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Planning and the making of a propertied landscape

Mona Fawaz

Department of Architecture and Design, American University of Beirut, Lebanon

ABSTRACT

Although property is a basic ingredient of planning, its repercussions on the profession have rarely been considered. Building on the critical analysis of property, I argue that planning is giving in to the “property effect,” the unquestioned assumption that natural and built landscapes are propertied. Looking specifically at one case-study of land-use planning in Tibneen (Lebanon), I show planning interventions replicate inequalities embedded in property relations, maintain the dominance of propertied representation of the landscape, and limit possible claims over natural and built landscapes to those formulated within the framework of the ownership model. Consequently, land-use planning determines the possible futures of particular towns and regions through the institutional structures of the property regimes in place and within the historically and geographically contingent political-economies where these regimes operate.

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1. Introduction

Although property is one of the basic ingredients of planning, its critical repercussions on the profession have not been sufficiently considered (Krueckeberg, 1995). Instead, much contemporary planning practice continues to maintain the unquestioned assumptions of the ownership model – as formulated in seventeenth- and eighteenth-century western conceptions of property describing proprietorship as an element of the natural order (Smith, 2002). Given, however, that the shortcomings of the ownership model, its premises, assumptions, and implications have been widely debated among critical geographers, anthropologists, and legal scholars for at least two decades, it is imperative for planners to import some of the critical questions raised about property, to assess the implications of their designs, and to explore the possibility of activating alternatives to the ownership model as a strategy to expand the possibilities of the profession.

Among planners, land-use regulators are likely the group most confronted by property issues (Blomley, 2013). Because restrictions on land exploitation have hefty repercussions on property value and development potential, land-use interventions are often blocked by property interests. Yet, debates about the nature of property, its character, and distribution are rarely raised directly among planning professionals. Instead, questions about property surface indirectly in discussions about conflicting public and private interests where key assumptions about the ownership model remain unchallenged. Hence, numerous academic papers describe land-use planners wrestling to balance what are identified

as two separate, pre-existing categories of “private” and “public” interests (Alterman, 2011; Alexander, 2007; Azuella & Herrera, 2009; Campbell & Marshall, 2002; Davy, 2012; Fischel, 2012; Grout, Plantinga, & Jaeger, 2014; Healey, 1997).¹ These public/private tensions are furthermore operationalized in planning handbooks, textbooks, and academic papers where they frequently appear in the form of questions such as: “Is there a need to compensate private owners because of restrictive planning regulations?” “What level of coercion is acceptable before a regulatory taking can be equated to a full taking?” (Davy, 2012; Fischel, 2012; Ingram & Hong, 2009; Platt, 2014; Renard, 2009), and “How do we estimate the acceptable amount of compensations and their effectiveness?” (Grout et al., 2014). Such discussions of public and private interests are nonetheless fundamentally questions about the nature of property. They are primarily implicit endorsements of long-held assumptions that natural and built landscapes are naturally propertied, that they can be represented as an array of geometric forms where each unit of planning is a land parcel that can be claimed by one or several, clearly identifiable holders who distinguish their property from others. By limiting discussions to the mediation of tensions between the supposedly clear-cut categories of public and private interests, is the planning process, however, not simply constitutive of the public/private tension, rather than its victim? Furthermore, what types of claims are planners honoring and which are they dismissing when they accept the natural prevalence of freehold over entire landscapes? And are the recent arguments to recognize customary forms of ownership (McAuslan, 2003; Payne, 2002) sufficient in challenging the assumptions of the ownership model or do they simply extend the same framework of private ownership (Blomley, 2014b; Porter, 2014)? These and other critical questions form the thrust of this study.

In this paper I attempt to investigate the relationship between planning and property by extending some of the critical questions raised about the ownership model to the analysis of land-use planning. Following a review of the main critiques of the ownership model I outline a framework of analysis through which I explore the case study of a land-use plan developed in Lebanon that I followed over the course of several years as a member of the village community where the plan was adopted, as a planning professor, and later as an elected community representative. I then move to flesh-out the case-study at hand, analyzing the development of the plan as well as a later effort I initiated to revise it. The paper concludes with a discussion that seeks to generalize the paper’s findings and reflect critically on the possibilities of planning in propertied landscapes.

1.1. Property debates: a theoretical framework

Recent critiques in the field of geography have drawn parallels between seventeenth and eighteenth century western conceptions of property and those articulated in contemporary neoliberal discourse. More specifically, Smith (2002) has argued that the activation of Locke’s (1952) or Blackstone’s (2001) description of proprietorship as an element of the natural order which needs to be protected by governments, has normalized specific representations of the natural and built landscape as propertied. These representations furthermore suppose that every parcel of land is clearly distinguished from others by well-defined boundaries and that it is claimed by a singular and determinate owner who can distinguish their property interests from those of other owners, non-owners, or the state (Blomley, 2004; Nedelsky, 1990; Singer, 1997). In these representations, objects, people, and relationships are supposedly discrete and stable categories, classifiable as either “public” or “private.” Property relations are strictly contained between each individual and the land parcel(s) owned; they are static market relations or abstract rights.

A well-established view among critical legal scholars contradicts this conception of property, arguing instead that property operates as a system of social relations embedded within specific geographic and social contexts (Christman, 1994; Cohen, 1927; Kennedy, 1979; Munzer, 2001; Singer, 1997, 2000). Since individuals are deeply enmeshed within thick networks of social relations, these critical legal scholars argue that their rights (including property rights) are defined within and through these networks. When an individual claims ownership over a land parcel, the implications are not only for her/his relation to the land parcel, they are mostly about her/his ability to include or exclude others from the use of this land parcel and/or from benefiting from any output or rent that can be reaped from this land parcel (Singer, 1997, 2000). As Christman (1994, p. 16) puts it, "Ownership is a relation between a person and all other persons in regard to some (tangible or intangible) thing." This is perhaps best illustrated with the "no trespass" sign that frequently warns "outsiders" from entering someone's property (Davy, 2012).

