the structure vision (Interviewee P, personal communication, May 7, 2020). Later, the design was adjusted again by designing fewer housing units and making more room for working.

The design also consists of two parts; the old factory hall and the planned new building where currently the offices are located. In the developer's first design, these two parts were completely separate from each other. At the insistence of the municipality, the design has been adjusted by connecting the two parts more to each other (Interviewee P, personal communication, May 7, 2020).

5.5.5 Optimisations

The municipality has indicated that the nearby railway line could create a problem for the housing function. The developer has noted that the building line of the business hall does indeed extend slightly in relation to the adjacent buildings. As a result, the distance from the railway to the façade is at least 22,5 metres. The developer has therefore optimised his project by using one of the options also proposed by the Expert Team Transformatie (2014c) by rearranging the floor plan and creating a creative workplace and small-scale hospitality on the side of the track. The live-work units will start on the same building line as the newly built houses on the Anthony Fokkerweg and will therefore be at least 25 metres away from the railway line. The units will also be positioned at a right angle to the railway line, as a result of which the distance from the railway will increase from 25 up to 65 metres. For the first work and residential units within 30 metres of the track, additional fire resistant measures will also be taken in accordance with the Building Decree (Makeltrent, personal communication, April 7, 2020).

5.5.6 General lessons learned and point of improvement

In the interviews held with the developer and municipality, the interviewees were asked what they have learned from this transformation projects. These answers will be discussed in this section. Also some general remarks were given by the interviewees on how transformations could be improved.

5.5.6.1 Developer

The developer has several points to make about how the negotiation process has gone so far. In his view, the municipality has fallen short in several areas and the process could be improved.

5.5.6.1.1 Substantiation of new requirements

The developer indicates that he believes the municipality's requirements in the negotiations are unreasonable mainly because the municipality constantly adapts its vision and then comes up with new requirements of which the substantiation is not based on existing policy. An example is that the municipality has indicated in its policy that it would like to create live-work units in the municipality. With this in mind, the developer had designed lofts in his first design in which living and working was an integral unit. However, the municipality subsequently indicated that they wanted the units to be separated. After changes were made, the person in charge of the monuments committee subsequently indicated that the new design meant that the hall was no longer properly incorporated in the design, which was also a requirement. The developer indicates that it seems as if the rules of the game are being constantly changed.

If, according to the developer, at an earlier stage he and the municipality had come together and discussed everything that the developer wanted and what the municipality wanted, the process might have been better and faster (Interviewee P, personal communication, May 7, 2020).

5.5.6.1.2 Transparency and clarity

The developer also indicates that the municipality should be more transparent and provide more clarity. There is never a discussion with the municipality or a brainstorming session about the possibilities at the location. According to the developer, the municipality is too cryptic in substantiating its wishes. The developer says that the municipality always has a vision, but you never know exactly what that vision is. When the developer comes up with ideas and indicates which policy applies to them, he never really gets an adequate answer. The developer therefore sees the new Environmental Act as a positive course of action. It should push the municipality to a municipality 2.0, but for the developer that may also be pushed to a 5.0. The developer would like to get answers when he submits ideas so that he can move on. The developer has the feeling that he is not being heard well enough by the municipality. He mentioned the example of the previously mentioned requirements for an independent hospitality function. The developer meets the requirements for a permit, namely a monument and close to a nature reserve. However, the municipality is very strict in not wanting to grant a permit and it is still not clear to the developer why they do not want to grant the permit.

5.5.6.1.3 Discussions with those responsible

In this project there was also no development team in which joint consultation took place. The developer always submitted his plans to which the municipality responded, which makes the process long because the developer does not know in advance what the plan must comply with. When the developer and the municipality had a meeting in which the developer wanted to discuss the requirements, it turned out that the person from the municipality with whom the developer was having the meeting was not the person responsible and had to discuss it again first with his manager. The developer states the municipality should be more involved and think along.

The developer also had several contacts within the municipality which was not conducive to the process. Eventually, an environmental director was appointed from the municipality with whom the developer has contact. However, the developer feels that this person is not really a director because he does not direct

much, he is more of a conduit from the municipality. Now that environmental directors have been appointed by the municipality of Hilversum, the developer does have a single point of contact instead of having to communicate with all the different departments. But the developer does not yet speak to the person he wants to speak to, because that director is not the one who made the policy and can adjust it. The communication with the municipality is therefore very difficult in this project.

5.5.6.2 Municipality

What the municipality has learned, also from other projects, is to get in touch with initiators and build a relationship much sooner. According to the municipality, this has often lacked in this project. In the future, the Environmental Act will help with this, as participation plays an important role in this and steers towards thinking along with initiatives and getting in touch with initiators at an earlier stage. This was the reason for the municipality of Hilversum to say that with the somewhat larger initiatives the contact should be strengthened at the beginning. And in doing so, immediately examine the possibilities and non-possibilities of the plans.

The municipality has therefore recently appointed a pool of environmental directors with the aim of recognising initiatives such as this transformation project and thereby forming direction and strengthening contact so that a good relationship with the initiators is established from the start. This prevents procedures from simmering for a long time and a lot of different information coming in from different people that can be interpreted in a different way. With the appointment of environmental directors there is a central person who is in charge and keeps contact with the initiators so that the process runs smoothly. The point for improvement from the municipal point of view is thus to gain trust and ensure that the information flows in a proper way. Until recently, there were several departments that could provide different information that could contradict each other. However, as indicated earlier, the developer has his reservations about the functioning of these new measures.

5.6 Cross-case analysis

After all the case studies have been conducted an analysis can be made by analysing the different results. This will be done by means of a cross-case analysis which will be discussed in this section of the report. At first an overview is presented of all the results of the different cases, thereby giving a clear view and comparison of the results. A more elaborate discussion of the results and their similarities and differences will be given thereafter.

