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Nzimande, Lorraine

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UNIVERSITY OF THE WITWATERSRAND

The Challenges and Benefits of a Regulated versus a Negotiated approach to Inclusionary Housing in Johannesburg

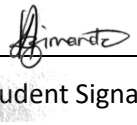
By
Lorraine Nzimande

Supervised by Dr Margot Rubin

20 October 2020

DECLARATION

I declare that this research report is my own unaided work. It is being submitted for the degree: Master of the Built Environment (Housing), to the School of Architecture and Planning at the University of the Witwatersrand, Johannesburg. It has not been submitted before for any degree or examination to any other University.



Student Signature

Lorraine Nzimande

Student Name

20 October 2020

Date

ABSTRACT

Although affordable housing remains a challenge in South Africa, the concept of Inclusionary Housing is fairly new in the country's planning and housing discourse. Despite a national Inclusionary Housing policy being drafted in 2007, it has not been adopted and no other Inclusionary Housing policies have been adopted up until February 2019 when the City of Johannesburg adopted one. As a result, very little has been documented on Inclusionary Housing in South Africa. This research investigates how Inclusionary Housing can be approached in South Africa through an analysis of four Inclusionary Housing case studies from the City of Johannesburg. Through these cases studies the challenges and benefits of a regulated versus a negotiated approach to implementing inclusionary housing are explored. The case studies and the subsequent Inclusionary Housing policy demonstrate that, firstly, regulating Inclusionary Housing in Johannesburg is necessary to ensure its implementation. Secondly, negotiation represents a collaborative form of planning and an extension of governance where both City officials and developers seek to reach consensus on feasible ways to implement Inclusionary Housing and achieve its intended outcomes. The research concludes that a hybrid approach to Inclusionary Housing can be successful in achieving some level of affordable housing delivery and economic integration in Johannesburg. However, further research into social integration and financial incentives is required.

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TABLE OF CONTENTS

Declaration 2

Abstract 3

Acknowledgements 4

List of Tables and Figures 7

List of Abbreviations 8

1 Introduction 9

1.1 Background and Context 9

1.2 Problem Statement 9

1.3 Rationale for the study 10

1.4 Aims and Objectives of Research 12

1.5 Research Questions 12

1.6 Conceptual Framework 13

2 Research Methods 16

2.1 Research Strategy and Methods 16

2.2 Data Collection 17

2.3 Expected Findings 18

2.4 Research Limitations 18

3 Literature Review 19

3.1 Introduction 19

3.2 Urban Governance 20

3.3 Contemporary Planning Theories 22

3.4 Affordable Housing and Planning Systems 23

3.4.1 Land Use Planning in South Africa 26

3.5 Defining inclusionary housing and its intended outcomes 28

3.6 Inclusionary Housing Policies Internationally 30

3.6.1 Inclusionary Housing Policy in the global north 30

3.6.2 Inclusionary Housing Policy in the Global South 33

3.6.3 Voluntary versus Mandatory Inclusionary Housing Approaches 35

3.6.4 Challenges and Benefits of Inclusionary Housing Policies 36

3.6.5 A Summary of findings on Inclusionary Housing policy internationally 38
3.7 Inclusionary housing in South Africa 40
3.7.1 Inclusionary Housing in Cape Town 42
3.7.2 Inclusionary Housing in Durban 44
3.7.3 Inclusionary Housing in Johannesburg 44
3.7.4 A summary of Inclusionary Housing policy considerations in SA 47
3.8 Conclusion 48
4 Inclusionary Housing Practices in the City of Johannesburg 50
4.1 Introduction 50
4.2 The planning system and governance in the city of Johannesburg 51
4.2.1 Key Development Planning Directorates 53
4.2.2 Spatial policy development or amendment process 55
4.2.3 Spatial Planning and Land Use Management Act (SPLUMA) 56
4.2.4 The land development application process 57
4.3 Approaches to Inclusionary Housing in the City of Johannesburg 60
4.3.1 Ruimsig- Poortview Inclusionary Housing, 2005 62
4.3.2 Paterson Park Development, 2016 66
4.3.3 Rosebank, 2017 72
4.3.4 Midrand Inclusionary Housing Development, 2018 76
4.4 Conclusion 82
5 Findings and Analysis 84
5.1 Implementation of Inclusionary Housing programmes 84
5.2 Inclusionary housing approaches of the City of Johannesburg 85
5.2.1 The City of Johannesburg's approved Inclusionary Housing policy Approach 87
5.3 The CoJ Planning approach 89
5.4 Defining Inclusionary Housing and its intended outcomes in the City of Johannesburg 91
5.4.1 Affordability and Socio-Economic Integration in the City of Johannesburg case studies 93
5.4.2 Summary of the City of Johannesburg case study outcomes 95
5.5 The Challenges and Benefits of the CoJ Inclusionary Housing approaches 97
5.5.1 Challenges and benefits for City Officials 98
5.5.2 Challenges and benefits for Developers 101
5.6 Outcomes of the City's Inclusionary Housing approaches 103

5.7 Conclusion: A Mandatory versus a negotiated Approach to Inclusionary Housing in Johannesburg 104
6 Conclusions: A Mandatory versus a negotiated Approach to Inclusionary Housing in Johannesburg .. 106
6.1 Introduction 106
6.2 Summary of Research Findings 107
6.2.1 City of Johannesburg Inclusionary Housing approaches and lessons learnt 110
6.3 Conclusions 111
6.3.1 A negotiated versus a regulated approach to Inclusionary Housing in Johannesburg 113
6.4 Recommendations 114
List of References 116

LIST OF TABLES AND FIGURES

TABLES

Table 1: Process and Outcomes of IH approaches 14
Table 2: Description of Case Studies 60
Table 3: Inclusionary Housing Contributions (Ahmad, n.d) 65
Table 4: Development Controls for Land Parcels (Johannesburg Property Company, 2019) 70
Table 5: Inclusionary Housing Policy Options (City of Johannesburg, 2019) 88
Table 6: Affordable Rental Ranges based on Household incomes 94
Table 7: Existing Rentals versus Proposed Inclusionary Housing Rentals 95
Table 8: Summary of Case Study Outcomes 95

FIGURES

Figure 1: Conceptual Framework Diagram 15
Figure 2: City of Johannesburg Executive and Administration Organogram (City of Johannesburg, 2018a) 52
Figure 3: City of Johannesburg Hierarchy of Spatial Plans (City of Johannesburg, 2016). 54
Figure 4: A typical report flow process 55
Figure 5: The general land use application process (sourced from City Official) 58
Figure 6: Locality of Inclusionary Housing cases in the City of Johannesburg 61
Figure 7: Ruimsig- Poortview Development Framework (Poortview, Ruimsig and surrounding areas Development Framework, 2005). 63
Figure 8: Paterson Park within the Louis Botha Development Corridor (City of Johannesburg, n.d) 68
Figure 9: Paterson Park Precinct Plan (City of Johannesburg, 2015) 69
Figure 10: Nodes in the City of Johannesburg 77
Figure 11: Waterfall Ridge Construction Progress as at October 2019 (www.crafthomes.co.za) 81

Figure 12: Artist Impression of Inclusionary Units in Vorna Valley (Waterfall Ridge Apartments Brochure, n.d) 81
Figure 13: City of Johannesburg Household Income Distribution (City of Johannesburg SDF, 2016) 91

LIST OF ABBREVIATIONS

BRT- Bus Rapid Transit

CoJ- City of Johannesburg

CT&SP- City Transformation and Spatial Planning

DFA- Development Facilitation Act

FAR- Floor Area Ratio

LUS- Land Use Scheme

MMC- Member of the Mayoral Committee

MoE- Municipal Owned Entities

RDP- Reconstruction and Development Programme

SDF- Spatial Development Framework

SPLUMA- Spatial Planning and Land Use Management Act

UNDP- United Nations Development Programme

1 INTRODUCTION

1.1 BACKGROUND AND CONTEXT

The City of Johannesburg's Spatial Development Framework (SDF) seeks to achieve spatial transformation by creating a socio-economic mix in well located parts of the city that are well serviced by jobs, social amenities and public transportation (City of Johannesburg, 2016). This is to be achieved through the implementation of the City's spatial planning policies and tools, with the Spatial Development Framework proposing Inclusionary Housing as one of the instruments to realise these outcomes (ibid.). Inclusionary Housing is defined as, "a housing programme that requires developers to dedicate a certain percentage of new housing developments to low income and low middle income households at affordable housing cost" (City of Johannesburg, 2016: 142). This research report will explore two main approaches to implementing inclusionary housing: regulated which means that it is prescribed through policy and, negotiated which means that it is agreed upon between the City and developers through negotiation. The latter has been in effect for the past 10 years and the former was introduced in 2016 through the Spatial Development Framework and was refined through a separate Inclusionary Housing policy approved by the city's Council in February 2019. Using four case studies: Ruimsig-Poortview, Paterson Park, Rosebank and Midrand; this research explores the development processes that have realised or sought to realise Inclusionary Housing in Johannesburg, unpacks the challenges and benefits of both negotiated and regulated approaches and, compares and evaluates each approach against the City's Inclusionary Housing outcomes of well-located affordable housing provision and socio-economic integration.

1.2 PROBLEM STATEMENT

Despite spatial policies, such as the Corridors of Freedom and other mechanisms employed by the City of Johannesburg to address spatial segregation, the city remains largely divided. The most affordable parts of the City are still the predominantly black township areas which are located far from economic opportunities. In an attempt to address this challenge, a draft Inclusionary Housing Policy was published by the City of Johannesburg in 2008 (Klug, Rubin and Todes, 2013). The policy sought to build a collaborative approach between private developers and the City to increase housing delivery and

develop inclusive neighbourhoods. Although the policy was never adopted, Inclusionary Housing developments have been negotiated by the city's planners in a number of cases (ibid.), however the impact of these cases is undocumented. The most recently reviewed and approved Spatial Development Framework 2040 (SDF 2040) has formally re-introduced the regulation of Inclusionary Housing and has prompted the drafting of an Inclusionary Housing Policy by the City which was published in March 2018 for public comment and was subsequently approved by the City's Council in February 2019. The Spatial Planning and Land Use Management Act (SPLUMA) No 16 of 2013 also stipulates that Municipal Spatial Development Frameworks must identify areas where a National or Provincial Inclusionary Housing policy may be applicable (Republic of South Africa, 2013). However, to date, no national or provincial Inclusionary Housing policy exists in the country.

The move towards regulating Inclusionary Housing therefore has evident policy directives, however, no evaluation of the negotiated approach which has been utilised in Johannesburg and its impact has been conducted to date. The move towards regulating Inclusionary Housing is therefore taking place without much reflection on the efforts and impact of the negotiated approach that has been in existence. It is therefore unknown whether or not a regulated or negotiated approach is better positioned to address socio-economic integration and affordable housing provision in Johannesburg and this research sets out to document and analyse these approaches.

1.3 RATIONALE FOR THE STUDY

Inclusionary Housing has a long history in the United States, dating as far back as the 1970's (Calavita & Mallach, 2010; Judd & Rosen, 1992). The practice was and continues to be implemented to address shortages in affordable housing and to encourage social integration and it has been met with much controversy and litigation (Basolo, 2011). There is therefore lots of literature on the subject for the American context, with reference to different approaches to Inclusionary Housing programmes as well their challenges and benefits in achieving their intended outcomes. There is reference in literature made to the emergence of Inclusionary Housing in Western Europe as well as other countries including South Africa (Calavita & Mallach, 2010). However, when one looks to South African cases on the subject, very little literature exists, although there is a significant amount of literature on South Africa's housing challenge and the state's responses through its housing policy.

Inclusionary Housing in South Africa emerged in response to concerns that not much had been done to redress the fragmented apartheid city, and that an interventionist approach was required (Klug et al.,

2013). This resulted in a Social Contract in 2005 between the state and private housing developers, for rapid housing delivery (Department of Human Settlements, 2009). In this contract it was agreed that every commercial development including housing developments that are not directed at those earning R1500 or less, spend a minimum of 20% of project value on the construction of affordable housing and it was targeted at households earning between R1500 and R8000 (ibid: 3.). The National Department of Human Settlements has since commissioned and reflected on the international experience and has engaged the private sector in seeking to find appropriate ways of implementing Inclusionary Housing in the South African context. The department then presented options for its implementation in a policy framework. In 2007 a national policy on Inclusionary Housing was drafted, but was not legislated (Klug et al., 2013). Although no national policy or legislation on Inclusionary Housing exists to date, there are clear policy imperatives in policies such as the Spatial Planning and Land Use Management Act (SPLUMA) for the eventual implementation of Inclusionary Housing in South Africa.

There is evidence that the City of Johannesburg has made attempts at instituting an Inclusionary Housing policy. Such a policy and attempts to implementing it is presented by Klug et al. (2013). This research examines Inclusionary Housing initiatives in the City of Johannesburg prior to the approval of the City's Inclusionary Housing policy. It presents an analysis of case studies of such initiatives and the resultant 2019 approved, Inclusionary Housing policy. To date no attempts have been made to explore how the approaches presented in the aforementioned draft national policy on Inclusionary Housing fair. This report seeks to fill this gap in knowledge through exploring approaches to Inclusionary Housing in Johannesburg and by assessing their challenges and benefits and determining which approach is better suited to the Johannesburg and ultimately South African context.

Given that Inclusionary Housing has not been a key strategy for affordable housing provision in South Africa, it is not well understood in the local planning and legal context. This research report will lead to a better understanding of the subject in the South African planning context and raise some considerations which may be subject for further research.

1.4 Aims and Objectives of Research

The aim of this research is to evaluate a negotiated versus a regulated approach to Inclusionary Housing in Johannesburg in order to determine which of the two options is best suited to the Johannesburg context.

The objectives of this research are to:

- Explore the development processes that have sought to realise Inclusionary Housing in Johannesburg,
- Unpack the challenges and benefits of each approach to Inclusionary Housing in Johannesburg and,
- Compare and evaluate each approach against the City's Inclusionary Housing outcomes.

1.5 Research Questions

This research seeks to address the following research question:

What are the challenges and benefits of a negotiated versus a regulated approach to Inclusionary Housing in Johannesburg in achieving the desired outcomes of Inclusionary Housing?

This research question can be unpacked into the following sub- questions which this research seeks to respond to:

a. How has Inclusionary Housing been defined in the City of Johannesburg? What are its desired outcomes/intentions?
b. What have been the different approaches to implementing Inclusionary Housing in Johannesburg and how have they evolved over time?
c. What have been the challenges and benefits of these approaches according to different sectors?

1.6 CONCEPTUAL FRAMEWORK

Inclusionary Housing seeks to achieve the development of affordable housing and socio-economic integration. Affordability differs across localities, in the City of Johannesburg it has been defined as a household income of R7000 and less per month (City of Johannesburg, 2016). Johannesburg's median household income ranges between R1601 and R3200 per month in 2011 prices (ibid.). In the City's SDF affordable housing is defined as, "a dwelling where the total costs do not exceed 30% of a household's gross income including taxes and insurance for owners, and utility costs" (City of Johannesburg, 2016: 5). Social Integration on the other hand refers to income and ethnic group mixing (Basolo, 2011). The City of Johannesburg's SDF seeks to achieve inclusivity which it defines as a social mix and spatial integration of different social and economic groups to build a healthy and vibrant city (City of Johannesburg, 2016). In this research, affordability and social integration will therefore be based on the above definitions. The conceptual framework evaluates the two Inclusionary Housing approaches, negotiated and regulated, by exploring the processes of each and its outcomes. Each approach will be unpacked by addressing the following questions:

- What are the key components of each approach?
- What planning theories apply to each approach? And what are the implications thereof?

The process and outcomes of each approach will be evaluated by looking at specific variables in each case study which will aid in addressing the process and outcome questions presented in Table 1 below.

Table 1: Process and Outcomes of IH approaches

	Questions	**Variables**
Process	• Which process is most efficient? • What is the nature of relationship between the private sector and the state?	• Time • Cost • Resources • Engagements
Outcomes	• Social integration achieved? • Economic integration achieved? • Well located affordable housing achieved?	• IH Agreements • Cost of the inclusionary units (affordability) • Location of inclusionary housing units • State of the property market in the study areas • Socio-Economic Profiles of study areas

Key concepts and theories that are to be explored in this research, presented in Figure 1 relate to planning approaches, housing provision and the interactions between the state and developers. The theories will be focused on governance and contemporary planning theories; mainly collaborative planning as lenses through which to unpack Inclusionary Housing. The concepts to be unpacked are affordable housing and social integration as the intended outcomes of Inclusionary Housing policies and programmes internationally.