Furthermore, another critique points out that since land is almost always a coveted asset, and since property rights (in land) distribute the powers and legitimacies needed to control this valuable resource, property rights ultimately predict or define relative social powers. Those who can claim large property holdings have historically commanded stronger social authority and frequently exercised coercive powers over other members of their social groups (Singer, 2000). Such powers and their effects are nonetheless highly dependent on the property systems (e.g. institutional structures, conceptions of property/land) that are in place, systems which will determine, in turn, the type of social relations that can possibly develop among social actors (Blomley, 2003). Will property owners be allowed to discriminate against particular social groups? Will they be allowed to exclude others? What are the social responsibilities that will be imposed upon them? And who is the "public" that is entitled to determine the function and usage of a specific public property? These and many other questions are ultimately defined by the model of property ownership that is adopted (Blomley, 2003).

A more fundamental critique to the ownership model argues that there is nothing "natural" or "ineluctable" in the organization of natural and built landscapes as propertied. In other words, we need to distinguish between land (as terrain), the territory as a politically constructed unit (Elden, 2010), and propertied land parcels, as economically and politically constructed units (Singer, 2000). This distinction pinpoints the basic differentiation between, on the one hand, "possession" or the act of using a good and, on the other, "ownership" which identifies a socially recognized and enforceable claim (Blomley, 2003; Bromley, 2009; Rose, 1985). While a claim of "possession" is "instinctive" and immediately signals use, an "ownership" claim needs recognition and protection, typically coming from a state institution, to render it meaningful (Bromley, 2009). An ownership claim also requires a myth of origin such as the claim that "every man has a right to own that which he has mixed the labor of his person with" (Day, 1966, p. 207) or that "possession or occupancy is the origin of property" (Rose, 1985). It also requires continuous performance to maintain its relevance, frequently through acts of violence and coercion (Blomley, 2003, 2004; Mitchell, 2002; Rose, 1999). There are, moreover, numerous examples of other forms of relating and understanding the landscape that do not correspond to the private freehold model – in fact they are sometimes fundamentally incompatible with the freehold model (Blomley, 2014b; Payne, 2002; Porter, 2014).

A final criticism is that neither terrain nor social agent can be simply classified in the public/private binary. Instead, the reality of property involves diverse and entangled forms of ownership (Durand-Lasserre & Royston, 2002; Varley, 2002) and enmeshed landscapes where boundaries are multiple and hard to delineate (Blomley, 2005, 2014b; Varley, 2002). Even a quintessential public space such as the sidewalk is claimed for numerous private uses such as dwelling and/or income generation (Kim, 2012).

The key concerns of scholars engaged in this reflection on the nature and role of property are the implications of these representations. What are the repercussions, asks Nicholas Blomley (2005), of representing property as bounded spaces rather than as a relational nexus? Blomley (2014a) argues that, in order to understand the significance of this conceptualization of property in the geographies where we dwell, it is important to understand that representations have a particular effect. Building on Timothy Mitchell's (2002) analysis of the adoption of private property in colonial Egypt, Blomley argues that rather than tracing the imposition of property as a set of abstractions on reality, as many critics of state action have done in recent years (Scott, 1999), it is important to recognize that property law does not turn nature and life into objects. Instead, Mitchell (2002) argues, through the representations it forwards, property law rearranges the world, presenting law as disentangled from the world, opening up a divide between "the ideality of rights and the physicality of nature" (p. 79). It is hence not that natural and man-made landscapes become abstract, severable, exchangeable spaces, but that it becomes possible to imagine them as such and, consequently, it becomes possible to inscribe them, scale them, flatten them, and reproduce them as geometric forms (Latour, 1986). The effect of the imposition of private property is hence not a real grid but rather a particular imaginary whereby certain spaces and objects are re-imagined as objects of property, while other sites and actions are constituted as universal principles of property (Mitchell, 2002).

1.2. Paper scope and main argument

What are the implications of these debates for planners? Building on the critical arguments about the nature of property that were laid out in the previous section, I begin this paper with the premise that planning, particularly in the form of land-use planning, is largely giving in to the "property effect" by accepting uncritically representations of natural and built landscapes as propertied, typically in the form of gridded, geometric forms, each of which is ascribed to a well-identified user. This is perhaps best evidenced in the way planners make the ownership parcel one of the most basic ingredients of their interventions. They assume that "the basic spatial unit of ownership is the parcel, a discrete area of land surface whose boundaries are precisely surveyed and defined in formal legal documents called "deeds" (Platt, 2014, p. 153) and that the "exact boundaries and ownership of each parcel and its improvements must be legally "recorded" at a public registry of deeds" (p. 153) where claimants and the land parcels which they hold can be clearly labeled as "public" or "private." These planning practices, furthermore, maintain a discrete relation between property claimants, on the one hand, and the asset they claim, on the other, depicting the relation between individuals and land as abstract, marketable, and non-relational.

As noted above, representations have an effect. When we, as planners, assume the landscape to be naturally propertied, we do not turn the landscape into property. We contribute, however, in producing the labor necessary for maintaining the dominance of the representation of the landscape as propertied. We furthermore limit the possible claims over natural and built landscapes to those formulated within the framework of the ownership model, replicating and sometimes exacerbating the inequalities embedded in property relations through the process of planning. We thus strengthen propertied claims over certain landscapes while we ignore other forms of claims and hence sever other forms relating to the natural and built environments, even if some of these claims predate the making of land registries and cadasters. "When we make property," Blomley (2014b) argues, "we draw on, rearrange, and sever relationships –to the collective, to individuals, to things, to ancestors, to the divine, to the past, and to the future (p. 1292)." The emerging hypothesis, then, is that by imposing regulations over the use of

land and its exploitation or again by recognizing certain elements of the landscape as communal or public and ignoring others, planning interventions reconfigure relations among individuals as well as between them and the landscapes (natural and built) where they dwell.

In this paper, I propose to unravel the property effect at work in the development of land-use plans in Lebanon. More specifically, and building on the key questions that emerge, first from a “relational” understanding of property, and second from an awareness of the property effect and its assumptions of well-identifiable landscapes of land parcels and their individual claimants, I ask: to what extent do the representations of space circulated in the process of land-use planning fall within the propertied understanding of landscapes decried by critical geographers? How do these representations reconfigure relations between individuals, groups, and nature? And do planners allow for alternatives to propertied forms of claiming and relating to the natural and built environments to be formulated and heard? Does planning, conversely, participate in the continuous “labor” required to sustain property – particularly in its limited freehold form? I will argue that in Lebanon, land-use plans bear all the marks of the property effect. Indeed, the development of land-use plans act to promote the (private) benefits that can accrue from land exploitation under the system of freehold, to entrench social distinctions that reproduce the inequalities embedded in property relations, and to enact conservative conceptions of the landscape as abstract, severable and exchangeable, thus enshrining the primacy of private interests and limiting social responsibility to a “commons”. Before moving to the case study, the next paragraphs outline briefly the research methodology and the process of data collection and introduce land-use planning in the context of the selected case studies, placing it within the historical, social and economic context in which it was introduced.