5.6.1 Cross-case overview

Project	De Hooch	De Karsp	Kabeldistrict	Brandsma
Status	Completed	Completed	Ongoing	Ongoing
Transformation	Office to housing	Office to housing	Industrial area to live-work environment	Industry to live-work
Duration initiation phase	3 years	2 years	Since 2017	Since 2016
Contracts	Anterior agreement	Letter of agreement	Exclusivity agreement Cooperation agreement	None
Included policy	Provincial structure vision Structure vision Housing vision Parking Decree Land-use plan	Regional implementation strategy Structure vision Strategy Decree Area plan Land-use plan	Provincial vision of land and mobility Spatial economic vision Housing vision Area vision Development plan	Structure vision Coalition agreement Land-use plan
Strategy developer	None	None	Determine greatest impacts and room to give space	None
Strategy municipality	-	Help initiators Strict and flexible requirement Predetermined distinction importance requirements	Set open objective Cooperation with market parties Jointly discussion how to change policy	Strict and flexible requirements Predetermined distinction importance requirements
Legal check developer	No	No	Yes	Yes
Legal check municipality	-	Yes	Yes	Yes
Difficulties	Building height Land exchange	Noise Mid-rent Changing policy	Building density Work programme	Live work ratio Monument allocation Hospitality function
Optimisations	None	None	Building in phases Back in negotiations	Floor plan change
Design changes	Reduce building layers	Crowning top layers Measures to reduce wind	Urban design adjustments	Separate living and working Connect two buildings
Success factors according to developer	Municipality no ground lessee Early neighbourhood involvement Location, city centre where the municipality	Pioneer status Location, last place for municipality to expand	Common objectives Good team Focus on important aspects	

	wanted housing and social sector is unsuitable			
Success factors according to municipality	-	Mutual trust Placemaking initiatives by developer	Long term partners Experienced parties	
Lessons learned and points of improvement according to developer	No blueprint for transformation projects	Use development team instead of hired specialists Make adaptive policy Retain policy from initiation Update parking policy	Everyone is different Small teams work better	Better substantiate new municipal requirements More transparency and clarity from municipality Consultation with those in charge
Lessons learned by municipality	-	Maintain dialogue Be transparent about dilemmas	Enter a process with respect to each other Bring openness Trust is essential Let third parties objective points of negotiation	Earlier contact with initiators Central coordinator

Table 13 Overview cross-case analysis (own illustration)

5.6.2 Elaboration cross-case results

In this section a further elaboration will be given on the results from the cross-case analysis regarding the policies incorporated in the designs, negotiation strategies used, legal checks, difficulties in the projects, optimisation possibilities used, success factors, points of improvement and lessons learned.

5.6.2.1 Included policy

In all the transformation projects the developers included multiple policies in their designs. The successfully completed projects, as well as the Brandsma project that is still ongoing, all complied with the municipal policy. From this result one can conclude that complying to municipal policy is no guarantee for good negotiations and a successful transformation project. A difference in the Brandsma project and the successful projects is that in the successful projects the municipality was convinced of the development plan. Presenting the transformation plans in such a way that the municipality in convinced of the importance of the project is thus more important than complying your plan with all municipal policies. Having kinds of policies included in the first design does however increase the chance that the municipality will be convinced.

5.6.2.2 Negotiation strategies

In all the transformation projects only one of the developers had a predetermined strategy for the negotiations about the change of the land-use plan. The municipalities on the other hand all had a predetermined strategy by for example setting strict and flexible requirements and predetermine the importance of the requirements. For the municipalities it was therefore clear what they needed to focus on during the negotiations and how they wanted the process of the negotiations to go along. The developers did however have no clear view of how the negotiations would proceed and where their focus should lie. In all projects the developers putted their effort in making a thorough first design with a well

thought off concept. This design was then submitted to the municipality and that was their starting point for the negotiations. The developers thus focussed more on the content of the plan rather than on the procedure, thereby relying on the strength of the plan. Having a predetermined strategy could however have helped the developers in structuring the negotiations process and see where they should focus on. An additional advantage of both parties having a predetermined strategy is than in early stage these strategies can be placed side by side in order to get a clear picture of what both parties' goals are and determine what form of cooperation is best suited to achieve these goals.

5.6.2.3 Legal check

In none of the completed transformation projects the developer checked whether the requirements set by the municipality were legally allowed. Only in the case of the Brandsma project the developer hired a lawyer at some point to check whether the actions of the municipality were legally allowed. All the developers also stated that hiring a lawyer and address the municipality on the legality of requirements is something they never do, also not in other transformation projects. They indicate that working things out in good relations is always preferable in view of the fact that they need the goodwill of the municipality in future projects. From these statements one can conclude that hiring a lawyers is not the most preferable option in cases where negotiations are not proceeding.

5.6.2.4 Difficulties in the negotiations

The difficulties encountered in the transformation projects regard the requirements set by the municipality for the change in the land-use plan are rather diverse. There were problematic requirements set regarding building height, but also regarding land exchange, mid-rent, noise and live-work ratios. Policy being changed during the process and subsequently new requirements that emerge from this is also seen as an obstacle to transformation projects. The developers also indicated that it was not just one specific requirement that caused problems, but it was always in combination with other requirements. It was thus rather the stacking of the requirements to be problematic at some point, than one specific requirement causing the feasibility to be troubled. From the diversity of the problematic requirements it can be concluded that more difficulties arise from project-specific requirements. There are no requirements in a general sense that cause problems in the negotiations for changing the land-use plan.

5.6.2.5 Project optimisation possibilities

In only one of the projects a form of project optimisation is used, being changing the floor plans in order to comply with the noise standards. In all other projects the developers did not optimise the project in a specific way in order to make it financially feasible. The developers state that also in other projects they always want to develop the plan in the best way possible and therefore not use specific optimisation possibilities in order to make plans feasible afterwards. Whenever projects do encounter difficulties, the developer will always choose to go back to the negotiating table with the municipality. As a result, the designs of all transformation projects did change during the process of negotiations. These adjustments to the designs can however be seen more as part of the usual process of designing development plans, as in most development projects designs are made and adjusted during the process. These adjustments were made so that the plan complied to the requirements set by the municipalities, and have thus been made for planning reasons and not to optimise the projects in a financial sense. A conclusion that can be drawn form this is that in transformation projects where difficult negotiations take place over the change of the land-use plan, financial optimisation possibilities may not be the answer.