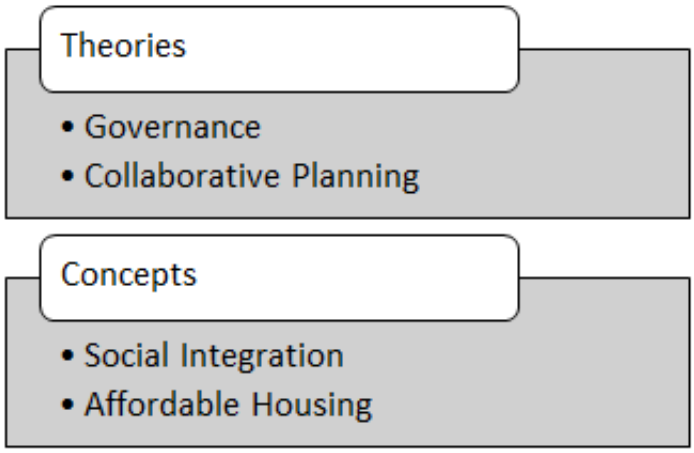

Figure 1: Conceptual Framework Diagram

2 RESEARCH METHODS

2.1 RESEARCH STRATEGY AND METHODS

This is a qualitative research study where a few case studies from the City of Johannesburg that represent different approaches to Inclusionary Housing implementation have been presented and analysed. Through each case study, the research explores the City of Johannesburg's processes and activities in relation to Inclusionary Housing and its implementation. In exploring the case studies, the challenges and benefits of a negotiated versus a regulated approach to Inclusionary Housing implementation in Johannesburg were drawn. Interviews and document analysis were used to document the processes and practices undergone by the City's development planning department and the developers in each of the case studies.

The first case study unpacks the Inclusionary Housing negotiations that took place in Ruimsig-Poortview in 2005. In this case, the City negotiated towards an agreement for all developers in the area to contribute funds towards the development of affordable housing in the area as a condition of development. The second case is linked to the City's Transit Oriented Development plans which are popularly known as the Corridors of Freedom aimed at developing a mix of land uses and high densities along the City's Bus Rapid Transit (BRT) routes and around transit stations. In this case the City set a requirement for the design and development of Inclusionary Housing in the development of the Paterson Park precinct. In the third and fourth case studies, Rosebank and Midrand, developers were required by the City to provide Inclusionary Housing in return for the development rights that they sought. The City's planners negotiated with the developers the terms of these Inclusionary Housing requirements and how the developers could feasibly achieve them.

Yin (1994: 11) defines case study research as, "an empirical enquiry that investigates a contemporary phenomenon within its real life context, especially when the boundaries between phenomenon and context are not clearly evident." Advantages of case research include: its use for, either theory building or testing, the ability to modify the research questions during the research process, it derives more contextualised interpretations of phenomenon and the phenomenon can be studies from multiple perspectives and levels of analysis (Bhattacherjee, 2012). In this particular case, the case studies help in building a theory for which Inclusionary Housing approach is better in the Johannesburg context. A key

concern with case study research, however, is a lack of rigor which may result in bias views influencing findings and conclusions, and, the inability to generalise (Bharracherjee, 2012 and Yin, 1994).

2.2 DATA COLLECTION

Data was collected by: examining spatial plans, reports related to the presented case studies and Inclusionary Housing in the City; meeting observations relating to the City's development of the now approved Inclusionary Housing policy and, conducting interviews with key City of Johannesburg officials, residential property developers involved in some of the case studies and other stakeholders.

The types of data collection methods that were employed in this research therefore were: observation, one on one interviews and document analysis. Some of the strengths and weaknesses of the chosen data collection methods are as follows:

Strengths:

- They are flexible and adaptable to changes in the research environment (Crossman, 2017),
- They allow for in depth insight into the research (ibid.),
- Interviews allow researcher control over the line of questioning and personal accounts of the issues can be documented (Cresswell, 2009).
- Documents can be accessed at any time and they represent carefully thought out data (ibid.)

Weaknesses:

- Personal bias of the researcher in the interpretation of findings (Crossman, 2017 and, Babbie and Mouton, 2001).
- Results cannot be generalized (ibid.).
- There may be information observed that cannot be reported (ibid.)
- Data collection and analysis can be time consuming (Babbie and Mouton, 2001)
- Documents may not be accurate or materials may be incomplete (Creswell, 2009).

2.3 EXPECTED FINDINGS

Based on the International experiences and the lack of implementation of inclusionary housing locally outside of legislation, it is expected that the findings of this research will allude to a regulated approach as more likely to achieve the intended inclusionary housing outcomes. Given the controversy and litigation that the subject has attracted internationally which has resulted in slower delivery in some cases (Basolo, 2011), a major challenge which with a regulated approach in Johannesburg is its high likelihood to attracting litigation. Lastly, given the evolution in planning theory, it is likely that a mandatory approach with some room for negotiation is the best option as it is likely to be met with the least resistance.

2.4 RESEARCH LIMITATIONS

There are three main limitations to this research:

The first is, the fact that none of the projects described in the case studies had been fully developed, at the time of conducting and concluding this research. This has meant that the research could not validate any actual achievement of social integration in any of the projects. Whilst economic integration could be evidenced in the household income figures, social integration remains untested.

The second is, in the case studies, no real distinction between mandatory and voluntary approaches to Inclusionary Housing could be made and as a result, the research could not fully analyse each of these approaches separately for the Johannesburg context and thus could not measure which approach is best suited for Johannesburg.

Lastly, my biases as a researcher embedded in the study environment and having been involved in one of the cases presented in the study, may distort the study findings.

3 LITERATURE REVIEW

3.1 INTRODUCTION

Inclusionary Housing, affordable housing, social integration and, regulation and negotiation in urban planning policy outline the broad framework of this research. Although there is a commonality in the intended outcomes of Inclusionary Housing policies globally, there is debate around methods of implementation and what works in different contexts.

The success of Inclusionary Housing policies in achieving affordable housing provision and social integration is highly dependent on the ability of a country's housing and planning policies to support Inclusionary Housing and its implementation. This is however but one criterion and other criteria is unpacked in this literature review. Much of the debate around Inclusionary Housing is centred on whether the policies or programs are mandatory or voluntary, what options for Inclusionary Housing provision are provided and, the incentives offered to developers. There is also debate around the impact of Inclusionary Housing policies on the housing and development market. Criticisms of Inclusionary Housing presented in literature by Padilla (1995) and Basolo (2011) among others, suggests that Inclusionary Housing policies may slow down or even halt housing development and as a result increase general housing prices thereby making housing more unaffordable.

Regardless of the debate on Inclusionary Housing and its viability as a tool to increase affordable housing development and foster social integration, there is evidence that Inclusionary Housing programs, particularly in the United States have resulted in increased affordable housing delivery and social integration.

This literature review briefly outlines governance and contemporary planning theory as key concepts in understanding inclusionary housing. It provides definitions and key outcomes of Inclusionary Housing policies. It outlines global Inclusionary Housing policies and practices and presents the main areas of debate around the two main approaches to implementing Inclusionary Housing.

3.2 URBAN GOVERNANCE

Spatial Planning is seen as the governance of place, it is concerned with spatial governance (Adams and Tiesdell, 2010). As such, governance is an important concept in understanding how spatial planning policies are implemented in different contexts, because governance structures influence and shape such policies and their implementation. Much of what is witnessed in implementing Inclusionary Housing internationally is an issue of governance, planning itself is a form of governance (Todes, 2011). The term governance gained popularity in the 1990's and was used to refer to the shifting patterns of governing (Smit, 2018). A meaning of urban governance that emerged in the United Kingdom in the 1980s and 1990s, was of a desired model of public- private interaction and cooperation at the local level (Pierre, 2005).

Whereas government is seen as being characterized by hierarchies and a separation between state and society, governance is seen as blurring these boundaries (Smit, 2018). It is associated with the rise of networks and an increased role for actors other than local government in achieving public goals. It is about de-emphasizing local government as the sole source of service provision and advancing a strategy of resource mobilization from the public sector and other stakeholders or interests in the local space (Pierre, 2005). Pierre (2005: 452) argues that a governance perspective directs one to, "look beyond the institutions of the local state and to search for processes and mechanisms through which significant and resource-full actors coordinate their actions and resources in the pursuit of collectively defined objectives".

Although the terms governance and government were used interchangeably, in the 1980's the meaning of governance was broadened beyond just government actors to include civil society actors (Kjaer, 2004). The United Nations Development Programme (UNDP) defined governance, as "the mechanisms, processes and institutions through which citizens and groups articulate their interests, exercise their legal rights, meet their obligations and mediate their differences" (Smit, 2018: 59). This definition recognizes that power exists outside of government institutions and, that decisions are made based on complex relationships between actors with different priorities or objectives. Muchandenyika and Williams (2016) refer specifically to urban governance and emphasize it as, "encompassing the multiple sites where practices of governance are exercised and contested by a variety of actors, various layers of

relations and a broad range of practices of governance that may involve various modes of power, as well as different scales" (Muchandenyika and Williams, 2016: 3). They argue that such a definition highlights the contestations, relations of power and associated struggles among actors in the urban domain. They recognize urban governance as being an area of conflict and collaboration (ibid.).

Power has been cited as being a factor in urban governance. It is further argued by some scholars such as Smit (2018) that such power is unevenly distributed among different actors in the governance process and thus has an impact on the outcomes. Smit (2018) argues that power may be concentrated at certain points, in some community organisations for example, creating what they refer to as governance nodes, which are defined by Smit as, "groups of decision makers where knowledge, capacity and resources are mobilized to manage the course of events" (Smit, 2018: 60). It is argued that these nodes can have very different ways of viewing the world which can make engagements difficult (ibid.), bringing about contestation.

According to both Smit (2018) and Muchandenyika and Williams (2016) who present an analysis of urban governance from the African perspective, urban challenges are focal points of urban governance. Smit (2018) identifies and discusses three categories of urban challenges which urban governance seeks to address: land allocation and land use management; the provision and management of basic infrastructure/ services and; the movement or accessibility system. For the purposes of my research, I will focus on the land allocation and land use management object of urban governance. Land use management is essentially the governance of the use of land and property, it is according to Adams and Tiesdell (2010) a spatial governance.

Stoker (2002) on the other hand presents five propositions on governance, which are all consistent with the definitions of governance presented here: a complex set of institutions and actors; the blurring of boundaries and responsibilities for tackling social and economic problems; it identifies power dependence between institutions involved in a collective action; it is about autonomous self-governing networks of actors and lastly; it recognizes the capacity to get things done, not resting in the power of government.

It can be concluded from the definitions presented here that urban governance is a process of mediation between a number of urban actors, each seeking to achieve certain objectives and exercising different power dynamics. Urban planning is referred to by Muchandenyika and Williams (2016) as the main tool that urban governance employs in promoting social change. We see later in this literature review, how

Inclusionary Housing is employed as a land use tool to realize social inclusion, the actors involved in Inclusionary Housing implementation and some of the contestation that it brought about. Inclusionary Housing is thus unpacked in this research from an urban governance perspective.

3.3 CONTEMPORARY PLANNING THEORIES

Contemporary planning theory is important in understanding contemporary approaches to addressing urban challenges in practice and in better understanding urban planning as an urban governance tool. Shifts in thinking about planning reflect on different agendas for planning such as sustainability and social integration which are part of the current agenda. Contemporary urban and planning theories are rethinking the nature of planning, its relationship to power and institutions and it views cities as complex dynamic places that embody multiple interests and spatialities (Todes, 2011). Contemporary planning emerged in response to the critiques of modernist planning and to the pressing social issues of the time. One of the cited critiques of modernist planning is its failure to anticipate changing social patterns and thus a failure to address poverty, inequality and informality (ibid.). Efficiency as a core principle of modernist planning has been replaced by the principles of social justice, resource distribution, conflict acceptance, equity and inequality in contemporary planning (ibid.).

There are three main contemporary theories in planning practice: collaborative, new urbanism and the Just City (Fainstein, 2000). However, for the purposes of this research, I focus on collaborative planning, given the nature of Inclusionary Housing practices and contemporary planning practice. Collaborative Planning is about understanding complexity and diversity and emphasizes the planner's role in mediating among stakeholders (Fainstein, 2000).

Planning practices have developed over the years, away from spatial blueprints and regulation to an appreciation of complexities in urban issues and hybrids of the two in some of the theories mentioned above. There was a shift in the 1960's in the UK, where development plans were no longer considered spatial blueprints, but statements of policy principles and regulatory norms to guide land and property development processes (Healey, 2003), as seen in contemporary planning practices. Urban and planning theory is beginning to think about cities and planning in more complex ways (Todes, 2011).

Collaborative Planning is, "the process by which participants arrive at an agreement on action that expresses their mutual interests" (Fainstein, 2000: 6). The communicative turn in planning is more about discourse; it is a long term, iterative process involving argument, persuasion and inspiration (Todes,

2011). This is based on the idea that discussion could lead to an understanding of how one can benefit from a proposal, whereas they otherwise would have opposed it. Communicative and collaborative planning assume the ability to contribute to better debate, discussion and deliberation about shared futures (Huxley and Yiftachel, 2000). It is however criticized for potentially perpetuating the dominance of the already powerful (ibid.), this alludes to power dynamics in such processes. Another key issue with collaborative planning is that there may be consensus on paper or verbally, but the outcomes may be vastly different in implementation (ibid.). It is argued by some theorists that rather than consensus building collaboration, planning episodes are likely to be characterized by struggle and conflict (Todes, 2011). This is evident in the implementation of Inclusionary Housing as the literature shows that litigation has been waged against Inclusionary Housing in some cities internationally, and such has also been witnessed locally in South Africa with the City of Cape Town being challenged by a housing activist group (Ndifuna Ukwazi) over the lack of advancement of Inclusionary Housing in the city thereby perpetuating socio-economic exclusion.

Collaborative planning theories reflect on the key factors of urban governance, they are based on an understanding of complexity and diversity and position the planner as a mediator in urban governance processes. They seek to realize principles of social justice, resource distribution and equity. These inform urban planning systems in contemporary societies.

3.4 Affordable Housing and Planning Systems

Affordable Housing is a key urban challenge globally. Debates and policies around housing affordability and the need to provide more affordable housing are widespread in international housing literature (Paris, 2006). The challenge of a lack of affordable housing and in particular well located affordable housing in cities and a shift in the global housing policy position from state supply to market forms of housing provision, are significant stimuli in the development of Inclusionary Housing policies. It has led to governments exploring new forms of intervention in housing provision and the use of land use planning mechanisms has become increasingly popular. Governments in many countries have explored ways of using the land use planning system to influence affordable housing provision (Paris, 2006). The planning system is crucial for the possibilities of implementing Inclusionary Housing because it regulates development and thus should guide how Inclusionary Housing should be developed by developers (Kam, Needham and Buitelaar, 2013).

Planning is about managing the growth of cities in a manner that seeks to realise certain outcomes, such as sustainability and inclusiveness. It employs various tools and mechanisms to realise these outcomes and land use planning is one of these. “Land use planning is a regulatory mechanism which aims to increase the efficiency of the use of land and to ensure greater equity in that use” (Whitehead, 2007: 26). The land use planning system regulates the use of land within a strategic framework which seeks to balance competing needs such as; the protection of the environment, the creation of open spaces, efficient transportation and infrastructure, economic growth and affordable housing provision among others. It makes use of land use controls in order to achieve the harmonious development of land and efficiency in land uses (Boamah, Nelson and Gyimah, 2012). Such controls relate to allowable development space, lot sizes, housing densities and compatibility of adjoining land uses (Boamah et al., 2012). Land use controls can be commonly grouped into the following categories:

1. Limits and geographic preferences on the density and intensity of development,
2. Design and performance standards for lots and buildings,
3. Cost shifting from the locality to the developer,
4. Withdrawal of land from developable supplies through zoning,
5. Direct and indirect controls on growth, applied against buildings and population (Quigley and Rosenthal, 2005).

Planning systems are divided into those that leave room for discretion at development control stage and those that do not (Kam, Needham and Buitelaar, 2013). In some systems, such as in the UK, there is room for deviation from the plan and in others the plan is revised to accommodate development initiatives (ibid.). In a discretionary system, the planning authority has the power to negotiate with developers on Inclusionary Housing provision and a whole host of other issues (ibid.). However, if power does not exist to legally refuse development that does not include Inclusionary Housing, then planning efforts can be frustrated by a developer who is unwilling to build such housing.

It is believed that unregulated land development results in urban problems such as haphazard development, neighbourhood blight, traffic congestion, urban sprawl and environmental degradation; resulting in a lowered quality of life for communities (ibid.). However, literature reveals that land use regulation itself can result in urban problems, such as exclusion and slum development in some cases. Critiquing the use of zoning in land use planning, Boamah et al. (2012:352) argues that it is static, lacks flexibility and does not adapt to societal beliefs and socio-economic conditions. Boamah et al. (2012)

further argues that it distorts market processes and leads to dispersed or mismatched development. Ironically, the distortion of market processes is intentional and one of the core objectives of land use planning, because it seeks to generate different outcomes from what the market alone would support (Whitehead, 2007). It seeks to maximize social and individual returns on the use of land (Boamah et al., 2012: 350). This is based on the belief that the market may not achieve full efficiency between competing needs (Boamah et al., 2012).

The role of the planning system therefore is to manage land development and use and ensure efficient land allocation between competing land needs. One of the outcomes of land use planning may be an increase in land values, which Whitehead (2007) argues should be the case because a good land use planning system should generate social welfare and higher land values. This would result in increased land prices and the relative price of land for constrained uses which affects development because, the higher the land price, the less land a developer wants to use per unit in the case of residential development (ibid.). In cases where the land use regulation burden exceeds its benefits, it may result in a decrease in land values (Boamah et al., 2012). Land use regulation allows development but does not ensure that it actually takes place as that is dependent on whether the market regards it worthwhile or whether government incentives are provided (Whitehead, 2007). Land use regulation is thus both enabling and restrictive in that it dictates areas permissible for certain development and the scale and intensity of such development (Quigley and Rosenthal, 2005). The effectiveness of land use planning is dependent on the ability of the planning authority to enforce regulations, the dynamism of the land use control system, the planning approval process and public involvement and perception (Boamah et al., 2012).