1.3. Data and background material

My data combines archival and field research and seeks to connect the early introduction of the land-use planning tool in Lebanon to its contemporary practice. In order to demonstrate the interdependence of planning and private property regimes at their inception, I trace back briefly the circumstances that connected the development of the land registry and the first master-plan in Lebanon during the first decades of the previous century. Information about this period relies on documents I retrieved from the Duraffourd Archives, particularly but not exclusively the personal records of the first director of the land registry under French Mandate rule (1920–1943).² My analysis of the contemporary practice of land-use planning relies primarily on a case-study taken from South Lebanon. This analysis builds on my lengthy involvement with the town – which I took as the subject of a planning and design workshop that I taught and where I directed three Masters’ theses, while serving as an elected member of the municipal council (2010–2013).³ During this period I held numerous casual conversations with local dwellers, either as an elected representative or as a member of the village community that I have visited regularly since my childhood. These conversations were held with property owners, landless farmers, professionals of the built environment such as building developers, as well as dwellers engaged in agricultural activities for subsistence or for commerce. Additional interviews were completed with the help of a research assistant who corroborated the answers I was receiving to reduce the bias that could emerge from my position as a participant-observer. Since the land-use plan had already been approved by the time my involvement began, I had no influence on its formulation. I played a direct role later, between 2011 and 2012, as an elected member of the municipal council, when I proposed revisions to the adopted plan, articulating the elements and details of this proposal, presenting it to local stakeholders and negotiating with village dwellers and members of the Directorate General of

Urbanism (DGU). During this experience I took notes regularly of the debates that were occurring and attempted to trace the processes through which information regarding the land-use plan and its effects on villagers was circulating to local actors, the modalities in which the land-use plan was discussed both formally and informally, the channels of influence on decision-making, and how various social groups came to conceptualize the master plan, the village landscape, as well as their own claims on the planning process – and hence the village. Finally, in order to generalize findings to the process of master-planning in Lebanon, I rely on existing thesis work and my own knowledge, teaching and practicing planning in the Lebanon, as well as numerous conversations with planners that empowered me to understand the stakes, frustrations, processes, and conceptions that planners experience as well as the challenges that emerge when a land-use plan is commissioned. By focusing on issues of property, this discussion does not address other important factors that shape land-use plans in Lebanon, such as most notably sectarianism, which research has shown powerfully affects the articulation and outcomes of the planning process (Bou Akar, 2012). Before delving into the analysis of the case study, however, the paper provides a brief snapshot of the introduction of land-use planning in Lebanon and its relation to the development of the property registry.

2. Land-use planning in Lebanon

Land-use planning spread to almost every part of the capitalist world in the first part of the twentieth century (McAuslan, 2003; Watson, 2009). Within a framework of classical comprehensive planning (Hall, 2014), the practice was frequently carried by colonial powers, particularly in those parts of the world that remained under European rule during the ascendancy of the profession. In many contexts, the practice continued unchanged after decolonization through the services of foreign consultants and the initiatives of local elites (Verdeil, 2012; Watson, 2009; Ward, 2002). Today, land-use planning remains in effect in many contexts of the Global South without much modification of the original form in which it was introduced, and despite decades of critique about both the feasibility and efficiency of the practice (McAuslan, 2003; Watson, 2009). There are, of course, multiple variations on the main scheme, but the general ingredients of land-use planning which introduce a set of regulatory guidelines that organize the production of the built environment through instruments such as building ratios, exploitation factors, set-backs, or land-use specifications are relatively similar.

As mentioned above, the first land-use regulations were introduced in Lebanon under the authorities of the occupying French Mandate (1919–1943). Dubbed “*plan d’aménagement*,” this planning tool was conceived as a comprehensive regulatory intervention on urban environments that superseded the sporadic road widening and alignment interventions that had dominated late Ottoman planning strategies (Ghorayeb, 2014; Hanssen, 2005). It sought, instead, to impose an all-embracing development framework, at least in the main cities. As of the early 1930s, French Mandate authorities required municipalities in Lebanon to develop and adopt land-use regulations for agglomerations of over 20,000 inhabitants (Ghorayeb, 2014). By then, the contemporary modern territory and borders of Lebanon had been defined, and Beirut – the designated capital city – had gone through several rounds of urban interventions that followed the hygienist and modernizing trends first introduced under late Ottoman rule (Ghorayeb, 2014). Master planning, as land-use planning is typically referred to among planners in Lebanon, continued after the country earned its independence in 1943 – and was frequently developed with the help of foreign consultants during the first phases. It was largely perceived as an important tool of modernization, guiding the production of the built environment (Verdeil, 2012).

In its current form, a land-use plan in Lebanon consists of a set of restrictions formulated in relation to individual land parcels that constrain building activities by limiting floor area ratios, maximum built-up areas, building heights, set-backs, permitted uses, minimum buildable lot size, etc. These restrictions are pegged to individual land parcels and implemented as individual property owners apply for construction permits. Given a rather limited palette of planning instruments, land-use plans are routinely commissioned to address a wide variety of challenges such as containing sprawl, addressing environmental threats, controlling quarries, protecting the built and natural heritage, or encouraging or blocking developments. According to Lamy (2010), about a quarter of the national territory is regulated by a land-use plan.

Although a land-use plan is issued at the request of local authorities (i.e. municipalities), its development is organized by the DGU, the central planning authority. Typically, the DGU commissions a planner/architect to propose zoning guidelines over one, or – less frequently – several jurisdictions. The boundaries of the study area are defined according to administrative units, commonly municipal boundaries. Interviews with public agents working at the DGU indicate that planners are given aerial photographs and cadastral maps and that they are required to gather additional information with the help of local authorities. However, the law dictates that the planner studies the area without sharing her/his proposals with the local community and its elected representatives in order to avoid “undue interferences.”⁴ For the same reason, an implicit requirement is to select the planner as an outsider. Upon completion, the proposal is forwarded through the DGU to local authorities for discussion and approval. The final step is the seal of the higher commission of the DGU and the ratification of the Council of Ministers. The implementation of the land-use plan is mandatory; once a plan is approved, all permitting processes need to abide by its guidelines.