5.6.2.6 Success factors of the project according to developers and municipalities

In two of the projects the developer stated that the location was one of the success factors. The transformation of De Hooch is located in the city centre of Amsterdam. In that area the municipality was eager to realise housing, and because it is the city centre, the municipality did not wish social housing. The transformation of De Karsp is situated outside of the city in an area which is one of the last places the municipality can realise large-scale housing. In that case an additional factor to the success was however that the project had a pioneer status as it was the first transformation in the area. It can be concluded that it was not so much the location itself that contributed to the success of the transformation, but more the fact that because of the location the municipality was more convinced of the importance and committed to the transformation.

An other success factor pointed out by one of the developers is that when property is purchased with risk, as a developer you do everything in your power to make the transformation happen as otherwise you lose a lot of money. However, the Brandsma project is purchased by the developer at risk, though no plans for transformation have been agreed upon so far because the municipality is not convinced of the importance of plans. One can therefore conclude that purchasing building at risk is no guarantee for success, convincing the municipality of the transformation plans is still a key aspect.

The developer of the Karps also stated that purchasing the old office building entirely at risk was a factor of success because he would lose a lot of money if the project would not be realised. But also in projects where buildings are not purchased with risk, developers do everything in their power to make transformations work. The 'power to say no' by the developer that was founded in a previous section of this report as one the results from the explorative interviews, also does not apply in this case.

From a municipal point of view, the success of the transformation can be found in the relationship that was built during the negotiations. It is stated that having mutual trust and experienced partners is important for the success. For example, the placemaking initiatives that the developer took in the Karp project convinced the municipality that the developer wanted to contribute to the transformation of the area as a whole and not just his own project. In the Kabeldistrict project the municipality saw the fact that the developer was involved in the project not in a classical way but for the long-term as a success factor. From these statements it can be concluded that the municipality must not only be convinced of the importance of the transformation, but must also feel confident that a good relationship can be built between the two parties.

5.6.2.7 Points of improvement according to developers

In both the successful projects as well as the project that are still ongoing, the developers gave several points of improvement as regards the project and transformation projects in general. A similarity in these answers is that in both the Karsp project as well as the Brandsma project the developers point out that the communication with the municipality can be improved. The developer of the Karsp stated that municipalities should work with development teams instead of hiring specialists who are not available the whole week, as this makes good communication very difficult. The developer of the Brandsma project even states that the bad communication is one of the major factors that causes the negotiations to have been going on for such a long time. The bad communication in that project is caused because the developer never has meetings with those from the municipality who are responsible for the policy and are in charge of making decisions. The municipality did assign an environmental director to the project, making the developer have one point of contact at the municipality, although now the developer still doesn't have his

meetings with the persons with whom he wants to discuss his plans. A solution to this problem would be that the municipality forms a development team with the people who can make decisions.

The developer of the Brandsma project also states that the municipality can be more transparent in their decision making and be clearer in the decisions they make. A big issue according to the developer is that the municipality keeps on setting new requirements without adding good substantiations. Having a development team in which open discussions can be held would again be a possible solution to this problem.

Also, the developer of the Karsp pointed out that the policy in many municipalities can be improved. Having for example adaptive policy in which transformation projects do not have to score a hundred percent on all policies but should more be an overall good plan, should be more realistic and increase the feasibility of transformation projects substantially. In addition, municipalities should retain the policy that was applicable at the time of the initiation throughout the whole project. It occurs too often that because of changing policy development plans have to be adjusted, causing the feasibility to be jeopardised. Lastly the developer stated that parking policy must be updated as this is in most cases based on parking per dwelling in which the dwelling is seen as a single family dwelling. Though in most transformation projects, especially in office transformation, the dwellings that are developed are apartments that do not have to have so many parking spaces.

5.6.2.8 Lessons learned by municipalities

In all projects the municipalities pointed out several lessons that they have learned during the course of the projects. These lessons were all aspects that can be reduced to having a good relationship in the negotiations. The lessons were for example to always maintain a good dialogue with each other, to make earlier contact with developers when initiatives are made to discuss their goals, to be transparent about dilemmas, to enter a process with respect to each other and to bring openness. Lastly, it is stated that mutual trust is essential to projects.

An additional lesson learned as pointed out by one of the municipalities is that during the negotiations it is advisable to have third parties objectify the points on which the negotiations take place. The participation of an objective third party can really benefit the process when developers and municipalities encounter difficulties in the negotiations.

5.7 Conclusion case studies

With the outcome of the case studies and the cross-case analysis, answers can be given to the sub questions: *(vi) 'what municipal requirements cause the main problems during the negotiations for a change in the land-use plan or an environmental permit for deviation of the land-use plan in practise?'* and *(vii) what ways of project optimisation do developers use in practise to make transformation projects feasible when a municipality sets excessive requirements?'*.

A diverse set of municipal requirements can cause problems to transformation projects in practise. These requirements are project-specific requirements as there is no blueprint for transformation projects. It therefore cannot be said in a general sense what municipal requirements cause the most problems in transformation projects. It can also be concluded that it is not only the requirement itself causing problems in the negotiations for the land-use change, but more factors play a role in this issue.

One factor is that having the intended transformation plan to comply to municipal policy is no guarantee for good negotiations and a successful transformation project. Presenting the transformation plans in such a way that the municipality is convinced of the importance of the project can be seen of a higher importance for success. Complying the first design with multiple policies does however increase the chance that the municipality will be convinced. Another possible factor that causes difficulties in transformation projects is that no developer has a predetermined negotiation strategy in which they set their focus for the negotiations. If strategies would be made these can then be put aside to those of the municipality, making the objective of both parties clear and ultimately leading towards a good relationship, which is seen as a key success factor by the municipality.

As regards the project optimisations, it can be concluded that this method is not used often for increasing the feasibility of the analysed transformation projects. In only one of the analysed projects the developer used an optimisation possibility by changing the floor plans in order to comply with noise standards. Seeing that this was the only found optimisation it can be concluded that whenever difficulties arise in negotiations the developer will mostly choose to go back to the negotiating table with the municipality. Using optimisation possibilities in order to make the project financially feasible is not the answer in that case. The changes that have been made in the designs of the projects have been made for planning reasons and not to optimise the projects financially.

Part IV: Conclusions

6 Conclusion

The central problem on which this research was based is the setting of excessive requirements by municipalities in transformation initiatives in order for planning participation in changing the land-use plan or environmental permit to deviate from the land-use plan. The aim of the research was to show which municipal requirements can form an obstacle in transformation projects and how developers can optimise their projects, and therefore ultimately improve the transformation process and contribute to new developments. The conclusion of this research will be presented in this part of the report. At first the answers to the research sub questions will be presented. The main research question will be answered thereafter, giving the main conclusion of this report.