In drawing a link between land use planning and affordable housing, Whitehead (2007: 27) argues that in all possible scenarios, regulation will make housing generally more expensive. And thus further government intervention is required to ensure the provision of affordable housing. This has led to the increasing popularity in the use of land use planning to ensure the provision of affordable housing. This has been largely the case in the global north, dating as far back as the 1970s. Such Inclusionary Housing interventions are also gradually gaining momentum in the global south, in countries such as Brazil, Colombia, Turkey, Malaysia and China; which are cited later in this literature review.

Affordable housing that is enforced using land use planning systems therefore is subjected to the shortcomings or inefficiencies of such systems. Common challenges of land use regulations cited in

literature include: delays in development processes which result in increased development costs and housing costs. As such Quigley and Raphael (2004) argue that many cities complicate and add costs to new housing development through regulation, citing growth controls such as urban growth boundaries as one of the extreme barriers to new housing development as they have been shown to result in increases in housing prices.

One of the key challenges cited by Boamah et al. (2012) based on his analysis of land use planning in Ghana is, restrictions that are inconsistent with the cultural, social and economic conditions of residents. For this reason, it becomes important to contextualize land use planning in Africa. African cities are characterized by informal development and sprawl which Boamah et al. (2012) attributes to unrealistic land use regulations amid low incomes, large families and cultural practices. Land use planning in Africa was imposed through colonial land laws in territory that had traditional or customary land ownership (Groves, 2004). These colonial land laws were inconsistent with the cultural practices of the communities upon which they were imposed. As a result, access and rights to land is the greatest challenge facing affordable housing provision in African countries (ibid.). It is because of such, that communities in African countries disregard planning and building regulations in building their houses resulting in the informal development witnessed in African cities (Boamah et al., 2012). Thus, to be successful, a land use system must be consistent with the socio-economic status and cultural practices of urban residents and respond to changing dynamics and preferences (ibid.).

3.4.1 Land Use Planning in South Africa

Formal urban planning practice in Sub-Saharan African countries has its origins in British planning and thus it has been derived and has evolved from British Town and Country planning legislations (Dlamini and Musaka, 2014). The objective of the British colonial town planning legislation was to control urban expansion and provide for slum clearance and renewal for the creation of ordered, safe and hygienic environments (Dlamini and Musaka, 2014, Charlton, 2008). British planning was developed in response to the urban impacts of the industrial revolution and it was concerned with improving health and safety of urban residents, services, facilities and amenities (Charlton, 2008).

Having its origins in British planning, land use management in most areas in South Africa is regulation focused, aimed at controlling the impacts and consequences of activities perceived to be negative (Charlton, 2008). New approaches to land use management, however, are incentive based and focus on encouraging and shaping development (ibid.). The focus is therefore on development control and or encouraging and incentivizing development. The South African, post-apartheid land use planning system

has been governed by the Development Facilitation Act (DFA) which was replaced in 2013 by the Spatial Planning and Land Use Management Act (SPLUMA).

Dlamini and Musaka (2014) point to two significant developments in post-apartheid planning systems, the one being a shift of the leading role in planning from technocrats to politicians. They make the observation that decision making processes are increasingly intertwined between planners and politicians (ibid.). A second development is that the planning process has become more participatory in its approach (ibid.). It is general practice that the public give input on spatial plans. These are critical observations for understanding and analysing how land use management tools are developed and implemented. Another dimension which is noteworthy in the context of this research is the land use management system's role as a defender of property values (Charlton, 2008). This implies a very direct link between planning and, land and property values. Thus, although land use management systems are concerned with controlling amenity, they also play a fundamental role in the property system (ibid.).

Not much exists in literature on the relationship between the land use planning system and housing affordability in South Africa. The notion of Inclusionary Housing is still fairly new, however a lot can be drawn from international cases, not only on Inclusionary Housing as a land use regulation but the broader framework of planning and housing and the impacts of planning systems on housing. The English land use planning system is similar to South Africa's and therefore some lessons can be drawn from literature on planning policies and affordable housing in England. The land use planning system in England is governed by the 1947 Town and Country Planning Act, which nationalizes development rights and requires planning permission for all land use changes. Local authorities are granted the power to assess and make decisions on proposed developments, taking into consideration site specifics for socially desirable planning outcomes (Whitehead, 2007).

In England, planning was seen as better able than the market to achieve social goals such as equitable access to land and ensuring adequate land for housing was a core role of the land use planning system (Whitehead, 2007). Affordable housing was provided through social housing which was owned and allocated by local authorities and was subsidized to keep rents low. Densities and dwelling type control were the only regulatory mechanisms available to support affordable housing, up until the 1990 Town and Country Planning Act came into effect. Section 106 of this Act made it possible for local authorities to require that a proportion of a housing development be made affordable. However, approximately 80% of units provided through the land use planning system still require Social Housing Grants to make them viable.

According to Paris (2006) this planning system is restrictive and planning constraints are a major factor in driving house prices up in England. The more planning authorities require higher proportions of affordable housing, housing provision will be lower. Paris (2006) suggests that a strong element of public land ownership, where there is little need to use the planning system as a means of provision proves to be more effective in providing land for affordable housing, and such is the case in Hong Kong and Singapore.

The South African land use planning system being much like the English, may be perceived to be too restrictive and as a result, based on the literature, could drive housing prices up. This should therefore be considered in developing Inclusionary Housing policies in the country. The literature suggests that land use planning regulations and the housing market are closely related and impact on housing demand and affordability (Paris, 2006; Whitehead, 2007). In fact, Whitehead (2007) states that land regulation, by virtue of land being a necessary input to housing, will make housing generally more expensive.

The same regulation that is said to increase land prices is now increasingly being used to ensure the provision of affordable housing in well located parts of cities. Although this has been met with many challenges and there are debates around its efficiency, which is discussed in the next section, it has managed to deliver affordable housing in well located areas. The English case of affordable housing provision through land use planning mechanisms has shown that planning can influence the location of new affordable housing, although it is limited in terms of increasing supply (Paris, 2006). We see in the following section that, well located affordable housing is one of the key intended outcomes of Inclusionary Housing policies. By defining Inclusionary Housing, the following section also elaborates on the interrelations between affordable housing and land use planning as presented in this section.

3.5 DEFINING INCLUSIONARY HOUSING AND ITS INTENDED OUTCOMES

Inclusionary Housing emerged in the USA in the 1970's through a civil rights movement attempt to address racial segregation (Calavita and Mallach, 2010). In South Africa it has emerged in response to a lack of redress in the country's fragmented city (Klug et al., 2013). It has been defined internationally as, "… a means of using the planning system to create affordable housing and foster social inclusion by capturing resources created through the marketplace" (Calavita and Mallach, 2010: 1). This definition implies a strong link between Inclusionary Housing and urban planning systems and identifies the outcome of Inclusionary Housing as social inclusion, which is consistent across other definitions of

Inclusionary Housing. In the South African context, a socio-economic balance and affordable housing supply are the key outcomes of Inclusionary Housing as outlined in the following definition from the Department of Human Settlements (2009:9): "Harnessing of private initiative in its pursuit of housing delivery to middle/ higher income households to also provide (include) affordable opportunities in order to achieve a better socio-economic balance in residential developments and also contribute to the supply of affordable housing." In the more specific context of the City of Johannesburg, the following definition drawn from the Gauteng Inclusionary Housing Bill is applied: "a housing programme that requires developers to dedicate a certain percentage of new housing developments to low income and low middle income households at affordable housing cost" (City of Johannesburg, 2016: 142). The City of Johannesburg's Spatial Development Framework explicitly states that it seeks to achieve a socio-economic mix in well located parts of the city that are well serviced by jobs, social amenities and public transportation (ibid.). Essentially, Inclusionary Housing seeks to address these key issues: affordable housing delivery, socio-economic transformation and, in the South African context in particular, spatial transformation.

There is debate as to whether or not Inclusionary Housing policies or programs achieve their intended outcomes and the reasons thereof. On the one hand it is argued that such policies do not meet the expectations of policy-makers in so far as social integration is concerned and that they could have adverse effects, such as breaking up communities, constraining housing choices (Bolt, Phillip and Kempen, 2010) and causing housing affordability challenges (Olokun, 2007). On the other hand, it is argued that Inclusionary Housing programs do increase socio-economic integration through their provision of affordable housing where it has traditionally not been available (Padilla, 1995). The impact of Inclusionary Housing, in terms of achieving specified outcomes is also dependent on the adopted implementation approaches; which is another area of debate within Inclusionary Housing literature, such approaches are discussed further in the next subsection. The following section provides an account of Inclusionary Housing internationally and highlights the common components of Inclusionary Housing policies and some of the challenges of benefits of these policies. Some of the broad benefits and challenges of Inclusionary Housing that have been cited in literature include: the increased number of affordable housing units, as a benefit, and overburdening the private sector with a social problem as a challenge (Padilla, 1995).

3.6 INCLUSIONARY HOUSING POLICIES INTERNATIONALLY

"Global political shifts and changes in economic and social policy have all contributed to the emergence of Inclusionary Housing as arguably the most significant new public policy direction in the realm of social and affordable housing in recent decades" (Calavita and Mallach, 2010: 12). The Inclusionary Housing concept is likely to become even more prominent as international development imperatives are becoming more focused on cities and inclusivity, as evidenced in the Sustainable Development Goal 11 (SDG 11).

The common impetus behind the development and prominence of Inclusionary Housing policies is the inability of both the public and private sectors to deliver affordable housing, and more specifically, well located affordable housing. Literature demonstrates that Inclusionary Housing policies have been developed across the globe to address affordable housing delivery and, in most cases, social inclusion. The need to address these issues arose at different times in different countries and was largely influenced by the socio-economic and political dynamics of that country.

Inclusionary Housing policies or programmes vary across jurisdictions based on the country's housing system, planning practices, legislative traditions and the urban structure of distinct urban environments (SAPOA, 2018:9). These influence the manner in which the Inclusionary Housing policies and programmes are packaged. The main objectives of the policies or programmes are to outline what qualifies as Inclusionary Housing, when and where such housing ought to be developed, in some instances what it should look like and, what incentives (if any) are to be provided to the developers and lastly, whether it is a mandatory or voluntary requirement. This section provides a brief overview of Inclusionary Housing policies globally, highlighting the key components of these policies.

3.6.1 Inclusionary Housing Policy in the global north

Inclusionary Housing dates back as far as the early 1970's in the United States, beginning in suburbs such as Washington D.C and spreading across the States (Wiener and Barton, 2013). Inclusionary Housing has been defined in the United States as "… a means of using the planning system to create affordable housing and foster social inclusion by capturing resources created through the marketplace" (Calavita and Mallach, 2010: 1).

According to Calavita and Mallach (2010) the initial intellectual impetus for inclusionary zoning was from the civil rights movement of the 1960's and from the recognition of a relationship between racial

segregation in America and the Land Use Regulation system which perpetuated exclusionary zoning. Inclusionary zoning referred to strategies that were designed to deliver on affordable housing in exclusive, affluent suburban areas (ibid.). In the 1980's, a reduction in federal funding for affordable housing production intensified the need for market based solutions for affordable housing provision (Calavita and Mallach, 2010). Inclusionary Zoning practices and policy statements which mandate or encourage developers to provide a certain percentage of low and moderate income housing in new residential developments, were how Inclusionary Housing in the U.S was implemented (Talbert, Costa and Krumbein, 2006). It is thus viewed more as a planning practice than it is a housing policy, because it uses land use regulations to provide housing for low and moderate income households, hence it is referred to as inclusionary zoning (Basolo, 2011).

In its early days, Inclusionary Housing was challenged legally in the U.S as it sparked controversy, however it is through such litigation that Inclusionary Housing gradually became legally legitimized (Calavita and Mallach, 2010; Judd and Rosen, 1992). Inclusionary Housing in the U.S encompasses a large variety of policies that require or encourage private housing developers to build or facilitate the building of affordable housing in new developments, either for purchase or for rent (Wiener and Barton, 2013). In most Inclusionary Housing programs, affordable is defined as, "a payment that does not consume more than 30% of a household's gross monthly income and targets households below the area median income at the low, very low, and in some cases extremely low- income levels" (Wiener and Barton, 2013: 405).

Every Inclusionary Housing program has its own defined terms and parameters. The first zoning ordinance that incorporated Inclusionary Housing requirements was of Fairfax County Virginia adopted in 1971. It required that developers set aside 15% of their new residential build for affordable housing. In New Jersey, the courts imposed a constitutional obligation on all municipalities to, "realistically provide for their fair share of the region's need for low and moderate income housing" (Judd and Rosen, 1992: 4). The courts obligated local governments to address lower income housing needs through inclusionary zoning ordinances if they could not meet their fair share obligations (Calavita and Mallach, 2010; Judd and Rosen, 1992).

In California, different jurisdictions were required that a percentage of residential developments be set aside for families earning between 50 percent and 120 percent of the area median income (Judd and Rosen, 1992). By 2006, approximately 107 Californian Cities and 14 counties had adopted some form of Inclusionary Housing program (Talbert, Costa and Krumbein, 2006).

Every Californian jurisdiction is required to adopt a housing element as part of its general plan (Talbert, Costa and Krumbein, 2006). This housing element is aimed at planning for future housing for all income groups and therefore must include an assessment of existing and projected housing needs of a jurisdiction, goals and objectives in relation to housing and a program of action for implementation (Talbert et al., 2006, Padilla, 1995). Inclusionary Housing requirements have been one of the tools that Californian cities and counties have used to address the growing demand for affordable housing and has become a significant element in affordable housing provision state-wise (Judd and Rosen, 1992 and Calavita, Grimes and Mallach, 1997).

Such Inclusionary Housing requirements are voluntary as the ultimate decision to implement Inclusionary Housing programs is left to each jurisdiction (Calavita, Grimes and Mallach, 1997). This means that the specific features of Inclusionary Housing programs in California vary across the state, the financial assistance and regulatory reliefs offered as cost off-sets to developers differ. Regulatory relief includes density bonuses, fee waivers, fast tracked approvals, relaxed parking requirements and relaxed design restrictions among other things (ibid.). The most common of these is the density bonus which is mandated through the State's Density Bonus Law. The law mandates that local governments grant density bonuses to developers who provide a certain percentage of affordable units in their developments. Under this law, developers can deviate from permissible densities by up to 35% beyond the local zoning standards and are eligible to receive relaxed parking requirements along with other reliefs similar to those cited above (ibid.).

In Europe, Inclusionary Housing policies only emerged in the 1990's when social housing programmes were reduced (Calavita and Mallach, 2010). They have increased in popularity in the 21st century as a result of the decentralised approach of the state to social housing provision (ibid.). Inclusionary Housing is viewed as a land value capture mechanism because it is common belief in Europe that increases in land value do not belong to the land owner and should be recaptured by the public sector (Calavita and Mallach, 2010). Similar to the United States, the predominant approach to Inclusionary Housing in the European context is through the use of Inclusionary Zoning which incorporates an Inclusionary Housing requirement in the rezoning or development application phase of a development (SAPOA, 2018). In the absence of national legislative frameworks for inclusionary zoning with the exception of a few countries, certain European Cities, by virtue of their urban planning responsibilities, have introduced inclusionary zoning in their urban planning regulations (ibid.).

In England, the 1990 Town and Country planning Act provides local authorities with powers to require developers to contribute towards affordable housing provision (Morrison and Burgess, 2013). In terms of this Act, local authorities may, according to need, require developers to provide affordable housing within their market housing sites or otherwise pay in lieu fees (Meda, 2009). There is no fixed percentage or pre-established requirement as such is based on what is negotiated at the site specific level between Local Planning Authorities and Developers (Meda, 2009; Morrison and Burgess, 2013). The developer is either required to build affordable housing at lower costs which are to be purchased by the Housing Association using a social housing grant or the developer provides the land at a discounted price and the Housing Association builds the housing, otherwise the developer is required to provide an agreed financial contribution to the Local Planning Authority. Density bonuses are offered as cost offsets (Morrison and Burgess, 2013).

Spain on the other hand, as another European case, adopted a national Land Act in 2007 which stipulates that a minimum of 30% of newly built housing throughout the country must be affordable (Meda, 2009: 164). The government fixes the prices at which these units can be sold or leased below market price and the government provides subsidies to developers and targeted households (ibid, SAPOA, 2018).

3.6.2 Inclusionary Housing Policy in the Global South

According to a study on Inclusionary Housing conducted by the South African Department of Human Settlements (2007), they found that Inclusionary Housing programmes are not common in the global south due to the small size of private sector property development; and extreme inequality. There are however a few cases that have been documented which can be learnt from.

Of the few documented cases, there appears to be no clear timeline on the emergence of Inclusionary Housing policies in the global south. The focus of the literature is much more on the provision of affordable housing more than it is specifically on Inclusionary Housing policies. Nevertheless, Inclusionary Housing policy or tools are evident in the global south, in countries like Brazil, China and Malaysia, just to name a few.