Historical evidence points to the close interconnection of the two processes of modern property formation and land-use planning that occurred during the early years of the French Mandate (1920–1942) when modern land-use planning was first introduced in Lebanon. An archival investigation of the correspondence between French planning actors between 1929 and 1936 showed René Danger, the author of the first land-use planning proposal in Lebanon (who also worked in Aleppo, Syria and other cities of the region), in conversation with Camille Duraffourd, the director of the Régie du Cadastre, the semi-public agency that was then drawing the first property maps in Lebanon and Syria. The modern property cadaster was one of the first tools of modernization introduced by Mandate authorities both in Lebanon and in Syria. It aimed to consolidate the process of property registration already initiated under Ottoman rule, and it ultimately ushered a more radical process of privatizing land (Ghorayeb, 2014).⁵ While in rural areas, land registration aimed to improve the basis of a capitalist agricultural economy (Fries, 1994; Mundy & Smith, 2007), during the French Mandate it also served – particularly in urban areas – as the basis for the articulation of plans that would predict and channel urbanization. Written exchanges between Danger and Duraffourd indicate that the two men worked together to convince French and Lebanese decision makers of the importance of developing land-use plans to regulate building activities first in Aleppo (Syria) and later in Beirut (Lebanon). In their letters, one finds negotiations over the contractual terms of the business partnership that tied them, accounts of their success (or lack thereof) in convincing local authorities and Mandate officers of initiating surveys and land-use plans, and the progress of the land lot allocations, and land-use plans. These letters unravel the intimate connections between the making of a land registry on the one hand, and the initiation of the practice of land-use planning on the other. Indeed, since the planner was to rely on the cadastral survey that will delineate property boundaries before he could actually propose regulations, the development of a land-use plan foregrounded the necessity to survey landscapes and to delineate

individual properties in the form of lots that can be clearly bounded and attributed to (public or private) claimants.⁶ As work progressed, the men shared reflections and experiences about forms of land tenure they had each encountered “in the colonies,” which claims could be sustained or not, and how communal forms of property could be reclassified within the strict categories of the French property models at the critical time when a property code was being articulated before its adoption in 1939. Given that Danger had been trained as a topographer, he saw a natural continuity between the cadastral survey and the organization of the territory, a continuity that would be engrained in the practice of land-use planning in Lebanon for the century to come (Fries, 1994).⁷ In that sense, the land-use plan and the property map are mutually constitutive, with the former justifying the necessity of the cadastral plan but also engraining its practice and reality by relying on its units to impose land-use regulations. While a discussion of the violence of the survey and the making and consolidation of private property that is occurring during the late Ottoman period and particularly during the French Mandate is outside the scope of this paper, it is worth acknowledging that as land surveys progressed during the independence period, post-1943, the new spatial and economic order was to permanently transform societies in these areas (Chevallier, 1979; Dubar & Nasr, 1976; El Nour, Gharios, Mundy & Zurayk, 2015). It was to consolidate freehold and public/private land as the only acceptable categories at a time when this private land ownership was barely dominant in many rural areas where communal property and shared farming dominated (Firro, 2003; El Nour, Gharios, Mundy & Zurayk, 2015). Later, as urbanization intensified and spread to rural areas that were frequently integrated within networks of urban growth, land-use plans remained the main tool that planning authorities used to organize the production of the built environment, and the cadastral survey remained the pre-requisite for such planning to occur. These findings, which are well corroborated in other contexts (McAuslan, 2003; Payne, 2002), provide us with a first indication that rather than simply working on the basis of a pre-existing ownership map of public and private property (Platt, 2014), planners in Lebanon historically set the requirement for the making of a property regime and participated in discussion and negotiations about its adoption. In other words, planning in Lebanon has historically contributed to the making of the very landscape with which it now wrestles. In order to show the workings of this process I delve in the next section into the case study taken in the village of Tibneen in South Lebanon.

3. Property relations as social relations: a focused investigation of one land use planning context

Tibneen is a relatively small town of 7.4 km², most of which (5 km², 66% of total area) continues to be dedicated to agricultural practices (Oueidat, 2005). The village was surveyed during the late Mandate period. Most new building activities in the town are secondary homes for families that have either moved to Beirut or abroad and spend weekends and/or summer holidays in this town. This makes the town's population fluctuate considerably, going by municipal estimates from less than 4000 permanent dwellers to an estimated 10,000 during summer weekends. Given its location at the outer edge of the zone in South Lebanon, formerly occupied by Israeli troops (1978–2000), the town has acquired an important institutional and commercial role in the region and includes a governmental hospital, a police station, an Islamic court, as well as a bank. The town is nonetheless mostly known for the twelfth century Crusaders' Citadel, which overlooks the area and attracts a limited, albeit steady flow of visitors.

Tibneen's land-use plan was first commissioned in 2003 and was finally approved in 2005. In line with national regulations that prohibit community participation, the project commissioned an architect/planner who had never visited Tibneen before. Although the town is part of a cluster of several

villages that surround an agricultural valley historically shared by several villages, the land-use plan was limited to the administrative boundaries of the village proper.⁸ The planner indicated that he had followed the basic steps of traditional comprehensive planning; surveying the area and allocating use on the basis of existing patterns, prioritizing what he perceived as the “the public interest” which translated into aggressively protecting archeological remains and, as far as possible, green zones.⁹ The surveys that preceded the development of the master plan showed that over 60% of the town’s areas were used for (mostly subsistence) agriculture such as fruit trees, vegetables, and pulses, but also for commercial products, particularly tobacco which remains a subsidized crop (Oueidat, 2005). According to municipal employees, these lands were mostly farmed by permanent dwellers in the village, either as property owners or in partnership with non-resident owners, relatives or friends, with whom permanent residents shared the produce. In a few instances families also rented land from the property owner, but that was mostly for tobacco planting. One survey (Harajli, 2013) showed that 82% of these lots were planted for subsistence by families and individuals who used and/or traded the produce but did not take it to the market.