6.1 Sub questions

The answers to the sub questions will be briefly discussed in this section of the report.

(I). What is the definition of transformation?

Transformation projects can take place at area level as well as building level and always bring a clear change of functions and change of the land-use plan. Some of the possible characteristics of the projects are that they have a high risk profile, financial uncertainty and a long start-up phase

(II). What is the role of the municipality and the developer in the transformation process?

The municipality often takes the role of the director in transformation projects because of its social and public tasks and to ensure a good living environment. Over the years, the municipality has decreased its involvement in transformation projects, though in many cases financial support from the government is still needed. Since the economic crisis, developers are losing their central role and core competence of making risk-bearing investments. In transformation projects this results in more and closer cooperation with the municipality and third parties.

(III). What does the process of real estate transformation look like?

In development projects one can distinguish the initiation phase, definition phase, design phase, realisation phase and control phase. The initiation phase is the phase where municipal requirements are set for the change of the land-use plan and where negotiations between the developer and municipality take place.

(IV). What does the legal process look like when developers apply for a change in the land-use plan or an environmental permit for deviation of the land-use plan, and what terms and conditions come along with it?

To answer this question both a literature research as well as explorative interviews were conducted. The results of both research methods will be discussed.

Theory

Land-use plans can be either a rigid, flexible or half-flexible. Depending on the type of land-use plan developers can apply for change of the land-use plan for an entire area, or for a postage stamp land-use plan. Developers can however also apply for an environmental permit to deviate from the land-use plan. They can either apply for an internal plan deviation, external plan deviation or for a minor exception. In addition, these minor exceptions can be combined so that larger transformations can be realised. For the

internal deviations and minor exceptions the normal procedure of 8 weeks applies and for the outer plan deviations the extended procedure of 26 weeks applies which can be extended by 6 weeks.

Municipal requirements that are set for planning participation mostly come forth out of municipal policy that is drawn up for various areas. Plans must for example comply with spatial-, economic-, housing-, parking-, financial- and environmental policy. The municipality also has the policy freedom to set other requirements than stated in policy, or not cooperate with an application at all. Having a transformation plan that complies with all policies is therefore no guarantee for a successful transformation, there should be a willingness from the municipality to cooperate. Requirements that can cause problems to the feasibility of transformation projects are requirements regarding the amount of ground lease, the building programme and especially the percentage of social housing. In addition, it is mostly the stacking of requirements that cause projects to turn unfeasible.

The legal boundaries to the requirements that municipalities can set is that municipalities must adhere to the principles of good governance and may not impose unreasonable requirements. Municipalities may not impose requirements under private law that could also not be imposed under public law. These public laws in which limits are set and that municipalities must adhere are varied. Once an agreement has been reached on the requirements, this is often laid down in an anterior agreement.

Practise

In transformation projects developers can buy projects at an early stage with risk or can first negotiate the building possibilities with the municipality. The negotiations for the change in the land-use plan or environmental permit to deviate from with it, often work towards the joint signing of the anterior agreement. The requirements set during these negotiations can arise from policy or can be imposed during the process, with the latter causing most problems as these are not known to the developer in advance. However, the municipality must set these requirements in order to guarantee the safety, health and liveability of the city. An explanation for these project-specific requirements to be set is that practice is often quicker in responding to new trends and developments than the municipality has drawn up policy documents and regulations. Most transformation projects therefore involve project-specific requirements as customised work is needed. Another factor for project-specific requirements to be set is changing policy during the negotiations. In addition, it can be concluded that most problems arise not because of one specific requirement but due to the stacking thereof. The most common problematic requirements are those regarding programme, sustainability, exploitation costs and parking standards.

Regarding the legal boundaries of the municipal requirements developers state that the municipality has the freedom to require what they want. However, it is also indicated that as a developer you do not want to antagonize a municipality. Lawyers state that there are in fact legal boundaries to what a municipality may require, being the many different public laws. Case law on municipalities being sued for requirements they impose is however rare, as no developer addresses the municipality on their abuse of power.

(V). What is project optimisation and what possibilities can a developer use in order to still make a feasible transformation project?

To answer this question both a literature research as well as explorative interviews were conducted. The results of both research methods will be discussed.

Theory

Whenever after calculations a transformation project turns out unfeasible, developers can optimise their projects in an attempt to still make it feasible by reducing costs and increasing revenues. These costs that could be reduced are the investment costs from which the construction costs are the largest cost item on which money can be saved. The investment costs can be optimised by building in phases with each phase having its own exploitation picture. The investment volume will thereby remain limited in size and time, therefore turning the bathtub financing model into a sinks model. The first transformation can also bring an impulse to the area as a whole and building in phases responds better to changing trends.

The largest items on which a developer can lower the construction costs are the façade, structure, installations, inner walls and general implementation. This can be done by simplifying the development plan, make use of in-house construction and user involvement, a more inventive mix of demolition, preservation and partial transformation, questioning relocation of existing infrastructure, more function-oriented remediation and avoiding unnecessary expensive technical environmental provisions.

The most important factor to optimise the revenues of a project is to optimise the building characteristic by adding or combining floors. Other possibilities are making the programme more in line with the market, deal with the water storage task in a more inventive way, intensifying or densifying the development plan and increasing the FSI. Though densification and high-rise buildings are not always the right formula and sometimes dilution of the buildings in the land use can be more favourable.

Practise

In order to optimise their transformation projects developers can go back to the negotiating table with the municipality, reduce costs or increase revenues. If the developer chooses to go back to the negotiating table and wants to refute requirements, this will have to be done with good arguments. To reduce costs, the foundation costs are often critically examined again and developing smaller units can increase revenues. Optimising projects is however not a much used method in practise in order to make transformation projects financially feasible.

(VI). What municipal requirements cause the main problems during the negotiations for a change in the land-use plan or an environmental permit for deviation of the land-use plan in practise?