In Brazil, Housing was state provided but with the neo liberal turn in the 1990s, the state withdrew from this role and some of that responsibility was shifted to the private sector. (Santoro, 2015). This period strongly encouraged policy and market liberalisation, privatization promotion of entrepreneurialism in housing provision (ibid.). Public Housing projects were then replaced with housing subsidy programmes

designed to finance private housing production and acquisition (ibid., SAPOA, 2018: 9). As a result, public private partnerships became a key instrument in social housing provision.

The initial intervention for affordable housing provision in Sao Paulo was the reservation of well-located urban land for affordable housing development (ibid.). Appropriate zoning was utilised to delineate social housing zones, referred to as ZEIS in the City's 2002 Master Plan (Santoro, 2015). The zoning mechanism of ZEIS seeks to overcome market forces by proposing well-located land and central areas for social housing (Santoro, 2015). "…It ensures that the poor can live in the city- in urbanised, well infrastructured and equipped areas- and not outside it (Santoro, 2015:5)."

Subsidies were granted to low income households, through the National Housing Subsidy, to enable them to acquire the social housing units (SAPOA, 2018). Approximately 10% of the urbanised area of Sao Paulo was demarcated as ZEIS in the City's 2002 Master Plan (Santoro, 2019). ZEIS had a mandatory percentage of area dedicated for affordable housing development and it came with incentives such as free building rights and density bonuses (ibid.). It required that 40% of a site be used for affordable housing, 40% for market housing and 20% for other uses (ibid.). According to Santoro (2015), this instrument has not been very effective due to a number of reasons including high land prices in central areas which prevent government acquisition and the inability to allow enough profitability to attract the market to produce low-income housing. Furthermore, in these good locations, families negotiate their properties, under the pressure of market prices in these locations, therefore moving to peripheral cheaper areas and re-enforcing the poor periphery (ibid.).

Similarly, in Malaysia, Inclusionary Housing also takes on a public private partnership approach where the State provides land and assists developers with technical and administrative aspects and developers finance and build affordable housing (Smit and Purchase, 2006). The minimum requirements on unit sizes and number of bedrooms for Inclusionary Housing are based on the average household size. The Inclusionary Housing requirement is a mandatory 30% for developments of a certain threshold with a cap on price and discounts on unit prices for certain groupings, which is cross-subsidised within a development (ibid.). Incentives provided include: faster plan approvals, lower land premiums; infrastructure cost subsidisation, relaxation in planning and housing standards and; concessions from financial contributions to utility authorities (ibid.).

3.6.3 Voluntary versus Mandatory Inclusionary Housing Approaches

The impact of Inclusionary Housing programmes depend on their design (Basolo, 2011). A voluntary or mandatory approach is but one programme design element that influences the impact of the programme, others include cost offsets and percentage of units to be made affordable among others (ibid.). Programme design can therefore determine whether or not the intended outcomes of Inclusionary Housing are achieved, and the extent to which they are achieved. For the purposes of this research the focus is on one key element in Inclusionary Housing programme design: a voluntary versus a mandatory approach. It must, however be noted that this component cannot be considered in isolation of other elements of an Inclusionary Housing programme in evaluating the success of Inclusionary Housing programmes. This also becomes apparent in some of the cite challenges and benefits of each approach.

Mandatory and voluntary are the common terms used internationally to refer to the two approaches to Inclusionary Housing that are used in current Inclusionary Housing programs internationally. Mandatory means that a certain percentage of inclusionary units is set aside as a condition of approval of a project, whereas voluntary means that a developer has the option to set aside a percentage of units for Inclusionary Housing in exchange for certain incentives (Padilla, 1995).

This terminology can be used interchangeably with regulated and negotiated. Regulated refers to mandatory and negotiated refers to voluntary. A voluntary approach, which provides developers the option to set aside a percentage of units for Inclusionary Housing opens up room for negotiation which also means that there is a possibility that the Inclusionary Housing provision may not be taken up. A mandatory approach on the other hand requires that a certain percentage of units are set aside for Inclusionary Housing as a condition of approval of a development (ibid.), which is a more regulated approach. A majority of Inclusionary Housing programs internationally are mandatory (ibid.) and the reasons for this are clear in the benefits of mandatory Inclusionary Housing programmes that have been documented.

In the case of California for example, it is said that the programmes that generate the most affordable housing units are the mandatory ones (SAPOA, 2018). It is argued that this is the case because the incentives offered as part of the voluntary programs are insufficient. It is argued that substantial government subsidy is required with the implementation of the voluntary approach in order to increase private sector participation, however this also places a financial burden on the state (ibid.). Proponents for mandatory approaches to Inclusionary Housing argue that it increases housing supply by ensuring

certainty and stability of the investment market for the private sector because it is predictable, it sets uniform standards and requirements which establishes a level playing field for developers (Brunick, 2004, SAPOA, 2018). Thus it is argued that mandatory programs have been more successful than voluntary ones (Lerman, 2006).

Calavita and Mallach (2010), in contrast to this view, argue that the shift toward more flexible planning approaches and away from regulation emphasizes land market liberalization, negotiation and public-private partnerships, which results in higher levels of developer buy in. Calavita, Grimes and Mallach (1997) argue that voluntary Inclusionary Housing programs create decentralized, ad hoc and incremental systems. In a voluntary approach, affordable housing requirements and incentives are negotiated between the state and developers on a case by case basis. While it is argued that this creates uncertainty and delays in the project planning and development procesess (SAPOA, 2018), it is also argued that the planning system may perform better in creating possibilities for Inclusionary Housing if it is flexible enough to allow for Inclusionary Housing requirements to be applied with discretion based on need for affordable housing per location, as opposed to a mandatory standard condition (Kam, Needham and Buitelaar, 2013). This suggests a need for some level of flexibility in implementing Inclusionary Housing requirements for better outcomes. An added challenge to negotiation however is potential political influence, maladministration, and favouritism which may undermine the negotiation process (SAPOA, 2018). It is on this basis that the certainty provided by a mandatory approach on unit requirements and cost offsetting measures is seen to be the most efficient approach to Inclusionary Housing by some (ibid). Overall there appears to be a strong inclination towards mandatory approaches to Inclusionary Housing versus voluntary approaches.

3.6.4 Challenges and Benefits of Inclusionary Housing Policies

There are obviously challenges and benefits to the different ways in which Inclusionary Housing programmes are packaged. According to Padilla (1995) and Wiener and Barton (2013), the success of Inclusionary Housing programs is dependent on a number of factors which includes program details; and a programs' ability to balance the production of affordable housing with incentives adequate to ensure profitability to developers. Further to that the success of a mandatory Inclusionary Housing policy is dependent on the ability of low income households to finance the acquisition of those units (Kam, Needham and Buitelaar, 2013). It has also been argued by some like Basolo (2011) that Inclusionary Housing works in booming housing markets. In an assessment of the English Inclusionary Housing programme, SAPOA (2018) found that the success of Inclusionary Housing is linked to and determined

by the local housing market because when the market is in a downturn, the willingness of developers to provide Inclusionary Housing subsides which complicates negotiations and lowers Inclusionary housing requirements. The state of the housing market therefore should be a consideration in developing Inclusionary Housing policies.

One of the biggest challenges with implementing Inclusionary Housing is high development costs resulting from delays in development approvals which may result in substandard workmanship in Inclusionary Housing developments. This has been one of the challenges of implementing Inclusionary Housing in Malaysia (Smit and Purchase, 2006). As a result of increased developer costs, it is argued by some Inclusionary Housing critics that Inclusionary Housing programs may exacerbate the shortage of affordable housing by causing developers to raise prices of market rate units or by developing less housing (Talbert, Costa and Krumbein, 2006). Others however, argue that Inclusionary Housing programs will not increase housing prices, but if they do it would not be more than what the market will bear (Breen, 2015). It is further argued that with adequate incentives, it is likely that general house prices will not increase (ibid), this supports the argument made by Padilla (1995) and Wiener and Barton (2013) on the balance between affordable housing production and incentives.

Flexibility or inflexibility of programs is also an important consideration. In Malaysia, a mandatory 30% Inclusionary Housing requirement has resulted in an oversupply of affordable housing in some areas, with units standing without buyers (Smit and Purchase, 2006). There are also cases of abandoned projects based on a lack of affordable housing unit buyers and inability of higher income buyers to carry that cost (ibid.). This is an issue of balancing demand with the ability of households to acquire units. On the other hand, a flexible approach which is witnessed in England also poses challenges to implementation of Inclusionary Housing because it is negotiated and Meda (2009) argues that there may be problems in negotiating due to poorer negotiation capacity and market awareness of local authorities.

More broadly it is argued that it inhibits free market forces and passes the burden of a social problem onto the private sector (Breen, 2015). The arguments of critics suggest that although it may be helpful for some households, the scale of impact is small in comparison to the demand and it is generally impractical in smaller developments (ibid). It is thus said that it offers a partial solution to the affordable housing crisis (ibid.).

On the more positive side, Inclusionary Housing polices do have their benefits. They produce more affordable housing where it traditionally has not been available, therefore increasing socio-economic

integration (Padilla, 1995). It is a viable alternative to 100% publicly financed housing and creates a better job-housing balance, through the development of more housing close to job opportunities (ibid.).

Inclusionary Housing policies also benefit developers in the following ways: provides clarity on what is required, transparent processes, levels the playing field and provides incentives and bonuses which improve project viability for developers (Breen, 2015). These factors; according to Breen (2015); provide certainty, reduce risks and supports efficient market delivery.

3.6.5 A Summary of findings on Inclusionary Housing policy internationally

Literature demonstrates that Inclusionary Housing policies are not new, dating as far back as the 1970's in the global north. It also demonstrates that the concept and its related interventions has spread across the globe over the years to address issues around affordable housing delivery and social inclusion. The need to address these issues arose at different times in different countries and largely influenced by the socio-economic and political dynamics of each country. As such the manner in which the policies or programmes are packaged differs based on the housing and planning systems of each country, however, there are key commonalities that ought to be noted.

The U.S definition of Inclusionary Housing as "… a means of using the planning system to create affordable housing and foster social inclusion by capturing resources created through the marketplace" (Calavita and Mallach, 2010: 1), is applicable to all other Inclusionary Housing policies in the reviewed literature. The key component being a land use tool being utilised to facilitate affordable housing provision. The definition of affordability, however, varies across jurisdictions depending on its socio-economic dynamics and this definition requires careful consideration.

Inclusionary Housing is generally implemented through inclusionary zoning practices, where a fixed or flexible percentage of new residential build is required to be set aside for affordable housing. In the global south, public private partnerships appear to be particularly important in affordable housing provision. Options for a developer to satisfy the Inclusionary Housing requirements often range from, the inclusionary units being developed on the same site as the market units to units being developed off site, or a fee paid in lieu of building those units (Wiener and Barton, 2013). The percentage requirement is dependent on various factors including, whether the unit is for sale or rent and, the targeted beneficiary income group (ibid.). The percentage often varies from 6% to 35% of new residential developments, however in some countries such as Canada, even commercial developers are required to contribute to affordable housing (Smit and Purchase, 2006). With regards to scale, some programs

apply to all new developments whilst others apply to developments of a certain unit size which ranges from two to fifty units (Wiener and Barton, 2013).

Financial assistance or regulatory relief is generally offered by the state as cost off sets to developers. What is offered is context specific and differs across countries and localities, however common offsets include density bonuses, fee waivers, fast tracked approvals, relaxed parking requirements and relaxed design restrictions among others (Calavita, Grimes and Mallach, 1997). The state may also provide subsidies to developers and the targeted households.

Lastly, most policies are mandatory, with flexibility in implementation options. In their review of Inclusionary Housing in California, Wiener and Barton (2013) argue that the most successful jurisdictions create mandatory programs which are accompanied by meaningful incentives that result in actual units. California seems to have been successful in producing new affordable housing through Inclusionary Housing and it is likely that, other cities in countries across the globe have learnt from this and it has resulted in the majority of Inclusionary Housing policies developed internationally being mandatory.

In cases where it is voluntary, what has been learnt from the U.S inclusionary zoning practices is that it is not always taken up, however the voluntary option does give the industry choice and sets the foundation, so if the market performs better and development interest rises, the opportunity for Inclusionary Housing development is captured (Breen, 2015). Most programmes are dependent on either, government subsidies, tax incentives or planning and development incentives or a combination of these.

The greatest challenges of Inclusionary Housing policies internationally are: the volatility of the residential construction market, development costs and administrative aspects of implementing the policies. These are key concerns which ought to be considered in the development of any Inclusionary Housing policy.

3.7 INCLUSIONARY HOUSING IN SOUTH AFRICA

Although the global housing policy position has shifted from supply to market enabling approaches, mass housing supply is still common in some Sub-Saharan African countries such as Angola, Namibia, Ethiopia and South Africa (Croese, Cirolia and Graham, 2016). However, housing affordability remains a critical challenge. Land Supply and poor housing markets with unaffordable housing finance are cited as the biggest challenges to housing affordability in African countries (Groves, 2004).

In South Africa, which is the focus of this research, despite government housing subsidies, housing affordability remains a challenge. According to Groves (2004: 28), "there is a growing acceptance that the overly simplistic market-orientated urban/housing policy…will not overcome race and class based spatial inequalities such as those cemented in the apartheid urban form" (Groves, 2004: 28).

South Africa's post-apartheid housing policy has significantly shaped South African Cities, through its project linked capital subsidy for fully subsidised free standing houses. The location of these houses is often at the fringes of urban areas where land is cheap and lacks access to social services, public transportation and job opportunities (Charlton and Kihato, 2006). Due to a focus on delivery figures, housing delivery has neglected issues of redress of spatially divided cities (Huchzermeyer and Karam, 2016). This concern has led to the emergence of the concept of Inclusionary Housing in the South African housing and urban planning policy landscape (Klug, Rubin and Todes, 2013). Much like in the U.S there was an acknowledgement of a housing and land use system that perpetuated exclusionary development.

The emergence of Inclusionary Housing in South African urban discourse was in 2005 following a housing Indaba where a social contract for rapid housing delivery was signed between government and stakeholders in the housing development sector (Department of Human Settlements, 2007). At this point the National Housing Policy, Breaking New Ground, had begun to emphasise sustainable human settlement development which promotes integration.

The contract stated that, "every commercial development including housing developments that are not directed at those earning R1500 or less, spend a minimum of 20% of project value on the construction of affordable housing" (Department of Human Settlements, 2007:3). Affordable housing was defined as housing targeting households earning between R1500 and R8000 per month (ibid.).

Following this social contract, the National Department of Human Settlements commissioned research on Inclusionary Housing and engaged with the private sector to find ways of implementing Inclusionary Housing. The department then drafted a National Framework for an Inclusionary Housing policy in South Africa, which defined Inclusionary Housing as, "the harnessing of private initiative in its pursuit of housing delivery to middle/higher income households to also provide (include) affordable housing opportunities in order to achieve a better socio-economic balance in residential developments and also contribute to the supply of affordable housing" (Department of Human Settlements, 2007: 9). Its core objective was the promotion of social integration in South Africa's built environment (Department of Human Settlements, 2007).

The definition of affordable housing in this instance, was split between affordable housing for ownership and affordable housing for rental. Affordable housing for ownership was defined as, "the range between the current cost of a fully subsidised RDP house and the top of the affordable housing range as defined in the Financial Sector Charter plus 40%" (Department of Human Settlements, 2007: 9). RDP house refers to a fully subsidised house under the South African housing policy, Reconstruction and Development Programme. The Financial Sector Charter (FSC), is a commitment by the financial sector to increase access to financial services by poor households and communities (Tomlinson, 2007). It included directing R42billion of investment into low income housing during its first phase which began in 2004 (Rust, 2013) and the top of the affordable housing range was R8600 in 2007 (Melzer, 2009). Affordable housing for rental was defined as, "the range between the rent that someone earning R1500 per month can pay and the rent that someone earning R7500 per month plus 20% can pay" (Department of Human Settlements, 2007: 10).

This framework provided a guideline for the development of Inclusionary Housing policies in the country. It provided two approaches to Inclusionary Housing implementation: a voluntary pro- active deal driven approach, the negotiated approach and; a town planning compliant approach, the mandatory approach (ibid.). The voluntary pro-active deal driven approach refers to a project driven mutually beneficial arrangement by willing partners around which partnerships with the private sector may be pursued. The town planning compliant approach refers to mandatory Inclusionary Housing requirements which are offset by appropriate incentives in land use planning and development control processes. This approach is based on meeting specified Inclusionary Housing requirements in return for being awarded certain development rights (ibid.). This framework states that no mandatory requirement should be implemented unless it is supported by reasonably proportional incentives (Department of Human

Settlements, 2007). Furthermore, it emphasizes allowance for flexibility given that circumstances in residential development projects are varied (ibid.). One of the key considerations of this framework was the price cliff between affordable and market units which is much greater in South Africa than is the case internationally and it is said that this could make projects unviable. For this reason, the framework proposed off site compliance to ensure that the price gradient is less steep (ibid.). This Framework presents options for the implementation of Inclusionary Housing in South Africa in a manner that is beneficial for citizens, government and developers, however this policy has not been adopted (ibid.).