Despite the centrality of this subsistence agriculture to permanent dwellers, by the time the DGU ratified the final version of the master plan in 2005, 80% of the town’s total area was earmarked for building development and only 8% for agriculture. While these were clearly not the recommendations of the planner, it seemed that something in the planning process had gone wrong. In several conversations, DGU planners described the process to me as the typical scenario of land-use planning where, in corrupt environments, the (private) interests of property owners take precedence over the (shared) interest of town-dwellers to protect cultural landmarks and “agricultural commons.” There is certainly truth in this assessment, particularly as it echoes complaints raised by planners, public agents, and experts denouncing (private) property interests as severely impeding the articulation of appropriate land-use plans in Lebanon (Clerc, 2013) and elsewhere (Platt, 2014). It is, after all, well-known that powerful elites “manipulate legal systems for their own benefits” (Platt, 2014, p. 6), particularly in contexts where democratic controls are virtually non-existent. Yet this assessment evades the larger questions about the property effect; the ways in which a predefined understanding of the landscape as propertied shapes the outcome of the planning process to serve propertied interests. In the next paragraph I outline an explanation for the outcome of the land-use plan that builds on the critical reading of property outlined above.

A first observation is that the planning process has clearly reproduced the power relations embedded in the distribution of property in the village. A good indicator of how the process of land-use planning confounds and reflects (social) property relations can be gauged from the circulation of information about the land-use plan. In her analysis of the rights that enable participation, Healey (1997) identified access to information as a key requirement to participation, along with voice, influence, and challenge (the latter being the most important of these rights). Harajli’s (2013) survey of 40 permanent dwellers’ knowledge of the master plan showed that property owners, whether they lived in the village or not, were consistently better informed about the dictates of the plan and its significance – feeling that they had a stake in it, while village dwellers who did not own property but nonetheless partially derived their livelihoods from the land (particularly from subsistence agriculture), were typically not well informed about the development of the land-use plan and its consequences. All in all, the survey showed property owners to be at least twice as likely to know about the land-use plan and its details than their non-propertied counterparts. Hence, if information indeed reflects power and participation, clearly propertied actors are better placed to influence the land-use plan. In other words, the process

of planning had reproduced and embodied inequitable propertied relations as predicted by legal scholars (Singer, 2000).

A second, more critical observation reveals that rather than simply valuing “private” interests over “public” interests as two coherent, pre-existing categories, the process of land-use planning coalesced propertied interests into those of a relatively coherent group with a similar intent to increase the building exploitation factors. Given that the process of allocating land use and building exploitation factors is embedded in a wider pattern of economic valuation where, in the context of today’s Lebanese economy, real-estate activity constitutes over a quarter of the national GDP while agriculture, industries, and other typically productive sectors play a negligible role in the accumulation of capital¹⁰, the allocation of building rights not only affects individual property owners by increasing or reducing the value of their property, as planners typically acknowledge (Alterman, 2011), it also affects economic opportunities for an array of actors such as developers, building material traders, and investors. As debates over land-use allocations were being held and arguments were being leveraged to support a zoning that favors building over agriculture or other possible uses, actors who had invested in propertied and building interests were coming together as a group in a new social configuration that re-organized social relations by bringing together an extended network of propertied and building interests. Through pressuring local representatives, this group eventually swayed planning guidelines in favor of the real-estate value of their property, rather than its value as fertile soil or communal landscape, for example.

A third observation is that the perception of the landscape as organized in individual, private lots, is itself being generated, reproduced and consolidated through the process of land-use planning. In other words, land-use planning produces the “labor” which Rose (1999) described as necessary for the maintenance of property as a fixed paradigm. It is indeed possible to trace the process through which considerations over the allocation of building rights that circulated in the village at the time of the articulation of the land-use plan alerted property owners to the implications of this planning on the future value of their land. Many acknowledged that they had considerably improved their understanding of the importance of development rights and building coefficients in enhancing the exchange value of their land during the making of the plan. They also recognized that this knowledge encouraged them to lobby for the adoption of high exploitation factors, even when they had no immediate or future plans to build or exchange their property. Even those village dwellers who owned and claimed properties that they had considered as the agricultural lands of the village, and which they continue to use as agricultural land, admitted that they now reconsidered their future possible needs and eagerly defended their (private propertied) interest. Their identity as “property owners” with individual interests in conflict with the public interest had considerably solidified through their indirect participation in the planning process. In that sense, it would be inaccurate to describe “private interests” as a stable, consistent group of claimants pitted against a “common interest.” To “learn” through the process of planning about development rights is a dynamic construction process intimately connected to the very making of the plan, but also the very making of property which, as noted in the theoretical section (Rose, 1985), depends on these acts of continuous “doing” to naturalize the representation of landscapes as propertied.

Conversely, non-propertied claims over the landscape were dismissed, as concerns over property value eclipsed other modes of claiming or relating to the village’s landscapes. Much of the lands zoned for building were historically agricultural fields. Until their privatization in the late Ottoman era, these fields were classified as the “agricultural commons” of the village, and farmers planted the land in exchange for paying taxes. Although they had been registered as a form of private property by the

turn of the twentieth century and were later recognized as such when the project of modern surveying consolidated under the French Mandate, the fields have maintained locally their communal significance as “agricultural fields,” the location of agrarian investments for most town dwellers, whether they are propertyed or not. These fields also include common resources, particularly natural rain waterways that were not identified as individual lots or common properties during the French Mandate surveys (and were equally dismissed by the land-use plan). These natural water ways remain nonetheless vital for the irrigation of local subsistence agriculture. Thus, in the conception of the vast majority of village dwellers, including many of the interviewed property owners, these lands remain to-date the “agriculture fields of the town,” in some sense its agricultural commons. To the elderly, the fields are also associated with the narratives of cooperation that connected members of this community together. The most eloquent illustration of these shared spatial narratives recalls the agricultural fields as the site where communal prayers were held following months of severe drought in the 1920s. The story, which ends with the advent of the rain, associates in popular memory the prayers’ fruitful outcome with the fertility of the fields and their centrality to the entire region from which peasants flocked to participate in the shared invocations. Such stories illustrate the centrality of the open fields to the villagers’ shared memory. With the partial loss of agricultural productivity and changing lifestyles, the role of the fields as shared communal space has shifted to an open landscape where numerous dwellers walk daily between unfenced fields or along the main road that overlooks them, without reducing their centrality to the shared identity of town dwellers. Thus, Tibneen’s “promenade” (or *Kazdoora* as it is known in Arabic) where people stroll or cruise along the main road that overlooks the fields continues to attract numerous visitors who flock to the town every afternoon, particularly during the summer (Boustani, 2013). Such immaterial claims are crucial for the maintenance of the connections between permanent town dwellers and visitors (whose remittances are the main source of income) as well as the maintenance of a shared memory.¹¹ Yet these claims were disregarded in the articulation of a consensus around the land-use plan as influential actors and public planners converged on the final planning scheme where (private) property claims trumped all other possible values of the terrain.