From practise it was found that problems can arise in negotiations when requirements were set regarding, building height, land exchange, mid-rent, noise, live-work ratios, and when policy changed and new requirements were constantly imposed. All these requirements were however project-specific requirements as there is no blueprint for transformation projects, making it difficult to make a general conclusion on which municipal requirements cause the most problems in transformation projects.

(VII). What ways of project optimisation do developers use in practise to make transformation projects feasible when a municipality sets excessive requirements?

Project optimisation is not a much used method in order to increase the feasibility of the studied transformation projects in practise. It can be concluded that whenever difficulties arise in negotiations, the developer will mostly choose to go back to the negotiating table with the municipality and try to refute requirements with good arguments. The plans do get adjusted in order to comply with municipal requirements, these are however not so much project optimisations in a financial sense but rather design adjustments for planning purposes. Using optimisation possibilities in order to make the project financially feasible is in that case not the answer.

6.2 Main research question

In this section of the report an answer will be given to the main question of the research. The main research question of this research is:

How do municipal policy requirements form an obstacle to transformation projects, and what ways of project optimisation are at hand to still make a financially feasible transformation project?

The first part of the research question focusses on how municipal requirements form an obstacle. It is found both in literature as well as in empirical research that municipal requirements can certainly form an obstacle to transformation projects. In this case the stacking of excessive municipal requirements in order for planning participation to change the land-use plan or for an environmental permit for a deviation of land-use plan cause the most problems. From the literature research it was concluded that the requirements regarding the programme and ground lease cause the most problems. However, from the explorative interviews is was concluded that, besides the programme requirements, it were not the requirements regarding the ground lease that caused most problems, but those regarding sustainability, parking standards and exploitation costs. In addition, from the case studies it was concluded that it was none of the above mentioned requirements that caused most problems, but it were other requirements regarding for example building height and noise standards. From all these different findings it can thus be concluded that in a general sense it can not be said what municipal requirements cause the most problems in transformation projects.

It can however be concluded that especially the requirements that do not originate from policy, but are set during the negotiation process, cause most problems in transformation project and can form an obstacle. The problem of these project-specific requirements is that these are not known by the developer in advance, making it not possible to take them into account in the development plans. Factors that cause these project-specific requirements to occur is because either policy has changed during the course of the project or the municipality uses its policy freedom to deviate from existing policy. The latter appears to be used most in transformation projects as customised work is needed. It can therefore be concluded that designing a transformation plan that complies with all policies is no guarantee for smooth negotiations and a successful transformation project.

The second part of the main research question focusses on what ways of project optimisation are at hand in order to still make a feasible transformation project. From the literature research it was concluded that there are various ways for developers to optimise their transformation projects by either reducing costs, increasing revenues or using different financing methods. From the empirical research it was however concluded that almost none of the optimisation possibilities found in literature were in fact used in practise. The reason for this is that the municipal requirements do certainly cause problems in the transformation project, however not so much in a financial sense. Design changes in transformation projects are made more for planning reasons, so to comply to municipal requirements, than that plans get optimised in order to make them financially feasible. Whenever problems arise, developers will therefore always choose to go back to the negotiating table with the municipality and try to refute requirements with good arguments, making financially optimising projects not the suitable answer to this problem. Developers should instead focus on convincing the municipality of the importance of the transformation, and building up a good relationships.

7 Recommendations for practise

Based on the research conducted and presented in this report and the conclusions that have been drawn from this, various recommendations can be given to both developers and municipalities that work on transformation projects.

7.1 Developers

Based on the research, several recommendations are made for developers who work on transformation projects.

- Develop negotiation strategy

From the empirical research it was concluded that almost none of the developers had a predetermined strategy for the negotiations on the transformation plans. They focussed their effort and attention on the content of the plan and not so much on the procedure, thereby relying on the strength of the plan. A recommendation in this case is for developers to do develop a predetermined strategy and focus more on the procedure. This can be done by predetermining what aspects have the greatest impact on the business case and the quality of the plan. By doing so, it helps the developer in showing on the one hand for what points he should negotiate hard and on the other hand some space can be given during negotiations. This can help developers in structuring the negotiations process and see where their focus should be. An additional advantage of both parties having a predetermined strategy is that in an early stage these strategies can be placed side by side in order to get a clear picture of what both parties' goals are and determine what form of cooperation is best suited to achieve these goals.

Other elements of a negotiations strategy are, for example, to predetermine what possible bottlenecks will be in the process and develop solutions to these difficulties. It is thereby also good to have a clear view of what the legal boundaries are of what requirements can be set by the municipality. In other words, it is good to fully know the rules of the game. Predetermining what the most import aspects of plan will be for the municipality can also help in the negotiations; a strategy can be made that focusses on the corresponding interests. A last recommendation for the negotiation strategy is to also develop a communication plan in which the developer determines how he will present the development plans and how to maintain a good relationship with the municipality.

- Contractually law down determined requirements

One of the conclusions of this research is that problems in transformation projects arise due to municipal requirements that are set during the negotiation process. These requirements are being set either because municipal policy has changed or because the municipality deviates from existing policy. In either case, a recommendation in this regard is for developers to lay down the requirements of the municipality in a contract. Municipal requirements can gradually be added to the contract as negotiations proceed, though making it not possible for the municipality to keep changing its requirements. Therefore, by laying down the determined requirements of the municipality in a contract, the developer brings more certainty to the project on the basis of which further designs can be made.

- Keep legal check in mind

From the empirical research it was concluded that none of the developers hire lawyers to check if the municipality is legally allowed to set the requirements in a negotiation process. However, from the literature research and interviews held with lawyers it was concluded that there are certainly legal boundaries of what municipality may demand from developers, and municipalities sometimes in fact go beyond these boundaries. Therefore, although hiring lawyers is not the most preferable option for developers as they do not want to put themselves on the side-line, obtaining legal advice could certainly help in problematic negotiations. Developers should hereby keep in mind that obtaining legal advice and addressing this to municipalities, does not necessarily mean that legal proceedings have to follow. It can also be used to know what can be demanded and make sure the negotiations go correctly.

- Complying to policy is no guarantee for success; convince municipality of importance transformation

One of the conclusions of this research is that an important factor for a successful transformation project is that the municipality must also want the transformation to happen. Having a development plan that complies with all policies is in this case no guarantee for smooth negotiations and a successful transformation project. Developers should therefore present their transformation plans in such a way that the municipality in convinced of the importance of the project. Having a design that complies with policies does however increase the chance that the municipality will be convinced.