Inclusionary Housing has increasingly become common discourse in South Africa, with some of the Metropolitan Municipalities, namely the City of Cape Town, eThekwini Municipality and the City of Johannesburg making efforts to develop inclusionary housing. A brief account of each of the City's efforts is detailed below. These are important in building the narrative for Inclusionary Housing in South Africa and highlighting important considerations for Inclusionary Housing policy in the local context. The Gauteng Housing department also formulated a draft Inclusionary Housing policy which was not concluded (City of Johannesburg, 2009) and those discussions have re-emerged amidst the current 2018 City of Johannesburg Inclusionary Housing policy debates.

3.7.1 Inclusionary Housing in Cape Town

The City of Cape Town is, at the time this research is being conducted, looking at ways in which it could approach Inclusionary Housing. The City published a concept document which presents key considerations which the City of Cape Town will take into account in developing its Inclusionary Housing policy. It proposes a requirement for the inclusion of affordable housing through the development of affordable housing on the same site as the market units; the development of affordable housing off-site or fees in lieu which are to be invested in social housing or other affordable housing development (City of Cape Town, n.d). This approach is more in line with what was proposed in the draft National Framework for Inclusionary Housing. This Inclusionary Housing requirement would be mandatory in (what is referred to in the concept document as) key areas of the city, and voluntary in others. The key areas are to be designated as Inclusionary Housing overlay zones and have automatic up-zoning of development rights to create more value; with certain rights and incentives being granted. Areas to be designated Inclusionary Housing overlay zones are those areas with appropriately strong land markets (ibid.).

Although a summary of incentives based on international Inclusionary Housing programmes is outlined in the concept document, there is no clear commitment or indication provided to which incentives

would be offered by the City of Cape Town. There is also no specified percentage of Inclusionary Housing suggested, however it is stated that the affordable housing contribution would be negotiated on a case by case basis, taking into consideration the residual land value and development cost (City of Cape Town, n.d). The value of the contribution would be based on a sliding scale aimed at incentivizing the provision of affordable housing on-site as opposed to off-site or in lieu fees. This means that there would be a lower contribution required for on-site development of affordable housing and higher contributions for off-site provision, with the highest contribution being given to the in lieu fees option (ibid.).

With regards to defining affordability, the City of Cape Town proposes three approaches. The first approach is one that presents a standard definition of affordability across the city; that being a monthly household income of R20 000 or less. Using the rationale of housing not being more than 30% of household costs, this means that affordable housing in Cape Town means rentals not exceeding R6000 or sales prices not exceeding R600 000. The second approach entails defining affordability as a proportion of a sub-area median income or calculated based on average property value per suburb. The third and last possible approach is location driven where affordability is calculated as per the second option if the Inclusionary Housing is developed on site, otherwise as per the standard definition in the case of off-site development or fees in lieu (ibid). It is evident that the City of Cape Town is giving very careful consideration to how affordability is defined in its Inclusionary Housing policy considerations. This is important because it has been argued that the fixed target income groups for affordable and social housing in South Africa do not consider spatial fluctuations in cost (SAPOA, 2018). It is argued that this fixed affordability income threshold will expose developers in some areas to substantial revenue losses and financial risk (ibid.). Thus it is suggested that to increase the feasibility of Inclusionary Housing projects, the target affordability threshold must be location flexible and incorporate a broader income range (ibid.).

Most recent developments have seen the City of Cape Town being challenged legally by a housing activist group, Ndifuna Ukwazi, over its approval of a proposed mixed use development which is to become one of Cape Town's tallest buildings. The development was approved without Inclusionary Housing and it is argued by Ndifuna Ukwazi that this entrenches a system of racial segregation and unequal access to services (Jason, 2019). There is thus increasing pressure for the City of Cape Town to implement Inclusionary Housing.

3.7.2 Inclusionary Housing in Durban

The eThekwini Municipality does not have an approved Inclusionary Housing policy, however, Inclusionary Housing has been developed by private developers and funders in the municipality's upmarket suburb of Umhlanga. This development was financed by International Housing Solutions, a global private equity funder of affordable housing (SA Commercial Property News, 2012).

The development, called The Mews forms part of the Gateway shopping mall precinct and consists of multi-storey blocks with 447 units varying from $37m^2$ up to $55m^2$. 61 of these units (12.8% of housing stock) are referred to as Inclusionary Housing. These are social housing units with a 10-year title deed restriction that limits the selling price (Barger, 2016). The price range of units was set between R400 000 and R800 000 (ibid.).

According to Barger (2016), a key concern with this development is that it runs the risk of investors buying multiple affordable apartments and reselling them at higher prices to more affluent buyers. They argue that although government can control the percentage of Inclusionary Housing required, the developers are private and have control over the sales of the social housing units as well (ibid.). They cite internet advertisements for the 'affordable' units in 2015, with rentals of R8700 for two bedroom units and R6500 for one bedroom units. They use this as evidence to argue that the rentals do not cater to a lower to middle income population which they defined as the GAP housing market at the time, which was people earning between R3500 and R15 000 a month. These units would therefore be unaffordable for that market. How Inclusionary Housing stock will be retained within defined affordability brackets is therefore an important element of Inclusionary Housing policy.

3.7.3 Inclusionary Housing in Johannesburg

In 2009, following the published Framework for an Inclusionary Housing Policy by the Department of Human Settlements, the City of Johannesburg drafted its first Inclusionary Housing policy which was intended to fill the lower-middle income gap in the housing market (City of Johannesburg, 2009). This draft policy was very closely aligned to the guidelines for Inclusionary Housing presented in the national framework, using the same affordability income bands as those presented in the framework. Inclusionary Housing was seen as one of a range of tools with the potential to redress spatial inequities in the City (ibid.). This draft policy addressed both rental housing and ownership and presented both a mandatory and negotiated approach to implementation. For ownership the focus was on units selling below R500 000 and for rentals, affordable was defined as rentals of between R600 and R1500 per month for household incomes ranges of R1500 to R7500.

The mandatory approach offered two alternatives; one being off-site compliance which allows a developer to build the inclusionary requirement off-site in a strategic priority area and the other giving developers the opportunity to pay an in lieu fee upon proving that inclusionary units are not financially viable on or off-site or where the price of the product built by the developer exceeds three times the cost of an inclusionary unit (City of Johannesburg, 2009). Although the policy was intended to be implemented city-wide, the draft document presented that it was to be implemented in a phased approach for monitoring and evaluation purposes and the City's initial focus was that of facilitating a deal driven negotiated approach along its Public Transport Management Areas and other priority areas (ibid.). The policy makes reference to a range of incentives as being at various stages of implementation at the time the policy was drafted, however no detail is provided on how these incentives were or would be applied. Such incentives included: density bonuses, fast tracking of building plan applications and waiver of application and building plan fees, bulk contributions reductions, unit size reduction and relaxed parking requirements (City of Johannesburg, 2009). This policy was, however, never implemented by the City.

Post the introduction of this policy, the concept of Inclusionary Housing began to be echoed in other spatial policies of the City, such as the Corridors of Freedom. "The Corridors of Freedom are an initiative that seeks to build a new city along and around mass transit movement lines in selected areas of the City to create housing, jobs and social opportunities in proximity to each other" (City of Johannesburg, n.d: 8). The objectives of these policies were to introduce and guide the implementation of Transit Oriented Development in the City in an attempt to address the challenges of sprawling low density development.

One of the key features of the Corridors of Freedom is the provision of a range of housing options to cater for a range of income groups. The policies thus have a focus on the provision of affordable and social housing within these transit corridors and encourage the negotiation of aspects that relate to Inclusionary Housing in these spaces (City of Johannesburg, n.d).

In June 2016, the City of Johannesburg approved its most recent Spatial Development Framework (SDF) which re-introduced Inclusionary Housing in the City of Johannesburg. It stipulates a mandatory 20% Inclusionary Housing in all developments in the City that are 10 or more dwelling units (City of Johannesburg, 2016). This follows a requirement in the Spatial Planning and Land Use Management Act No 16 of 2013 for Municipal Spatial Development Frameworks to identify areas where a national or provincial Inclusionary Housing policy may be applicable (Republic of South Africa, 2013). Affordability in this instance refers to households earning less than R7000 per month, based on the City's income

distribution which illustrates that although Johannesburg has a relatively high average household income of R15 270 per month, 50% of households earn less than approximately R3500 per month (City of Johannesburg, 2016). In terms of the Gini coefficient, Johannesburg ranks one of the most unequal cities in the world. This makes Inclusionary Housing development that much more important and in the same vein, that much more challenging for the City. Following the Inclusionary Housing requirement stipulated in the SDF, there has been a number of attempts of implementing Inclusionary Housing in the city, some of which are presented and discussed in later chapters of this research report.

In February 2018, the City then published another draft Inclusionary Housing policy for public comment. The intention of the document was to define incentives, mechanisms and regulations for Inclusionary Housing in the city (City of Johannesburg, 2018b). The draft policy proposed that every new development of 10 dwelling units or more will be required to provide a minimum of 20% Inclusionary Housing which is in the form of rental housing only (City of Johannesburg, 2018b). This Inclusionary Housing requirement was presented as mandatory and is to be conditional on development application approvals. "Inclusionary Housing will be mandatory for any development in the city that includes 10 dwelling units or more" (City of Johannesburg, 2018b: 2). The policy offered incentives in the form of proportional bonuses in development controls, property rates rebates and reductions in parking requirements. Following the public comment period, amendments based on comments received were made to the policy and the proposed amendments presented to the public.

In the revisions made to the policy, the threshold that triggers an Inclusionary Housing requirement was increased from 10 to 20 dwelling units based on average and median sectional title scheme size (City of Johannesburg, 2018b). It specifies that implementation of Inclusionary Housing below 20 dwelling units will be voluntary. More flexibility was also worked into the types of Inclusionary Housing options that may be provided, giving developers a choice of four options which include: Social housing, FLISP or housing with a rental cap of R2100 per month; two options capped by a percentage of total residential floor area and the option of satisfying the City's Development Planning department should the presented options not work for any developer (ibid.). In this revised version of the policy, affordability is to be regulated by the size of the units and is not only limited to rental units. This policy was adopted by the City Council in February 2019. To date no national policy or legislation on Inclusionary Housing exists in the country.

The City of Johannesburg now has an approved Inclusionary Housing policy, whereas the Gauteng Human Settlements Department is still working on a provincial policy. The City of Cape Town was also,

at the time that this research was conducted, working on developing a policy. This research is focused on Johannesburg and will further unpack Inclusionary Housing policy in the City of Johannesburg.

3.7.4 A summary of Inclusionary Housing policy considerations in SA

Inclusionary Housing as a concept in South Africa is still at its infancy, with only Johannesburg having an approved Inclusionary Housing policy and no national legislation on the concept, however, the latter is common course globally. The inequalities created by the apartheid spatial planning regime and the lack of spatial change post-apartheid warrant the need for interventions like Inclusionary Housing. The country seems to have made significant strides in looking into Inclusionary Housing from a national level, through the Framework for an Inclusionary Housing policy that was drafted. This framework has guided the efforts of the City of Johannesburg and the City of Cape Town at developing their Inclusionary Housing policy and Inclusionary Housing concept respectively.

The policy framework has been focused on offering both voluntary and mandatory approaches to Inclusionary Housing, supported by reasonably proportional incentives. The framework also emphasized the need for reasonable allowance for flexibility because residential development projects are different. The City of Cape Town has looked into a mandatory Inclusionary Housing requirement in key areas and voluntary in other areas. The City of Johannesburg's initial policy also offered both a mandatory and a negotiated approach however it was intended to be implemented city-wide, but in a phased approach initially focusing on a deal driven negotiated approach within priority areas. Contrary to how the Inclusionary Housing policy framework has been developing in the country, offering both mandatory and voluntary approaches and being targeted in priority areas; the current City of Johannesburg's approved Inclusionary Housing policy specifies a mandatory 30% and applies across the entire city, but offering four options for developers to choose from.

Some key concerns with Inclusionary Housing in South Africa that have been noted are its sustainability and retaining affordability over the long term. In the Durban case, a key concern was the risk of investors buying multiple affordable apartments and reselling them at higher prices. South Africa's income inequality is also among the highest in the world. This means that there is a big gap between the proportion of people able to access housing through the market, versus those who seek affordable housing, and when compared to other countries, the proportion of those who seek affordable housing is very high (Smit and Purchase, 2006). In the U.S and the UK, the proportion of the total population that would fall in the affordable housing category is 10%-20% whereas the comparable proportion in South Africa is 70%- 80% (ibid.). This means that there is significantly more pressure for the development of

affordable housing in South Africa than in the UK or the U.S, which on its own poses a challenge to how Inclusionary Housing should be approached in the country.

This research will unpack the City of Johannesburg's Inclusionary Housing policy and seek to draw conclusions on what the best approach is to Inclusionary Housing in Johannesburg, with a particular focus on a negotiated versus a regulated approach given the Johannesburg context. The findings will be analysed from an urban governance perspective, presenting a discussion on the City of Johannesburg's urban planning approaches and unpacking the processes and dynamics involved between the city's planners and private developers in implementing Inclusionary Housing in Johannesburg.

3.8 CONCLUSION

Inclusionary Housing is a mechanism used by governments to create affordable housing through the private sector, by mandating or encouraging developers to set aside a certain percentage of their developments for affordable housing development. Inclusionary Housing practices are thus a form of governance that draws from collaborative planning theory.

It's origins through a U.S Civil Rights movement attempt to address racial segregation has made it synonymous with social integration and socio-economic balance. Given that it is a land use tool, the land use regulatory systems of countries play a significant role in how Inclusionary Housing can be implemented. Most Inclusionary Housing programmes offer incentives such as faster plan approvals, infrastructure cost subsidisation, density bonuses and parking relaxations to developers as cost offsets. The incentives offered are also dependent on the ability of the implementers, generally local authorities, to execute them.

Much of the debate on Inclusionary Housing policies is centred on whether the policies or programs are mandatory or voluntary and how the programmes are packaged. The literature shows that most programs take on a mandatory approach. There is also debate around the impact of Inclusionary Housing policies on the housing and development market with some arguing that it may slow down or halt housing development and as a result make housing more unaffordable. Regardless of such arguments, evidence in the United States shows that Inclusionary Housing programmes have resulted in increased affordable housing delivery and social integration.

This literature review has presented urban governance as a framework within which to analyse and unpack the key urban challenge of affordable housing. It has presented urban planning, particularly

contemporary planning theory as advancing urban governance. It has shown how affordable housing has been addressed by planning systems through Inclusionary Housing policies. It highlighted key themes in Inclusionary Housing policies internationally and unpacked Inclusionary Housing developments in South Africa. The following chapters 4 and 5 will present Inclusionary Housing cases in Johannesburg and present an analysis of these cases reflecting on this literature review.

4 INCLUSIONARY HOUSING PRACTICES IN THE CITY OF JOHANNESBURG

4.1 INTRODUCTION

Inclusionary Housing is not a new concept to the City of Johannesburg. The City has had the concept of Inclusionary Housing reflected in some its planning policies for quite some time. From its initial 2009 Inclusionary Housing policy, it filtered into other planning policies such as the 'Corridors of Freedom' and more recently the Spatial Development Framework 2040 approved in 2016, prior to the current Inclusionary Housing policy which was approved in February 2019. These have manifested in a number of Inclusionary Housing practices being negotiated by City officials to address the affordable housing need identified in the said policies. In these practices, which are detailed in this chapter, City officials have negotiated for Inclusionary Housing conditions in certain developments where developers sought to significantly exceed the development parameters of existing policy. The city officials in these cases had a clear objective of introducing Inclusionary Housing into developments and bargained with developers to satisfy both theirs and the developer's objectives. The decision making powers of the development planning department of the City when it comes to land development is a key driving force shaping the City's physical development but also shaping social objectives such as social inclusion.

This chapter looks at the planning system and governance approaches in the City of Johannesburg and unpacks the City's approaches to Inclusionary Housing through a few case studies. Lastly the chapter presents a summary of the City of Johannesburg's approach to Inclusionary Housing based on the cases, and highlights some of its challenges.

4.2 THE PLANNING SYSTEM AND GOVERNANCE IN THE CITY OF JOHANNESBURG

The Development Planning department is responsible for setting out the City's future spatial development trajectory and for the processing of development applications in line with this vision. The department is the primary decision-maker of the location, type and scale of development within the City (City of Johannesburg, 2019a). The department is one of eight core departments of the City's administration as shown on Figure 2. The City of Johannesburg is made up of a legislative arm which is the Council, the executive arm which is the mayor and mayoral committee and lastly an administrative arm which is the city officials. The Council is responsible for approving by-laws, budgets and policies to govern the City's affairs subject to national and provincial legislation. Its role also includes debating and discussing city issues. The Council delegates its executive function to the Executive Mayor (EM) and the mayoral committee and oversees the executive through regular reporting from the Executive mayor and the mayoral committee. The executive therefore consists of the Executive Mayor and Members of the Mayoral Committee (MMCs). The mayoral committee is made up of councilors with specific portfolios linked to departments within the municipal administration. The executive arm of the City oversees the work of the municipal manager and department heads, it proposes policy and presents budget proposals and implementation plans to the Council. Once policies, budgets and implementation plans are approved by Council, the executive is responsible for ensuring that the municipal administration implements them, through monitoring and oversight. The administration is headed by the municipal manager who is responsible for the overall functioning of the administration. City officials and employees are appointed to perform specific technical and specialised jobs within the municipal administration and report to the municipal management. Councillors rely on the reports of officials in their decision making and once decisions have been made by Council, officials carry out their duties towards the implementation of Council decisions.