In sum, to speak of the land-use plan as an attempt to balance public and private interests is to conceal the centrality of property conceptions and relations in the final formulation of the land-use plan. Rather than simply balancing two forms of pre-existing interests, planners have contributed, by launching the planning process, to the reconfiguration of social relations among users along property lines, as well as those between local village dwellers and the natural and built landscapes of their town. Thus, one could describe the process of land-use planning as re-arranging, strengthening and severing relations between various social groups and the natural and built landscapes of the town. Indeed, the looming erasure of natural waterways – as buildings begin to develop in the agricultural field – not only removes a vital element from the landscape, but it also threatens the very possibility of farming, hence severing relations between those who historically planted the land and this agrarian landscape. It also destroys the view of the fields, displacing cruising practices to other areas where greenery may have been preserved. In this sense, land-use planning has helped dissociate many dwellers from a landscape that had nonetheless been integral to the town’s culture (e.g. the view on the agricultural fields, separation of the agricultural fields from the village, the ability to plant the land in the fields). It is on this last point that I wish to place the most emphasis. Indeed, as noted in the literature review, critical legal scholars have underlined the role of property as a system of relations where individual users have the power to include and/or exclude other users from a specific land parcel (Munzer, 2001). Extending the argument to entire regions and landscapes, we can similarly argue that a propertyed understanding of the landscape will inevitably allow a handful of landowners to determine who will

be included and/or excluded from entire regions. In this process, the role of planning is critical. Indeed, when we, as planners, introduce land-use regulations and take decisions about which elements of the natural landscape (e.g. waterways, agricultural paths) will be protected and which will be ignored, our decisions are far more consequential than determining the functions of particular land plots. They will determine the possible futures of the areas where we intervene and dictate, hence whether it will be possible for particular social groups to maintain century-old social and economic practices and relations (e.g. subsistence agriculture, communal promenades) or not. When our decisions rely on the institutions of the property regime and are (inevitably) influenced by powerful networks of property owners (Platt, 2014), the risk, as in the case of Tibneen, is to see these networks dictating land-use that strengthens the power of exclusion and individualism at the expense of alternative possibilities that are not buttressed by the property regimes in place. To look further into the process I flesh out in the next section my own experience as a planner and locally elected representative in attempting to revise the adopted master plan.

3.1. Participant-observation/ introducing changes to the master plan

In June 2011, as an elected member of the municipal council of Tibneen, I approached the mayor to revise the existing land-use plan. I proposed two initiatives: protecting the “agricultural commons” and reducing building exploitation factors near the Crusader’s Citadel where building encroachments have threatened this cultural landmark and potential asset for the local economy. Following lengthy debates that involved the mayor and other villagers, particularly those engaged in professional activities related to the built environment, I obtained permission to intervene only in the historic core, but not in the agricultural areas where property interests were too strong. In July 2011, the area surrounding the citadel was placed “under study” and I was allowed to propose land-use modifications. In the course of no less than 30 meetings that extended over a period of 6 months, the proposed revisions were reconsidered numerous times and eventually restricted to a mild modification in the zoning of five lots in the immediate vicinity of the citadel, which maintained the same exploitation factors but reduced building heights. Dwellers whose lots were involved were calling, negotiating, and pressuring, despite the fact that three of the five lots were already built and had no plans for future transformation. The grand scheme to protect the morphology of the historical core and the green zones surrounding the citadel had been scaled down considerably. The experience nonetheless allowed me to assess how even the well-intentioned intervention of a planner can be counterproductive, or at best futile, if the larger questions about the propertied nature of the landscape are evaded.

As an insider to the municipality I was able to observe the processes through which planning framed the opportunity for the consolidation of property interests and, more fundamentally, the imagination of a propertied village. The initial visualization of the citadel and its surroundings as a tourist hub with potential economic revenues for the village echoed strongly the sentiments of council members and others (Boustani, 2013). However, once the proposal was framed through land-use guidelines that conformed to the requirements of the DGU by pegging each lot to a particular building exploitation factor, the conversation rapidly shifted to concerns regarding property values, dividing the village community between those who were “concerned” because their property values were threatened and those who were not. Those who were concerned were evidently also more apt to exert pressure on members of the municipal council and sway the plan towards their interests. As one group slipped out of the debate, the other began to seek information about the proposed guidelines in order to block the looming threat of property devaluation. Given, however, that public participation is legally banned,

stakeholders looked for information through the channels available to them. Among those, stakeholders in the building industry were able to secure and circulate information they gathered through their professional proximity to municipal agents and council members. These actors had, however, a vested interest in securing the largest number of possible building rights in order to increase their business opportunities. As a result, they carried to the community a particular understanding of what was lost and gained, deliberately inflating the proposed modifications. Having heard me raise concerns about the loss of agricultural lands since zoning regulations had encouraged building in the fields, some of these actors went further, circulating rumours in the village about a looming threat to property values. As a result, even those dwellers who planted their lots and had no building plans began to raise concerns about possible changes to the adopted land-use plan, particularly at a time and in a context where agriculture is widely perceived as of the past, and non-lucrative. Eventually, a high ranking member in the municipal council was receiving no less than a dozen calls daily from property owners who were lobbying to secure their building (and hence individual property) rights. It is worth recalling that the zoning changes I was proposing concerned only five lots that were outside the agricultural fields. Yet, many now argued that their children might need to build houses in the future or sell the land, while others talked about lifelong investments that should not be destroyed by reducing property values!