- Focus on relationship

It is stated by all municipalities that have been interviewed in the research that having a good relationship with the developer is one of the most important factors for having a successful transformation project. For developers it is thus important to always keep their focus on building a good relationship with the municipality and maintaining it. This can be done by maintaining a good dialogue with each other, being transparent about dilemmas and enter a process with respect to each other. Bringing a certain openness into a negotiation process and playing with open cards instead of holding them to your chest will also bring you further in building a good relationship and help shaping mutual trust. Making contact with the municipality early in the process and discuss your mutual goals can also help to this. Lastly, it is concluded that the relationship can be enhanced by showing as a developer that you look further than your own project and want to contribute to the transformation of the area as a whole.

7.2 Municipalities

Based on the research, several recommendations are made for municipalities that work on transformation projects.

- Assemble development teams

From the empirical research it was concluded that the communication of the municipality can be improved. A factor that causes the communication with the municipality to not go as desired is that developers have to work together with specialists who are hired by the municipality and only work on the project one or two days a week, and not available for contact the rest of the week. Another factor is that developers in some cases do not have the meetings with those from the municipality who are responsible for the policy and are the ones in charge of making discussions. In this case developers have to submit their plans and wait for a reaction of the municipality. Projects would proceed a lot faster and plans would

improve a lot if the developer could have meetings with those responsible and thus would be able to discuss the development plans together, and brainstorm about design decisions. A solution to this problem would be if the municipality forms a development team with the people who can make decisions and who can meet with the developer on an agreed basis.

- Retain policy

It was concluded in the literature as well as the empirical research that changing policy is a big factor of causing problems to transformation projects. It now often occurs that because of changing policy, new requirements are being set, making development plans have to be adjusted and thus ultimately causing the feasibility of transformation projects to be jeopardised. As a solution to this problem, municipalities could state that the policy that was applicable at the time of the initiation will be retained throughout the transformation project. This will give more certainties in the already so uncertain transformation projects.

- Make policy more adaptive

In the empirical research it was concluded that the feasibility of transformation projects can get into problems when the plans have to comply with all municipal policies. Developers in this case have to design a plan that scores a hundred percent on all different policies in order for planning participation from the municipality. Municipalities could in these cases make their policies more adaptive by stating that the overall plan has to be good, and it does not have to score a hundred percent on all different points in policy. This adaptive policy is more realistic and will improve the feasibility of transformation projects.

- Be clear in decision making

It is already stated that from the empirical research it was concluded that the communication on part of the municipality could be improved. One way in which this can be done is for municipalities to be very clear about the decisions they make. When the municipality sets new requirements in a transformation project, they should be clear about why the new requirement is set and give a good substantiation to this. Also when designs of the developer get rejected, the municipality can be more transparent in why that decision is being made. Being clear in the decision making can help the process to go faster and also contributes to a good relationship.

- Update parking policy

It is concluded from both the explorative interviews as well as from the case studies that municipal parking policy can be outdated and should therefore be optimised. Especially in transformation projects where offices are transformed into housing, outdated parking policy can form an obstacle when the parking standards are based on single family dwellings. In these kind of transformation projects mostly apartments are realised and this means that as a consequence, a lot of parking spaces need to be realised as well. Updating parking policies and adjusting it to modern standards can therefore prevent tiring negotiations from taking on too long. A possible solution can be seen in the municipality of Eindhoven where, instead of demanding minimum parking spaces per dwelling, the municipality has set maximum standards.

8 Discussion

In this section of the report a discussion will be given on the research and its results. The validity and generalisability of the research will be discussed first, secondly the limitations of the research will be discussed and finally recommendations for further research will be given.

8.1 Validity and generalisability of the results

For the research of this report both literature research as well as empirical research has been conducted. From the literature research a lot was found on what the terms and conditions were that belong to the legal process of changing land-use plans. The literature also focusses on what kind of possibilities there are that developers could use in order to optimise their transformation project. However, almost no literature was found on how the negotiations between developers and municipalities go in transformation projects. This gap in literate was subsequently filled by many explorative interviews with experts that worked on transformation projects. A lot of conclusions are hereby based on personal views from practise. If one would interview experts with different mindsets the result could then differ.

Another remark in the research is that literature and practise differ much. It was for example found in literature that there are legal boundaries to what requirements the municipality can set, and developers can thus appeal against municipalities. Though from the explorative interviews it was found that all developers stated that there are no limits to what a municipality can demand and that they almost never do a legal check to assess in the requirements can be set. The same applied for the found project optimisation possibilities; a lot of possibilities were found in literature though almost none of them were actually used in practise. From this research one could therefore conclude that what is stated in literature does not always applies in practise.

The results of this research also address a so-called sore point in the transformation process. Municipalities sometimes set all kinds of requirements that lawyers claim cannot legally be set at all, but both municipalities and developers do not express themselves on this issue. After all, developers do not want to disrupt the good relationship with the municipality because they need the municipality in future projects, and seeing the issue is convenient for the municipality they too do not address it.

8.2 Contribution of research to body of knowledge

The added value of this research to literature is that is fills the gap in literature on the negotiation process between developers and municipalities in transformation projects. In the literature research some literature was found on what the legal terms are that one can come across during the negotiations process for a change in the land-use plan, though no literature was found that focussed on the explicit negotiation process between municipalities and developers. This research contributes to this gap as it shows how negotiations get initiated, what problems are encountered along the way and how consensus is being reached. Also the interrelations between municipalities and developers, strategies and project optimisations are identified and discussed. The research thus gives an overview and insight in how the negotiation process goes in practice.

Another added value of the research is that it shows how legal terms are applied in practise. In the literature research on the legal process and terms of transformation projects, several terms were found

and discussed that one can encounter when applying for a change in the land-use plan. As a result, the literature research became more an explanation of different terms and concepts. The empirical research showed how these terms are applied in practice. The research thus combined the different terms, showed how they are used, and made it all into a coherent story.