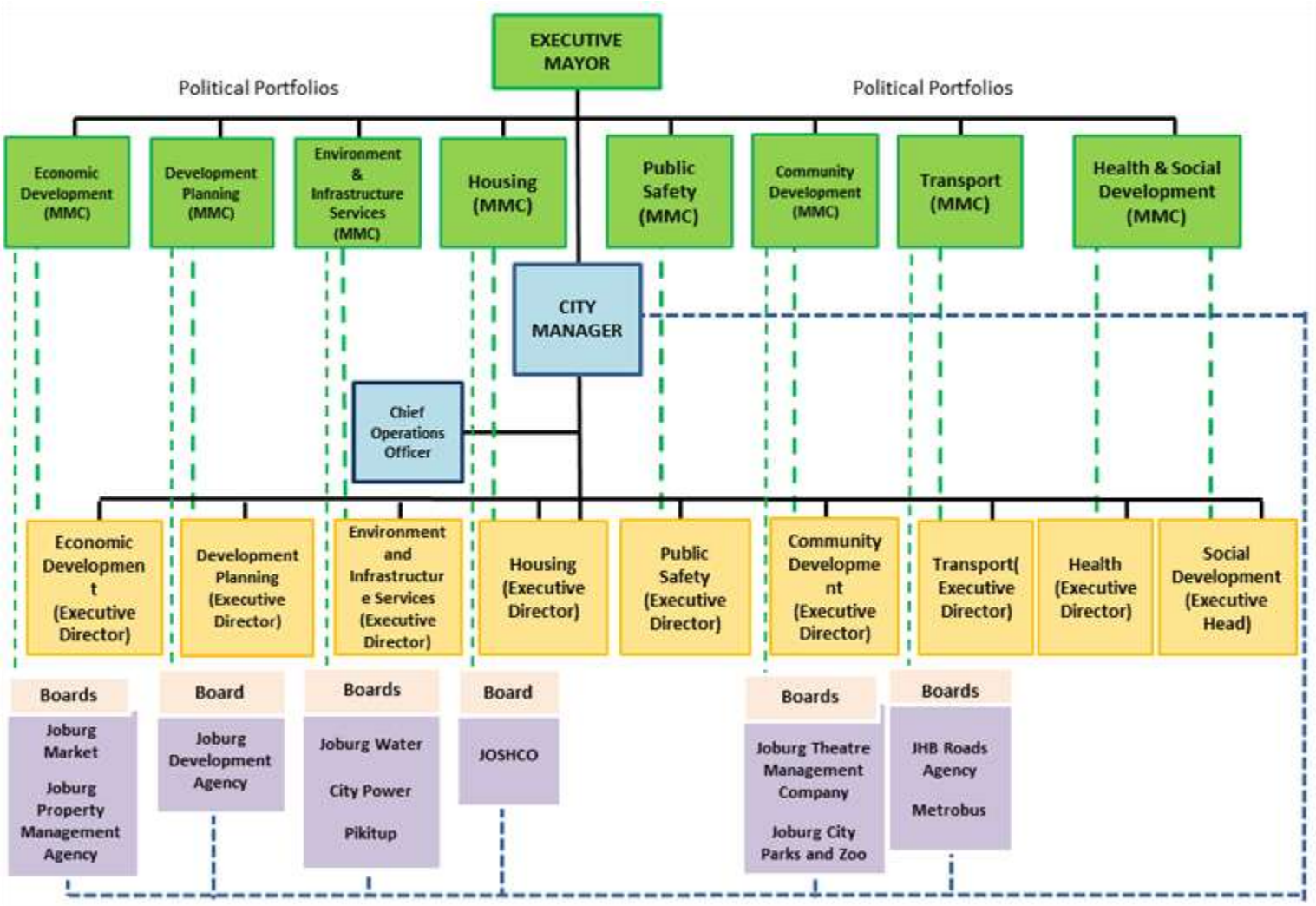

Figure 2: City of Johannesburg Executive and Administration Organogram (City of Johannesburg, 2018a)

The planning department consists of a number of directorates that execute the planning and development management functions of the city. These directorates are outlined in the subsection that follows, they execute their functions in accordance with the following policies: The City of Johannesburg Municipal Planning By-Laws, the City of Johannesburg Land Use Scheme and the City of Johannesburg Spatial Development Framework. These are legislated requirements of the Spatial Planning and Land Use Management Act (SPLUMA), Act No. 16 of 2013, which replaced the Development Facilitation Act 67 of 1995 as the overarching legislation that governs planning in the country.

Municipal Planning By-Laws regulate land and land development within a municipal jurisdiction by outlining the general requirements and application procedures for all types of land development applications (City of Johannesburg Municipal Planning By-Law, 2016). A Land Use Scheme is a tool used to determine the use and development of land within the City's jurisdiction (ibid.). It gives effect to and has to be consistent with the City's Spatial Development Framework. It sets out various use zones applicable to land and buildings in a jurisdiction and the purpose for which such land and buildings may or may not be used as well as the purpose for which such land and buildings may only be used with consent of the Council (ibid.). Essentially a Land Use Scheme (LUS) gives land users guidance in terms of the types of rights that they may or may not exercise on their properties, and the By-Laws give the land user direction with regards to processes and procedures they should follow in the event that they want to amend their rights. The outcome of an amendment of land or property rights is then guided by the City's Spatial Development Framework and related spatial policies.

4.2.1 Key Development Planning Directorates

The key directorates of the development planning department which are of relevance in understanding Inclusionary Housing and its implementation in the City are: Land Use Development Management, City Transformation and Spatial Planning and, Building Development Management. Land Use Development Management is focused on the processing of development applications in accordance with the City's By-Laws, Land Use Schemes and Spatial Plans or policies.

The City Transformation and Spatial Planning directorate is responsible for all spatial planning in the City and plays a coordination role between internal and external stakeholders to facilitate the implementation of interventions and projects contained in the Spatial Development Framework (SDF) and lower level plans (City of Johannesburg, 2019a). A SDF is a legislated document that acts as a tool to guide the desired spatial form of a municipality. Other spatial plans developed by municipalities all seek to provide greater detail and guidance to the implementation of the municipality's SDF. The hierarchy of

spatial plans in the City of Johannesburg is depicted in Figure 3 reflects this. The SDF is a city-wide plan that presents the overall objectives and guidelines for spatial development and it informs the regional and more localised spatial plans which unpack the SDF. These plans inform decisions made on all land development applications.

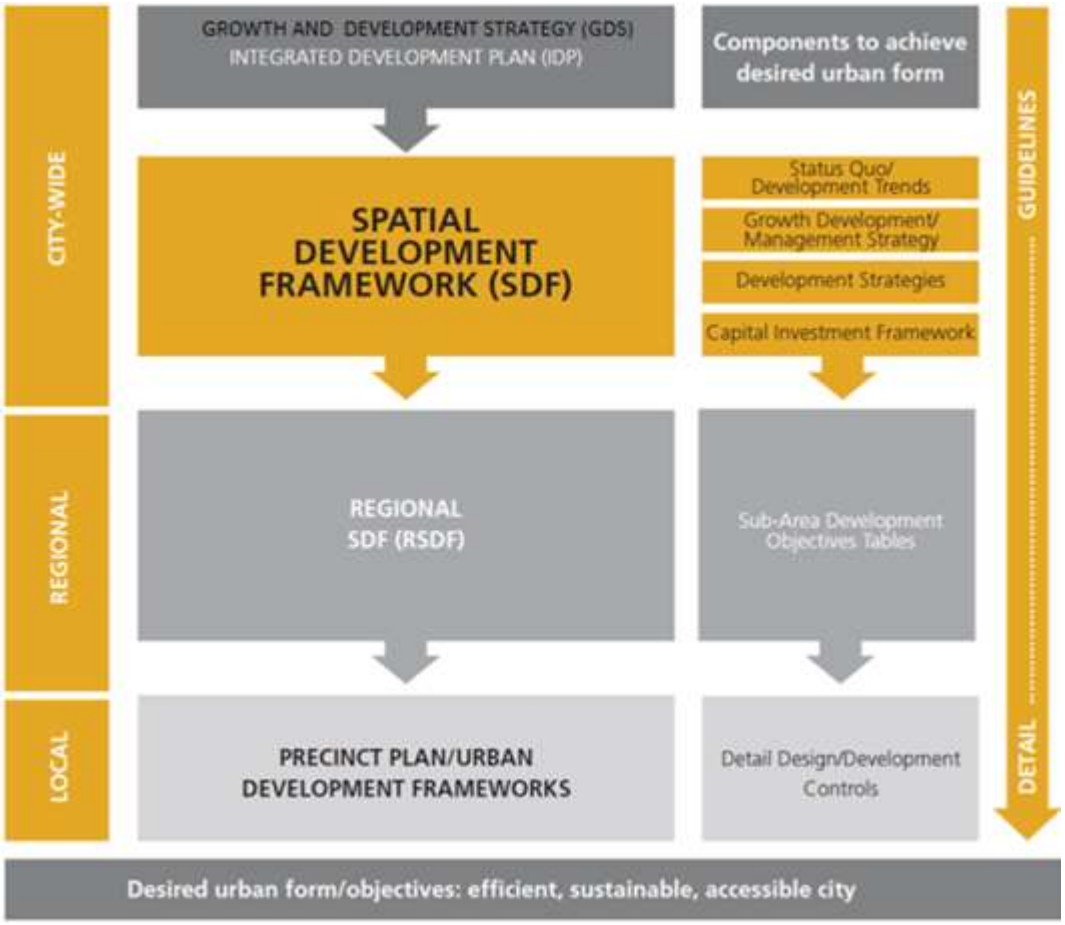

Figure 3: City of Johannesburg Hierarchy of Spatial Plans (City of Johannesburg, 2016).

The City Transformation and Spatial Planning directorate is also responsible for managing the City's capital investment program which entails engagements with the City's core departments and Municipal owned Entities (MoEs) to guide, coordinate and direct the City's capital investment on an annual basis; with guidance from the SDF (City of Johannesburg, 2019a).

Lastly, Building Development Management focuses on the examination of building plans to ensure all buildings in the city comply with National Building Regulations and Standards and the City's By-Laws (ibid.).

4.2.2 Spatial policy development or amendment process

The spatial planning policy development process has three main components, one is the drafting of the policy, its participation with the public and internal City departments and MoEs and lastly, the policy approval process. Once a full draft policy has been completed it is taken through a number of committees prior to a final decision at a Council meeting. Figure 4 illustrates a typical report flow process for the approval of any departmental policies. An amendment of a policy follows the same process.

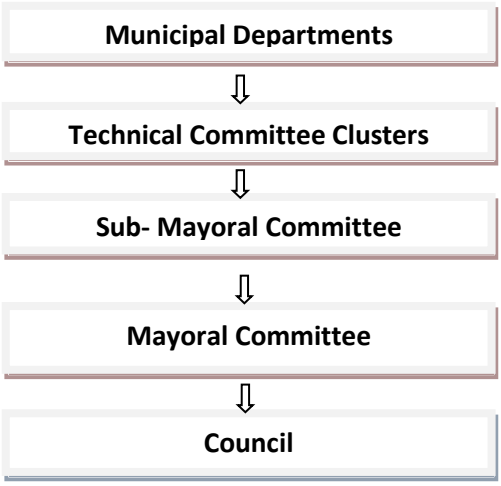

Figure 4: A typical report flow process

Reports from departments are tabled at Technical Cluster Committee meetings. These consist of groupings of departments responsible for overseeing the various portfolios such as governance, finance, social development and economic growth. The executive heads of departments and MoEs chair these committee meetings which are attended by department heads and City officials. Once comments from the Technical Clusters have been worked into the reports, they are then tabled at the Sub-Mayoral Committees which are chaired by Members of the Mayoral Committees (MMCs), attended by MMCs and the executive heads of departments. Thereafter, reports are considered at a Mayoral Committee meeting which is chaired by the Executive Mayor. Lastly, reports are then tabled at Council which is responsible for the approval of City policies. In some instances, reports are also tabled at a Section 79 Committee after the Mayoral Committee, prior to being tabled at a Council sitting. Section 79 Committees are responsible for monitoring the delivery and outputs of the executive, they are oversight committees for Council. There are a number of Section 79 committees, just like the Technical Cluster Committees, each one monitors a Council portfolio and may call departments, MoEs and members of the mayoral committee to account, they play an oversight role but are not delegated any decision-making powers (City of Johannesburg, 2018c).

4.2.3 Spatial Planning and Land Use Management Act (SPLUMA)

The planning function of the City is now governed by the Spatial Planning and Land Use Management Act (SPLUMA), Act No. 16 of 2013, which replaced the Development Facilitation Act 67 of 1995. The Development Facilitation Act (DFA) was the first planning Act of the post-democratic South Africa (Van Wyk and Oranje, 2014). It was developed at a time when local governments were undergoing transformation and its purpose was to facilitate development and implementation of reconstruction and development programmes and projects in relation to land, while the apartheid laws were being repealed (Abrahams, Gemey, Rhizome Management Services, 2010). As such the DFA was seen as transitional legislation and over time components of the Act became outdated and irrelevant. In 2010 sections of this Act were declared unconstitutional by the Constitutional Court on grounds that it violates municipalities' right to administer municipal planning, because it enabled the provincial sphere of government to decide on municipal planning matters through Development Planning Tribunals (Forbes, 2011).

SPLUMA places the responsibility of spatial planning and land use management back in the hands of local government. It provides a uniform framework for effective and comprehensive spatial planning and land use management in the country that seeks to address past spatial and regulatory imbalances and promotes social and economic inclusion (SPLUMA, 2013). The Act outlines how planning should be conducted across all government spheres, it provides for the processes, procedures and institutional arrangements required for the execution of planning functions. Lastly and most importantly, the Act acknowledges the need for the consideration of Inclusionary Housing in spatial planning and suggests a national or provincial Inclusionary Housing policy.

Spatial Development Frameworks (SDFs) are mandated by this legislation, chapter 4, part E of the Act deals with the preparation and content of municipal SDFs. A municipal SDF must include a written and spatial representation of a five-year spatial development plan for the spatial form of a municipality. Section 21(i) also states that it must identify designated areas where a national or provincial Inclusionary Housing policy may be applicable (SPLUMA, 2013). The Act also mandates municipalities to adopt a single land use scheme for their entire areas of jurisdiction and that such a land use scheme must, according to section 24(d), include provisions to promote the inclusion of affordable housing in residential land development. The need for the inclusion of affordable housing in land development is reflected quite strongly in the above mentioned sections of the Act.

Both the SDFs and Land Use Schemes (LUS) are required to be participated with the public prior to being adopted by Council. In the same vein, spatial plans at all levels, whether City-wide, regional or local (as depicted Figure 3) must be participated with affected communities prior to adoption. The manner in which the participation is conducted is guided by relevant legislation, which is now the SPLUMA. All plans are participated both at development stage and when any amendments need to be made in order to afford interested and affected parties the opportunity to give inputs and comments on the plans or amendments.

4.2.4 The land development application process

In order to understand the case studies presented in this chapter and the challenges and benefits raised, it is important to understand a typical land development application process. There are number of land development applications which may be submitted to the City in terms of the City of Johannesburg Municipal Planning By-Laws. All applications are subject to a similar overall process which broadly entails, the receipt of an application and its circulation to all relevant departments and municipal entities for comments, and final assessment and a recommendation report by a land use planner. Figure 5 is a process flow diagram that illustrates this process. Depending on the type of application, this process may take anything from 6 to 18 months.