In sum, my own experiment worked well to verify the findings of the first section. It showed that the planning process consolidated property interests. It could even be claimed that the very unit of planning, the individual property lot, played an important role in framing a narrow, self-interested conception of the landscape where individuals were increasingly made aware of building ratio assignments for their individual lots and encouraged to coalesce with others in order to play advocate for the value of their assets. As their formulation of the planning intervention came to dominate the town, it fundamentally altered the shared imagination of the village. Eventually, the propertied interest of a few villagers trumped the discussion around the protection of the citadel, a central landmark in popular imagination and undoubtedly the village's main symbol. Only a discourse that would have reclaimed the citadel and the fields as communal and channelled planning outside the confines of a property debate could have trumped the opposition to the proposals I was forwarding. By calling on stakeholders outside the propertied regime, such a proposal could have activated alternative forms of claiming the town's citadel. The possibility of such a discourse was, however, trumped by the fact that the regulation of the building activities and the protection of local and regional heritage began with the assumption of a propertied landscape and relied on the land parcel as its unit of measurement. Hence it framed the question in terms of the interests of the five stakeholders against an abstract public interest whose guarantor, in this case, was too weak. The situation was exacerbated by the planning framework which, by banning participation, also blocked other possible channels of influence and change. Hence it restricted possible participation in undue interferences, empowered by particular positions in the social hierarchies (such as the ownership of land) over the fostering of a collective claim through some form of collective visioning, for example. Ultimately, the proposed revisions proved innocuous and the best intentions of the planner ineffective.

4. Discussion and conclusions

Speaking of the imaginative geographies of dispossession and domination that buttress colonial conquests, Said (1993, p. 7) argued that

Just as none of us is outside or beyond geography, none of us is completely free from the struggle over geography. That struggle is complex and interesting because it is not only about soldiers and cannons but also about ideas, about forms, about images and imaginings.

Perhaps the most lasting and powerful effect of the land-use plan in Tibneen has been its ability to not only represent the landscape as a collection of individual properties with varied building efficiencies, but also to reinforce this representation of the landscape by mobilization of stakeholders to endorse and perpetuate it. More specifically, my findings confirm a determining power of planning in reproducing and strengthening a narrow definition of freehold that works against the declared goals of the land-use plan. Furthermore, the “moment” of planning to act was a key moment in the process of displacing communal understandings, imaginings, spatial layouts, and practices of communal landscapes. Thus, discussions over master plans were opportunities to promote the (private, propertied) benefits that can accrue from land exploitation, to entrench social distinction, and to enact conservative conceptions of property that enshrine private interest and limit responsibility to common land. In so doing, the planners continued the work started over 100 years ago with the making of the first land surveys and consolidated the displacement of other communal understandings of the village’s natural and built landscapes.

Is the case of Tibneen exceptional in Lebanon? Clearly not. DGU agents and planners working in Lebanon typically concur that master plans consistently disregard the natural elements of the landscape that have not been delineated as individual properties in earlier surveys, such as natural waterways or agricultural passages. Land-use plans in Lebanon also consistently fail to introduce any protection for communal land-use and/or landmarks such as agricultural fields or water collection points. Interviews conducted with actors involved in the development of these land-use plans including public sector officials (in the DGU and in the municipalities) and planners indicate that complaints are typically forwarded by influential (propertied) actors and systematically focus on increasing building exploitation factors. Interviewed DGU planners overseeing land-use plans also confirm that exploitation factors increase gradually, over the months in which land-use regulations are negotiated, as the “threat” of planning coalesces the interests of the building sector and turns what are first considered sustainability strategies into opportunities for enhancing the framework of capital accumulation for the development sector. When they are not themselves large-scale property owners, locally elected officials feel vulnerable to powerful landed interests, particularly when the latter have political clout, and they rarely challenge them.¹² Yet many are also aware of the need for subsistence agriculture, for the protection of the green commons and architectural heritage, and they readily recognize the hefty cost incurred by those who would lose vital natural resources. This is, of course expected, given that, as noted earlier, planners are required to formulate their recommendations by pegging each lot or group of lots to a specific land-use and exploitation ratio, hence framing the planning intervention in relation to a propertied landscape, and consequently, its individual claimants and the value of their financial assets.

To what extent is the property effect in planning confined to land-use? Case studies documenting contemporary urban interventions around the world strongly suggest that the property effect is also at work in urban renewal, informal settlement upgrading, or post-war reconstruction projects. To be sure, the necessity to simplify representations of the natural and built environments in the form of gridded patterns and to limit the set of possible beneficiaries renders propertied representations appealing to planners who are dealing with complex and contradicting claims and issues. Thus, post-war reconstruction planners in Lebanon have been shown to start consistently with the assumption that their projects are restoring fungible, clearly defined assets that can be measured, scaled, delineated in surface and economic value and associated with well-identified, individual property holders (Fawaz, 2014; Fawaz & Ghandour, 2009; Moumtaz, 2012), even if the “property” they are restoring historically held entrenched communal significance as in religious land in Beirut (Moumtaz, 2012). This fixation on the clarification of titles, which starts from the premise that landscapes are naturally propertied and

seeks to “restore” them to an “organized” state, is perhaps the most visible in planning interventions that target informal settlements with so-called titling interventions, frequently as a pre-requisite to service provision and upgrading. In such contexts where property boundaries are visibly fluid, many planning interventions are “titling initiatives” with the aim of reorganizing so-called “fuzzy” patterns of ownership. Despite the difficulties and multiple limitations associated with titling approaches, experiences having shown that titling is neither feasible nor necessarily desirable, planning interventions continue to be tied to this goal – perhaps because of the legacy of a discipline that has now tied the reorganization of cities and regions to the very notion of the property map (Fawaz, 2014; Fawaz & Ghandour, 2009; Gilbert, 2012; Irazabal, 2009; Midheme & Moulaert, 2013; Payne, 2002; Varley, 2002). The connection between planning and property, Karaman (2013) further argues, bodes well with the neoliberal logic of capital accumulation which in Istanbul and elsewhere (Bogaert, 2011) associates the clarification of titles in informal settlements and/or inner city slums with the facilitation of the (desirable) circulation of capital in the built environment.