This research also contributed to body of knowledge in the sense that it showed that what was stated in literature about project optimisation did not always apply to the studied cases in practice. In order to make firm conclusions about this point of interest more cases must be analysed, but based on the four analysed cases one can conclude that, because transformation projects often require customised work, it is hard to set general theoretical optimisation solutions. It is stated in an earlier section of this report that in these analysed cases the developer chose to go back to the negotiation table with the municipality, instead of applying one of the optimisation possibilities from literature.

8.3 Limitations

An aim of this research was to fill the gap in literature on the negotiations between municipalities and developers in transformation projects. The fact that there is not a lot of literature at hand on the negotiations between municipalities and developers is simultaneously also a limitation of this research. A lot of the conclusion of the research are based on empirical research, for which explorative interviews are held and case studies have been conducted. If one would conduct more explorative interviews or with other types of developers, chances are that possible other results can come out of this.

The literature that was found in the literature research on transformation projects that turned out to be unfeasible due to excessive municipal requirements also has its limitations. The limitation in these articles is that it isn't a hundred percent certain that it was the excessiveness of the requirements that caused the project to be unfeasible, and not because of other factors such as that the developer payed too much for the land and buildings. The projects would have to be investigated better in order to determine what really caused the projects to be unfeasible.

An other limitation of this research is that all projects that are analysed for the case study are situated in the Randstad area of the Netherlands. The conclusions that have been drawn in this research focus however on transformation projects in a general sense. Transformation projects in for example shrinking areas will involve other kinds of municipal requirements and will also have other kinds of negotiations. To make conclusions about transformation projects in a general sense the research is thus rather limited in a geographical way.

A final limitation of the research is that it did not focus on the comparison of successful transformation projects and unsuccessful transformation projects. The projects that were analysed in the case study of this research were only transformation projects that turned out to be feasible and thus successful, and transformation projects that are currently still ongoing. In the cross-case analysis it was therefore not possible to analyse and determine the similarities and differences between successful and unsuccessful transformation projects.

8.4 Recommendations for further research

The research of this report has come to an end and conclusions have been drawn, there is however also room for further research. The most important recommendations for further research will be discussed in this section.

- Conduct case study with unsuccessful transformations

The transformation projects that have been studied for the case study analysis of this research are transformation projects that have turned out to be feasible, or the negotiations are currently still ongoing. Further research can include transformation projects that turned out to be unfeasible due to excessive municipal requirements. The results of both the successful and unsuccessful projects can then be compared to see the similarities and differences in the projects.

- Conduct same research again in a few years when the new Environmental Act is in full use

In the empirical research it was stated by several interviewees that the new Environmental Act will change a lot in the procedure of transformation projects. The Act will for example make legal boundaries more flexible and give municipalities more room in setting requirements, and is focussed on the participation of market parties. Further research could therefore be conducted in a few years to see what the new Environmental Act has changed in the negotiations process between the developer and municipality in transformation projects.

- Specify research scope

The research of this report was focussed on all transformation projects in a broader sense. Transformation projects in this research were projects in which the land-use in the land-use plan had to be changed. In further research this scope could be further specified in for example only office building transformations, or only area transformations. By specifying the research scope and further defining the transformations, more detailed and specified conclusions could be drawn. Further research could for example also specify the scope by examining the difference in transformation project that are purchased entirely with risk and those without. This can give more insight into what the pressure on a transformation project does to the negotiation process.

- Conduct more case studies

The case studies that have been analysed for this research have taken place in Amsterdam, Hilversum and Delft. In further research more case studies can be analysed that are located in villages or outside of the Randstad area. This can give more insight in how the negotiations between developers and municipalities go in transformation projects in other parts of the Netherlands. One can imagine that in parts of the Netherlands where the housing prices are relatively lower, that the municipality sets other requirements and negotiations are also different.

9 Reflection

In this last part of the research a reflection will be given on several aspects of the research. Firstly a reflection will be given on the process of the research that started in September 2019. Secondly, the relation will be discussed between the research topic, the graduation laboratory of the research, and the master track and master program for which the research is conducted. Thirdly, a reflection will be given of the scientific and societal relevance of the research. Lastly, the ethical issues and dilemmas that have been encountered during the research will be discussed.

9.1 Process

At the beginning of the graduation research, I spent a lot of time searching what topic I wanted to research for my thesis. From my previous studies at the University of Applied Sciences I knew that finding a suitable research subject can be really challenging. Luckily for me I already knew that within the built environment my interest lied in transformation projects. Though, finding a clear and specific topic of what I wanted to research in the transformation of real estate was hard to find. Thanks to helpful and clarifying meetings with my graduation mentors we further defined my research topic to as it is presented in this report.

Another aspect that I learned from my previous studies is that having the right mentor can be almost as important as having an interesting subject. As my first mentor I therefore contacted Mr. Hobma, because we have worked together in the previous academic year in the course Urban Redevelopment Game. He suggested Ms. Remøy as my second mentor as she knows a lot about transformation projects. The working together, meetings, help and feedback from both mentors have helped me a lot. The perfect combination of having an interesting research topic and having helpful mentors made that I have worked with great pleasure on this research.

After having a good start of the graduation in the P1 period, and clearly defined my research topic, I had to start conducting the literature research and write the P2 report. Especially at the beginning of this P2 period I had trouble in finding the right direction for my research and finding relevant literature. Spending a lot of time searching for relevant literature and not finding what I hoped for made me doubt the feasibility of my research. The feedback from both graduation mentors on how to structure my research and in what specified subjects I should search for literature have helped me a lot during that time. The feedback in several meetings that we had in the P2 period gave me a clear understanding of what I needed to do and what direction my research had to go. With a better view, more relevant literature was found and the literature research could get finished. After the P2 presentation I also received positive feedback on the literature research.

However, after the P2 presentation the feedback on the methodology was that it needed to be improved. Not having a well-thought methodology was also the problem I was struggling with the most during the beginning of the P3 period. After having finished the literature research and received a ‘go’ for the P2 report, I had some problems starting the empirical part of the research. The problem in this period was that I did not have a clear view of what I needed to do for my research, and how I was going to do it. In this period I also started my internship at Kondor Wessels Vastgoed that draw the attention away from my research. Not having a clear focus on my research made me struggle defining the right methodology and costed me valuable time. This resulted in the fact that after I did finalise the methodology, in the end of the P3 period I had to work very hard on my research in order to not fall behind on schedule. In this period

I also conducted numerous explorative interviews which gave me a lot of information on the research problem. The results of these interviews gave me very helpful insights on the research problem, and helped in getting a lot of unanswered questions answered. With the explorative interviews a real catch-up in research was made, which resulted in a complete P3 report and positive feedback.