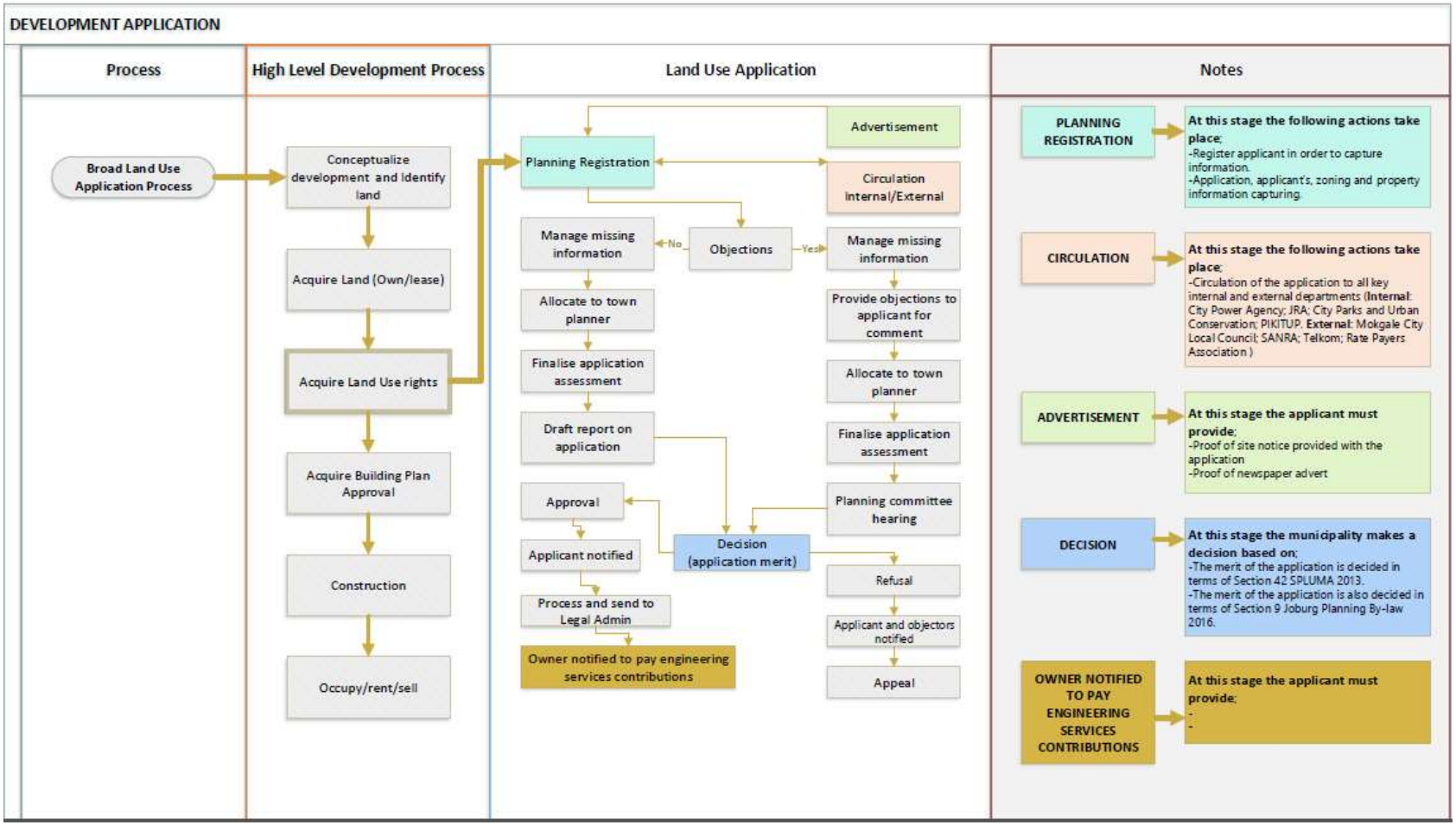

Figure 5: The general land use application process (sourced from City Official)

At the decision stage of an application, the planner considers all the comments and makes a recommendation on the application in accordance with the Spatial Development Framework. In the decision-making process planners apply their planning knowledge and expertise and the facts before them to make a final decision on an application. This places the decision-making at each individual planner's discretion. It is evident from the discussions had with the city officials that some planners stick to what is stated in policy, whereas some use the policy as a guide. The City officials interviewed feel strongly that that the application of policy to development applications should not be rigid because every application has its own merits. They argue that policy communicates intent and there may be a number of ways of achieving that intent, thus there is always room for negotiation.

"There is a need to allow developers to make a case for what could work better from their perspectives" (Official 2, 2018). What is important to consider is whether or not a proposal gets you the type of development that meets most of the development outcomes of the policy. Although some officials see room for negotiation in the implementation of plans the general practice in implementing planning policies is not always one that accommodates this flexibility.

Official 4 (2019), however did indicate that the process to approve anything that deviates from what is stated in policy is a long one because amendments need to be made to the policy and that needs to be approved by the City's Council, which subjects the policy to the above mentioned policy development process. Furthermore, Land Use Development Management does not have the authority to approve anything that is contrary to policy (Official 4, 2019). Such a decision has to go through the Municipal Planning Tribunal which is a municipal planning approval body that is appointed by a Municipal Council per section 35 of SPLUMA. The function of the Municipal Planning Tribunal is to consider applications referred to it, conduct necessary investigations and make decisions on those applications in accordance with the City's Municipal Planning By-Laws and SPLUMA. The composition of Municipal Planning Tribunals is also legislated by SPLUMA and consists of officials that are fully employed by the city and people appointed by the City who are not municipal officials but have knowledge of spatial planning, land use management and land development matters (SPLUMA, 2013).

4.3 APPROACHES TO INCLUSIONARY HOUSING IN THE CITY OF JOHANNESBURG

The main objective of the City of Johannesburg's current Spatial Development Framework is to address the City's job-housing mismatch through compact development by encouraging residential development especially for lower income households, closer to job opportunities, in and around existing nodes (City of Johannesburg, 2016). Inclusionary Housing has been seen by the City, since 2009, as having the potential to be one of the tools for the city to address spatial inequalities (City of Johannesburg, 2009).

There have been a number of cases of negotiations between the City of Johannesburg planning officials and private developers for Inclusionary Housing development, prior to the City's adoption of the 2019 Inclusionary Housing policy. These cases date as far back as the early 2000's. Table 2: Description of Case Studies provides a broad summary of each of the cases and their implementation status.

Table 2: Description of Case Studies

Case Study	Year	Spatial Designation as per SDF	Development Type	IH requirement	Implementation Status
				IH	
1. Ruimsig-Poortview	2005	Consolidation zone and Outside Urban Development boundary	Greenfield-Residential	In-Lieu Fees	Not fully implemented and abandoned
2. Paterson Park	2016	Priority Transformation area: within Louis Botha ToD corridor	Brownfield-Residential	20%- (of 355 units)	In the process of being implemented
3. Rosebank	2017	Consolidation zone adjacent to Rosebank Regional Node	Brownfield-Residential	20%	Abandoned
4. Midrand	2018	Consolidation zone adjacent to the Midrand Metropolitan Node	Greenfield-Mixed Use	30%- 90 units	In the process of being implemented: Construction commenced

The cases illustrate different approaches to implementing Inclusionary Housing in Johannesburg and how have they evolved over time. Based on the data collected the first attempt by the City to negotiate

Inclusionary Housing was in 2005 in the Poortview-Ruimsig and surrounding areas Development Framework. The most recent negotiation was in 2018 for a development in Vorna Valley, Midrand. This section presents these cases and discusses the different approaches of Inclusionary Housing within the city and their challenges and benefits. Figure 6 below indicates the relative locations of the cited Inclusionary Housing cases.

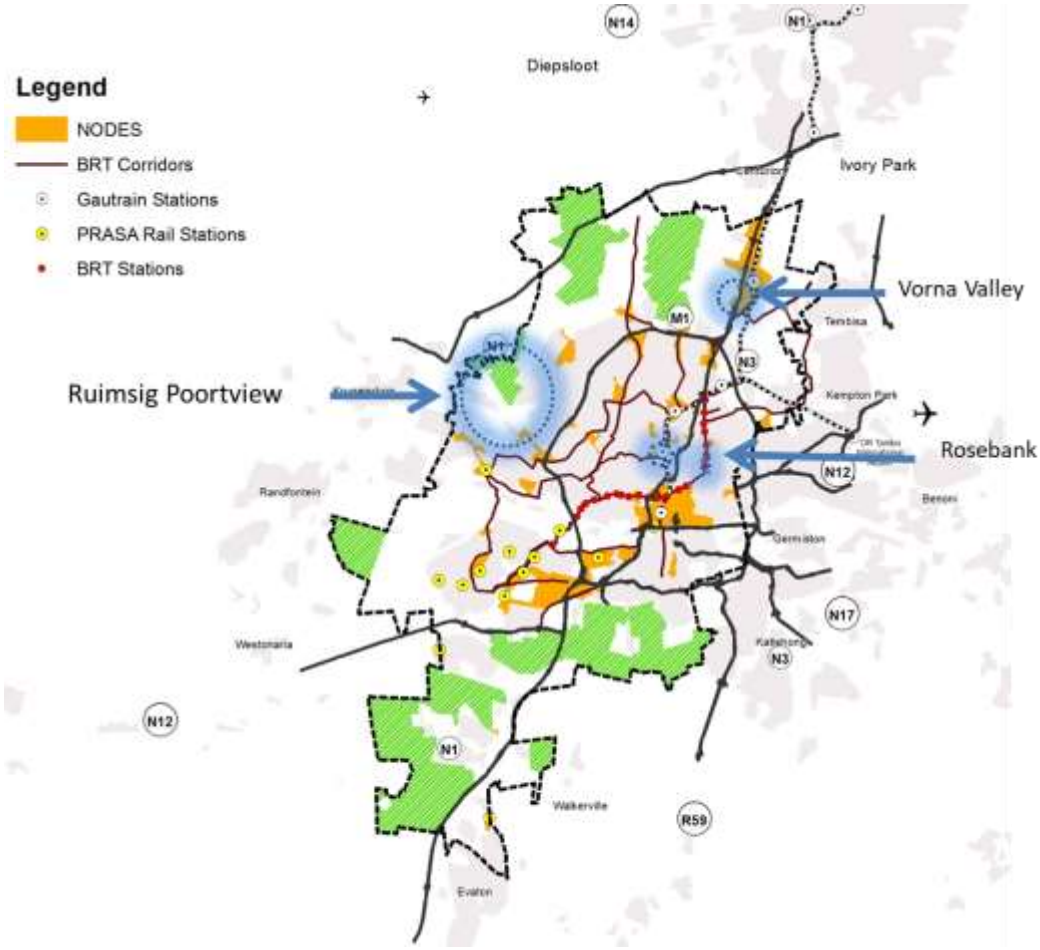

Figure 6: Locality of Inclusionary Housing cases in the City of Johannesburg

4.3.1 Ruimsig- Poortview Inclusionary Housing, 2005

Initial attempts by the City to implement Inclusionary Housing were in 2005 through the Ruimsig-Poortview and surrounding areas development framework. Ruimsig and Poortview are located on the western boundary of the City of Johannesburg, bordering Mogale City and consisted at the time predominantly of agricultural holdings (Klug et al., 2013).

The Development Framework addressed the development of the greater Ruimsig and Poortview area which was under significant development pressure due to historical plans which earmarked the area for extensive development and many historical development rights had been granted based on such plans. The introduction of the Gauteng Urban Edge in 2001 and the Johannesburg Urban Development Boundary as a growth management tool in 2003, changed the perspective on the area from one earmarked for extensive development by the previous plans to one that is peripheral in the context of the City of Johannesburg's boundaries and mostly outside of the City's urban development boundary (City of Johannesburg, 2005). This meant that the area fell largely outside of what the City had earmarked as its developable area, leaving it as part of a conservation area. This resulted in challenges due to development pressures from developers because there were already pending development applications that had been submitted to the city based on the previous plans (Naidoo, 2005).

The Development Framework for the area, depicted in Figure 7, thus responded to the development pressures on the one hand, and the need for conservation of the area on the other (ibid.). It earmarked much of the area for Medium density residential development, which is indicated in yellow on the map, with some nodes at key intersections across the area (indicated in blue). The development of the entire area was divided into three phases subject to the availability of infrastructure, services and amenities (Naidoo, 2005). Of the three phases, only phase 1 was within the Urban Development Boundary and was thus well provided for in terms of infrastructure (ibid.) Phases 2 and 3 on the other hand were outside the boundary. The Development Framework therefore entailed the amendment of the Urban Development Boundary (UDB) and the allocation of funds by the City to the study area in order to facilitate development in accordance with the Framework (ibid).

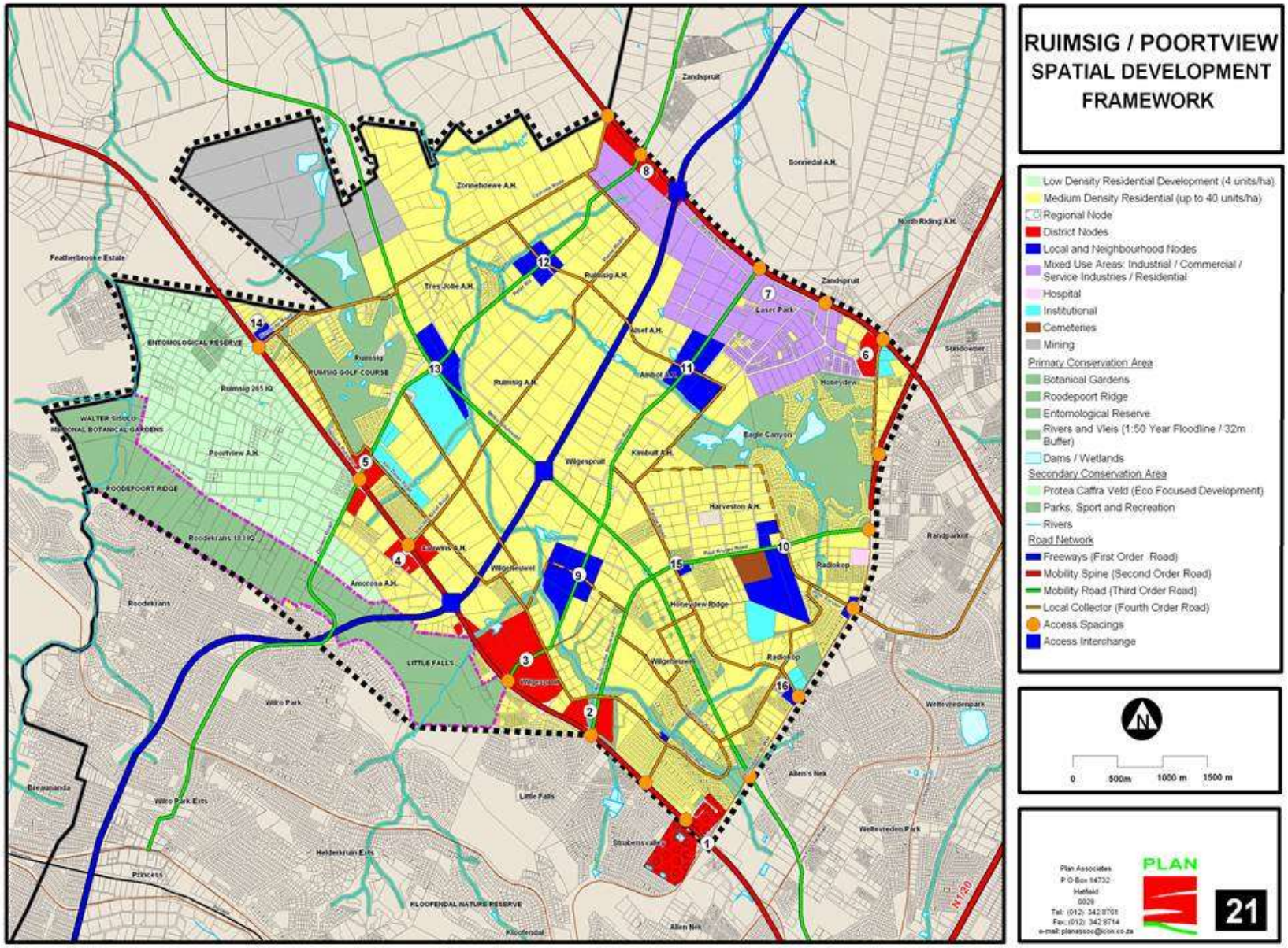

Figure 7: Ruimsig- Poortview Development Framework (Poortview, Ruimsig and surrounding areas Development Framework, 2005).

The Council resolution taken in November 2005 on the Ruimsig-Poortview Development Framework stated:

> *"1. That the UDB be amended ….subject to the conclusion of the process outlined in Paragraph 2[1].*
>
> *2. In terms of the National "Breaking New Ground" policy and directive, a set of parameters be formulated by the Departments of Finance, Housing and Planning to ensure that either:*
>
> *(1) Financial contributions for community re-investment initiatives, or*
>
> *(2) actual proportions of proposed housing units.*
>
> *are solicited per development application as part of a strategy to meet the needs of the poor, which would be based on a threshold/sliding scale related to the extent of a proposed development….." (City of Johannesburg, 2006).*

4.3.1.1 Inclusionary Housing Proposal

This resolution led to numerous engagements by the Development Planning department with the community, developers and relevant internal departments (Ahmad, n.d). This presented an opportunity for the department to pilot Inclusionary Housing in the Ruimsig/ Poortview area. In the departments' report to council making a recommendation on the future development of the Ruimsig/ Poortview area and seeking approval for the introduction of an Inclusionary Housing financial mechanism; Inclusionary Housing is described as, "the harnessing of private initiative in its pursuit of housing delivery to middle/higher income households to also provide (include) affordable housing opportunities in order to achieve a better socio-economic balance in residential developments and also contribute to the supply of affordable housing" (Ahmad, n.d).

In the same report, it is stated that developers considered an initial funding mechanism by the department which involved a levy on the value of development in the area but suggested an alternative mechanism which involved a financial contribution linked to proposed densities (ibid.). This meant that the contributions would be based on the development densities applied for and a sliding scale percentage contribution based on density. This suggestion was accepted by the Development Planning department and formed the basis of the final proposal.

[1] Paragraph 2 refers to the paragraph following this sentence, numbered 2.

The initial point of negotiation was a request by the City for the developers in the area to propose a site within Ruimsig/ Poortview that could be designated for affordable housing. The developers' response indicated that most of the land was unsuitable because of environmental and other constraints which required low density developments (ibid.). It was communicated with the developers that although there were environmental constraints and thus low densities proposed in the Ruimsig-Poortview Development Framework for the area, it was important that affordable housing be provided in close proximity. The developers then offered a 6-hectare site, in the proposed third phase of the Ruimsig-Poortview development for affordable housing development. They offered to construct the units and then sell them to the City. Due to the infrastructure constraints of the broader area and the financial impracticalities of purchasing the units, the offer was not accepted.