Through these and other case studies we can assess the hefty consequence for the planning discipline of upholding the assumptions of the ownership model. First, the property effect has consistently limited the range of possible interventions that planners can propose by reducing its possibilities to those that work through the property grid. It has furthermore predisposed the outcome of their interventions to replicate the inequalities inscribed in existing property relations. In fact, planning projects tend to produce the very model of freehold ownership in the way that they strengthen the perception that spaces are individually owned and claimed. Property ownership strengthens one’s claim and/or entitles one to participate in the planning process, and claims built on property values will supersede and often erase other forms of claims such as those based on a history of past use, on mutual shared meaning, and others (Blomley, 2004; Fawaz, 2014; Moumtaz, 2012; Singer, 2000). This uncritical import of a conception of property places planning squarely in the matrix of practices (e.g. mapping, surveying) that work to continuously reproduce the dominant conception of the ownership model, at the expense of other – possibly more progressive ways of relating to the environment and practicing the profession.

In this transformation the agency and practice of the planners themselves, their political orientations, and what they intended in the project is inconsequential. In speaking about the adoption of the final version of the master plan, the planner who worked in Tibneen voiced loudly his frustration about the outcome of his work. He did not recognize the final version of the plan I showed him, commenting that he had lost hope by the fifth revision and handed his digital file to the planner at the DGU to “do whatever they want with it.” Yet, the outcome of his intervention is not foreign to the process of planning that he had participated in launching. Planning’s very reliance on property to organize land use and its assumptions of a propertied landscape as the basis of its intervention triggers the mobilization of propertied interests. Hence, to depict the planner as wrestling to mediate between private and public interests ignores the role of her/his interventions in consolidating these interests. Furthermore, it is unrealistic to assume that the planner has the power to control propertied interests just as much as to presuppose the benevolence of state agencies and their role as honest arbitrators. Almost two decades ago, Flyvbjerg (2002) criticized the assumption of power/knowledge in planning, showing that if planners were to achieve the normative ideals they strived for, they had to articulate strategies and tactics to navigate the complex political world of conflicting interests (see also Flyvbjerg & Richardson, 2002). When planners can appeal to institutions of information sharing and public accountability, as in the Aarlborg case in Denmark that Flyvbjerg (2002) recounts, they can be empowered to enact transformations that challenge power. There is, however, little basis to

hold this assumption in many other contexts. Certainly, the communicative turn in planning (Forester, 1999; Healey, 2003) has not provided sufficient reassurance that either business or political interests can be curtailed through informed debate and can frequently be described as the myopia of planners to power differentials (Huxley & Yiftachel, 2000) rather than the achievement of equitable planning. The possibility of such forms of planning processes contrast, in fact, with planning contexts such as Lebanon where the premise of participation is legally precluded. It highlights the cultural and geographic specificity of many of the debates animating conversations in planning theory. Despite their claims for universality, the plethora of case studies about failed planning interventions, the large and growing documentation of the dark side of planning (Bou Akar, 2012; Yiftachel, 2000), and the sizable literature that shows zoning and land-use planning serves elite interests provide little reassurance or credibility to the assumption that planners could indeed be placed in the position of defenders of the “common good,” or that current forms of theorizing the profession are providing valid guidance outside the limited scopes where they are formulated. Decades after the official end of colonialism, if planning continues to operate as a dystopian force despite the best intentions of planners, we need to look at how the very ingredients and assumptions of the profession may be undermining its best intentions. I have attempted in this paper to point to one of its most problematic assumptions: the description of the landscape as a collection of well delineated land parcels claimed through freehold. A good place to initiate an alternative practice of planning is to learn to see and read landscapes outside the lens of property, to develop the planning tools and institutions that can manage landscapes outside the prerogatives of property, to acknowledge non-proprietary forms of claiming both natural and built environments, and to assign them greater value than land-use planning typically has. Such communal understandings are not abstractly materialized by a public good. Rather, they are embodied in the memories and the practices of social groups which continue to perpetuate them through their own representations and conceptions of the natural and built environments. We will need imagination and “translations” to render such claims legible to planners (Porter, 2014). It will be again important not to reduce them, through this translation process, to yet another form of freehold.

Notes

1. While public interest, or the possibility of its definition, has been severely questioned at least since the 1960s, planners have maintained its necessity as a main justification for their practice (Campbell & Marshall, 2002).
2. In the aftermath of the First World War, and following the Treaty of Versailles (1919), the dismantlement of the Ottoman Empire and the portioning of its territories left two newly formed nations, Lebanon and Syria, under the tutelage of the French that would “prepare them” for independence. The French Mandate lasted in Lebanon until 1943, when the country gained its independence (Salibi, 1990).
3. Two of the theses looked at development strategies on the basis of agricultural development (Harajli, 2013) and tourism (Boustani, 2013). The third (Zeineddine, 2014) looked at the possibility of introducing property taxation as a means to protect agricultural zones.
4. This practice has been followed in many other contexts where “participation” is seen to sway land-use plans towards powerful private interests. For a review of these arguments, see Bedford, Clark and Harrison (2002).
5. In 1921 the French established the “Service Foncier du Haut Commissariat.” In 1926 a new system of publishing rights in land was instituted, with the objective of individualizing real rights in land. At that point, land began to be considered a means of production and credit that should be transmitted without risk (Ghorayeb, 2014, p. 69).
6. 1AE118 Fonds Camille Duraffourd, Archives de Nantes, Nantes, France.
7. The final code defining property ownership was ratified in 1939 and remains in effect to date. As of 1993, a project jointly financed by the World Bank and the United Nations Development Program has sought to modernize the land registry by digitizing information. It nonetheless maintains the same framework of recognizing property ownership (Clerc, 2008).

8. This was due to financial considerations: the DGU can only commission a limited number of master plans per year and has to respond to numerous requests for these developments.
9. Talk given by N.Oueidat in the Planning and Design studio co-directed in Fall 2011/12 in the Graduate program for Urban Planning, Policy and Design at the American University of Beirut.
10. The Central Administration of Statistics (ACS) estimated in 2013 agriculture at 4% of the GDN, construction at 6% of the GDP and real-estate at 14%. Other estimates place the share of real estate in the economy higher.
11. For more on the traditional agricultural landscape that many value as part of their heritage see Makhzoumi, Egoz, and Pungetti (2011).
12. In one instance, an influential politician who had purchased property in an area contiguous to his jurisdiction imposed a change in the boundaries of the plan to exclude the area he had purchased, arguing that it should be zoned instead in the jurisdiction where he commands higher authority. In another, the mayor, herself a planner, advocated for the preservation of green areas in her jurisdiction. Yet she recognized that compromises were made to influential property owners.

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Notes on contributor

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