All the insights from the explorative interviews and feedback on the P3 report also resulted in another personal critical review of the report. Though, besides improving the literature research and conducting and analysing the last explorative interviews, I also had to start the case studies. Doing all this in the same period has made the P4 period the most intense period of the research. An additional factor is that because of the measures taken concerning the coronavirus everyone had to work from home. This had made it even more complicated to obtain data from developers for the case studies. The idea beforehand was to visit the developers and go through their documents, discuss information together and thereby write the case reports. Due to the corona-measures this was not possible anymore and the developers had to send me all the information I needed for my case studies. Seeing that the negotiations with municipalities is a sensitive subject for developers, and I could not meet them in person, made that developers were not too eager to send all the information that I needed.

Another remark in this case is that especially for the unsuccessful transformation projects it was difficult to gather information. In the literature research three articles were found on transformation projects that turned out to be unfeasible, from these three projects none of the developers wanted to cooperate in the case study. This has led to the fact that not all projects that were intended to use for the case studies have also been analysed. The case study now only includes successful projects and projects that are still ongoing. From the beginning of the research I knew that the topic of negotiations with the municipality is a sensitive topic, however, I did thought developers would be a bit more open and share their information. In the end it turned out they only wanted to share their success.

9.2 Position of research topic

The topic of this graduation research concerns the transformation of real estate. The research is conducted in the graduation laboratory Urban Development Management, for the master track Management in the Built Environment of the master program Architecture, Urbanism and Building Sciences.

This research focusses on the negotiations between developers and municipalities, what requirements the municipality sets in order for planning participation to change the land-use plan or deviate from it, and what ways of project optimisation are at hand for a developer. How a developer can deal with high-demanding municipalities and how they can optimise their transformation project are aspects that focus on the management of the project. Transformation projects are one form of urban development, this expresses the relation of the research topic to the graduation laboratory. The focus on the management part of transformation projects also reflects the relation to the master track for which this research is conducted. Different actors, processes and aspects in which classes are given in the master track are reflected in this research. Seeing that architects design transformation projects and adjust them whenever projects are optimised and urbanists must test if the plans fit in the built environment, show in a broader perspective the research's relation with the master program.

9.3 Research methods

Several methods were used in this research. At first a literature research was conducted on the research problem, thereafter empirical research was conducted in the form of explorative interviews and case studies.

9.3.1 Literature research

The research started with a research in the literature that is written on the research problem and research topic. Different sub questions were defined prior to the literature research in order to bring structure to the research and find the relevant literature. Throughout the literature research these sub questions have been used as a guideline to what was already known, and what still had to be further examined.

At the start of the literature research a lot of literature could be found on transformation projects and the processes of these projects. This literature helps in better understanding the research topic and answering the general questions like what is meant with the term transformation and what the role of the actors are. However, difficulties started to arise when more specific literature had to be found on project optimisation and legal boundaries of what municipalities may require. Especially the literature on the legal aspects of the research problem were found to be rather limited. A lot of time was therefore spent on searching relevant literature, which in the end luckily has been found. Though the literature was still found to limited which is why a lot of question were unanswered when the literature research was finalised.

9.3.2 Explorative interviews

Because many unanswered questions still existed after the literature research was conducted, excessive explorative interviews were the consequence. In total twelve interviews were held with different experts that have worked on transformation projects. These interviews contributed greatly to the knowledge development on the research topic and gave a lot of insight on how practise sees the research problem.

The results of the interviews held with the developers gave especially a good understanding of what the actual requirements are that form problems in transformation projects. The interviews held with the lawyers gave especially a clear view of what the legal boundaries are of what the municipality may require for developers in order for planning participation. Almost no literature could be found concerning this aspect of the research, the results of the interviews were therefore very clarifying. The only flaw of the interviews was that not many results were found on possibilities for project optimisations. The interviewees were rather general in their answering, which did not lead to desired result.

9.3.3 Case studies

The case studies turned out to be a bit different than expected. In the literature research I found several articles on transformation projects that turned out to be unfeasible due to municipal requirements. When I contacted the developers that worked on the projects I encountered a lot of hesitance to give information about what requirements made the project unfeasible. This search in suitable projects for my research has costed me a lot more time and effort than I expected. An additional disadvantage was that due to the measures taken for the corona virus it was not possible for me to visit the developers. I think that having a sensitive research topic and not being able to meet the developers in person have made it that no unsuccessful project could be included in the research. On the other hand, I am very happy with the results from the successful projects and those that are still ongoing. The good cooperation of the developers and much received information made it possible to still conduct an extensive case study with good results.

9.4 Relevance

For the graduation research it is important that it has both scientific and societal relevance. In this section, a reflection will be given of what the added value of this research is for both the societal and the scientific body of knowledge.

9.4.1 Scientific relevance

This research was aimed at filling the gap in scientific literature on the negotiations between municipalities and developers in transformation projects and the municipal requirements set for planning participation in the change of land-use plans. It is already said in an earlier section of this reflection that during the literature research this gap became even more clear. The aim of this research was therefore to conduct excessive empirical research in order to try and fill the gap in literature. The numerous explorative interviews that were held and the results of the case studies contributed to reaching this aim.

9.4.2 Societal relevance

By identifying what municipal requirements form problems in transformation projects, future developers can have a better understanding of their project upfront. This can substantially help developers in designing their project and process, ultimately contributing to the development of transformation projects in general. The results of this research could also be used by municipalities in order to improve their process and realise more transformation projects. By improving the process of real estate transformation this research also helps in solving several wider societal issues. In numerous articles it is for example stated that the nature is getting scares in the Netherlands and must be preserved, the transformation of existing real estate would be a suitable solution to this problem. The transformation of real estate also helps solving two other problems at the same time, it reduces the vacancy rate in the Netherlands and helps solving the housing shortage.

The results of this research thus help developers better design their transformation process, and help municipalities better understand how their requirements can for problems, and therefore ultimately contribute to improve the transformation process in general.

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11 List of figures and tables

11.1 Figures

11.2 Tables

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