The outcome of all the engagements and negotiations for the development of affordable housing in the area, resulted in an Inclusionary Housing approach where developers were required to pay a certain percentage of the full housing subsidy that was applicable at the time, towards an affordable housing unit for every unit that they developed depending on the density applied for. This was worked out as shown in Table 3 below.

Table 3: Inclusionary Housing Contributions (Ahmad, n.d)

Density	**Percentage Applicable**	**Financial Contribution per unit**
31+ units/ha	20% of subsidy	R7,200
21-30 units/ha	30% of subsidy	R10,800
11-20 units/ha	40% of subsidy	R14,400
10 units/ha or less	60% of subsidy	R21,600

The two key recommendations of the department's report to Council were as follows:

- The proposed funding mechanism for soliciting a financial contribution from Ruimsig/ Poortview developers towards affordable housing be approved;
- That these financial contributions be payable to a fund to be established by the Department of Finance (Ahmad, n.d).

4.3.1.2 Outcomes of the proposed Inclusionary Housing Mechanism

Based on the information gathered from the interviews conducted with City officials, this initiative was unsuccessful and the main reason cited by Official 4 (2019) was that the funds were never ring-fenced and therefore could not be accounted for. There seems, however, to be some uncertainty on whether or not any funds were paid to the City as part of this agreement. Official 1 (2018) stated that, based on their analysis, contributions were paid and as a result there is now controversy around what happened to the funds. Another official on the other hand stated that they do not think that any contributions were actually paid to the City as part of this initiative.

This mechanism, although negotiated with developers and communities and agreed upon with the City represents a mandatory approach to Inclusionary Housing because developers in the area had to make financial contributions to the City In lieu of Inclusionary Housing and the only room for negotiation that appears to have been available was negotiating the mechanism for achieving Inclusionary Housing in the area.

4.3.2 Paterson Park Development, 2016

Paterson Park, established in 1928, is a public open space resource in northern Johannesburg, located between the suburbs of Norwood, Orange Grove and Orchards, west of Louis Botha Avenue (City of Johannesburg, 2015). Orange Grove and Norwood developed in the early 20th century and benefited from close proximity to the Johannesburg CBD (Appelbaum, 2016). Norwood is still predominantly a white middle-class suburb. Orange Grove on the other hand has quite a large black population as reflected by census data. It is considered to be considerably more integrated and diverse in terms of race and income than the majority of suburbs in Johannesburg (Appelbaum, 2016).

Paterson Park is constituted of a number of community sports and recreation facilities, a children's playground area, a Bowling club, a multipurpose recreation centre and a War Memorial (City of Johannesburg, 2015). The area is therefore largely recreational. There is also land and facilities used by City entities, which include City Parks and Johannesburg Roads Agency (JRA) depots. The greater area is predominantly residential in character, with single family residential units on most erven. Non-residential uses are concentrated mainly along Louis Botha Avenue and Grant Avenue, which are North South mobility roads to the East and West of the Paterson Park precinct respectively (ibid.).

Louis Botha Avenue is a major north-south connector road in Johannesburg, it serves as a significant public transport route, with taxis – a local paratransit system, the Metrobus and more recently the Bus Rapid Transit system. The location of Paterson Park in relation to Louis Botha and its proximity to the Johannesburg Central Business District (CBD) and Sandton, was seen by the City as very strategic in light of the Corridors of Freedom initiative (City of Johannesburg, 2015). The Corridors of Freedom initiative sought to build the City around major transit routes, creating housing, jobs and social opportunities in close proximity to each other (ibid.). It seeks to transform the City's settlement patterns by unlocking opportunities for marginalised communities to live close to economic opportunities (City of Johannesburg, n.d). Although plans to redevelop Paterson Park into a multi-use precinct, with a portion for housing, had been under consideration since 2005 it gained further impetus in light of the Corridors of Freedom initiative (Appelbaum, 2016). Figure 8 below shows the location of Paterson Park within the Louis Botha development Corridor. The Paterson Park precinct is identified as one of the priority intervention areas of the Corridor (City of Johannesburg, n.d). The framework proposes major redevelopment of Paterson Park to include, "…a new library, upgraded park and recreational facilities, safe pedestrian access and sports fields and opportunity for an integrated higher density residential development" (City of Johannesburg, n.d: 130).

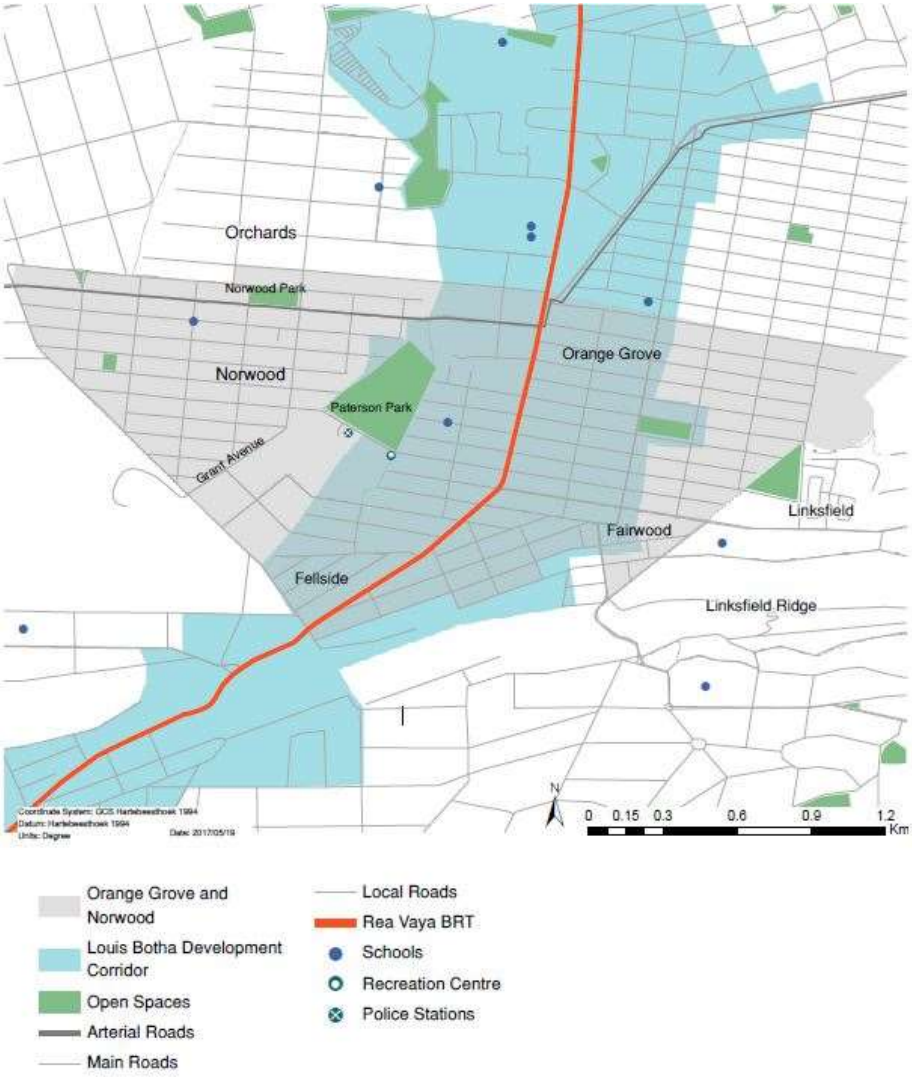

Figure 8: Paterson Park within the Louis Botha Development Corridor (City of Johannesburg, n.d)

The Paterson Park precinct plan to guide future development initiatives in and around Paterson Park was developed and approved by the City in 2015. This was in response to the Louis Botha Development Corridor Framework which raised the significance of Paterson Park to a key social cluster for redevelopment. This was also linked to Victoria extension 3, a Township that was established in the precinct for residential development and now the subject site for proposed Inclusionary Housing development (City of Johannesburg, 2015).

Among other things related to transit oriented development, the precinct plan (shown in Figure 9) earmarks the land and properties surrounding the park for medium and high residential densities in order to offer affordable and integrated housing opportunities in the area (City of Johannesburg, 2015). It presented a potential development yield of 2277 residential units for the precinct (ibid.)

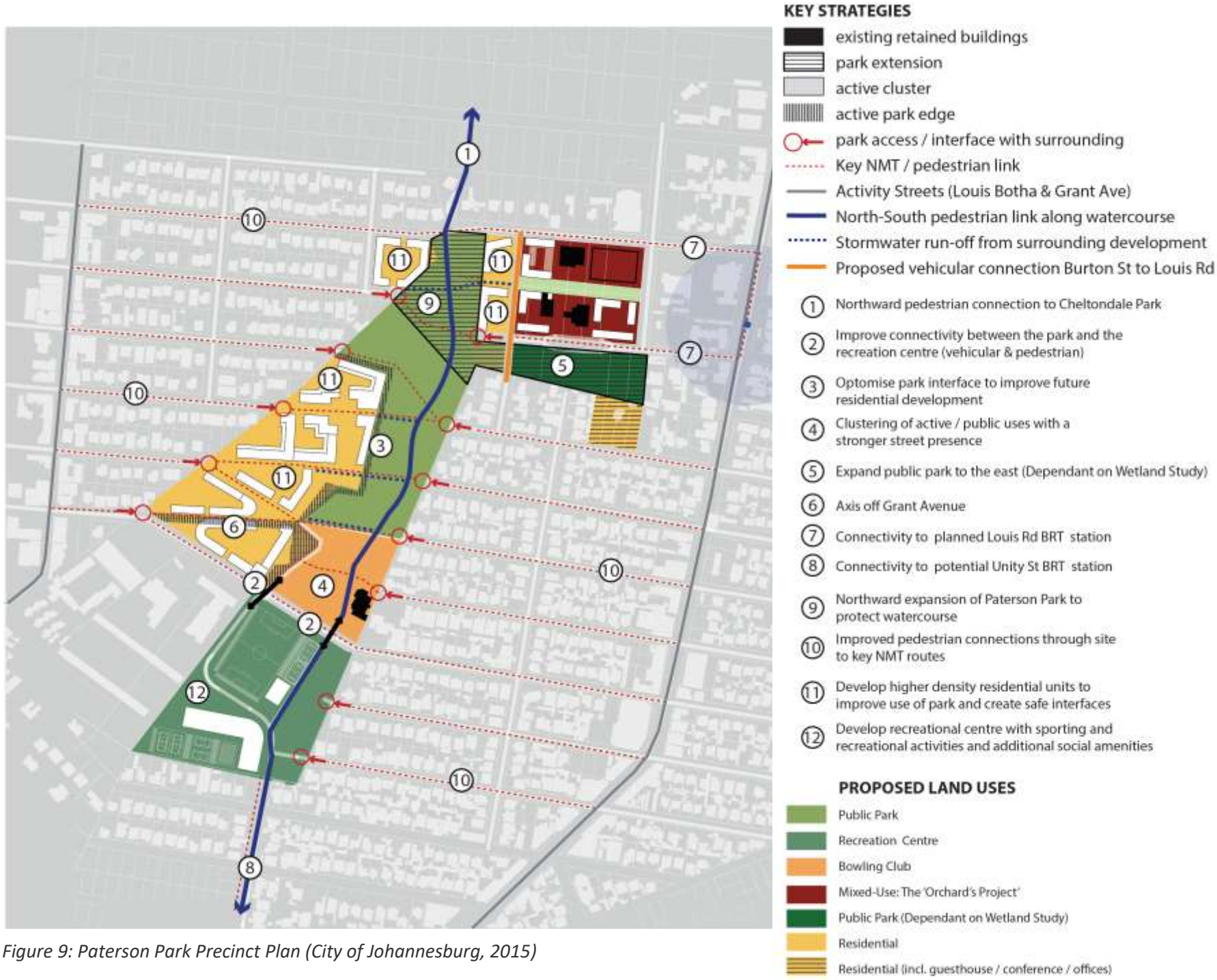

Figure 9: Paterson Park Precinct Plan (City of Johannesburg, 2015)

4.3.2.1 Inclusionary Housing Proposal

Two land parcels, which had been utilised as depots, within the Paterson Park precinct are owned by the City. The City's plan was to relocate the depots in order to release the land for development and sale as a catalytic development aimed at implementing the Transit Oriented Development vision of the Corridors of Freedom (City of Johannesburg, 2015). These land parcels are erven 45 and 46 Victoria Extension 3. They were rezoned to allow for higher density residential development and the intention at the time was to develop between 1445 and 2277 housing units ranging between two and twelve storeys, with a very small parking allocation of 0.5 bays per unit because of proximity to public transit (Appelbaum, 2016). There were over 600 objections filed against the rezoning and proposed plan with residents citing concerns about the increased number of people in the area, socio-economic differences and the ability of the City to manage its housing stock (Appelbaum, 2016: 4). Following discussions with resident's associations and community members, the City committed to a reduction in the number of units to 1457; increasing the parking allocation to one bay per unit; and reducing the building heights to a maximum of 10 storeys (ibid.).

The rezoning was eventually approved with the controls shown in Table 4 which show a potential development yield of 355 units over the two land parcels.

Table 4: Development Controls for Land Parcels (Johannesburg Property Company, 2019)

LAND PARCEL WITHIN THE SUBJECT SITES	APPROVED ZONING	EXTENT OF PARCEL	HEIGHT ZONE	COVERAGE	FLOOR AREA	PROPOSED NUMBER OF UNITS
A	Residential 4	7118m^2	7	60%	3	300
C	Residential 4	5105m^2	4	60%	1	55

Prior to the City's advertisement of the subject properties for development and sale, extensive discussions were held internally between JPC, the Development Planning department and JOSHCO (Johannesburg Social Housing Company) the social housing company of the City to conceptualise the envisioned development (Official 2, 2018). Interviews held with City officials suggest that the City Transformation and Spatial Planning (CT&SP) directorate introduced the notion of Inclusionary Housing

into the development concept. This may have been because the concept was not new to the directorate's policy documents, although it had not yet been fully implemented. According to City Official 2 (2018) the CT&SP directorate took advantage of the fact that the land in question is City owned and they sought to ensure the provision of well-located affordable housing.

The internal discussions held considered and detailed the following with regards to the envisioned development: required densities, what would satisfy the need for Inclusionary Housing, design factors like what the Inclusionary Housing should look like, considerations of whether the Inclusionary Housing should be required across all the residential sites or if specific sites should be identified (ibid.). Lastly, the discussions considered development feasibility which Official 2 (2018) indicated as being one of the major weaknesses of the City's planners in negotiating with private developers because of a lack of understanding of development costs.

The outcome of the discussions informed the call for proposals advertised by the Johannesburg Property Company in March 2019, for the development of the subject land parcels into high density mixed income residential developments with 20% Inclusionary Housing (Johannesburg Property Company, 2019). The specifications of this call for proposals included: the vision for the property, specifying the need for the built form to integrate with the existing open space and enhance the character and urban quality of the surrounding area (ibid.). It included detailed urban design guidelines, building design guidelines and materials.

Other than specifying 20% Inclusionary Housing, no further detail regarding the Inclusionary Housing component of the development was presented. It must be noted, however that when this call was advertised in March 2019, the City's Inclusionary Housing policy had been approved a month earlier.

The specification of a 20% Inclusionary Housing requirement in this call for proposals represents a mandatory approach to Inclusionary Housing. The proposals and designs submitted to the City would have to feasibly demonstrate how the 20% Inclusionary Housing would be worked into the development, and thus the Inclusionary Housing would be developed. The lack of detail on the specification of the Inclusionary Housing in the advertisement, however, meant that the bidders had some level of flexibility in conceptualising the Inclusionary Housing and how it would work.

4.3.2.2 Outcomes of the proposed Inclusionary Housing development

At the point of writing up this research report, JPC had appointed consultants to undertake the development of the properties.[2]

4.3.3 Rosebank, 2017

Rosebank is a commercial and residential suburb with a concentration of offices, shopping malls and residential developments. It is surrounded by the upmarket suburbs of Parktown North, Dunkeld, Melrose and Melrose Estate which are predominantly wealthy white suburbs according to data from Statistics South Africa. Rosebank hosts a Gautrain Station, making it a key Transit Oriented Development node. This has stimulated a lot of investment in the area in the form of new developments and refurbishments, with increasing office developments and luxury apartment blocks. Accommodation in the area is very expensive with the lowest advertised monthly rentals on sites such as Private Property and Property24 being approximately R7000.

Developer X is a residential property developer who is focused on cluster units or apartment units ranging from 40m^2 to as much as 1400m^2 and ranging between R1.5million to R60million in price (Developer X, 2018). Developer X was looking to purchase a site for a high density -220 dwelling units per hectare (du/ha)- residential development along Oxford road in Rosebank at 6 storeys. Oxford road is a class 2 major arterial road that cuts through Rosebank providing a strong north-south link between Rosebank and Sandton. The road serves as a major public transport route, used by taxis and buses and houses the Rosebank Gautrain station.

The identified site was approximately 1000m from the Rosebank Gautrain station. The significance of this distance is in that the City's SDF permits high, unlimited development densities within 500m of a public transit station, and development densities of up to 120du/ha within a 100m from a node of the scale of Rosebank (City of Johannesburg, 2016). The subject site was neither within 100m of the Rosebank nodal boundaries nor within 500m of a public transit station. For this reason, the Land Use Management directorate was not in support of the developers proposed density of 220du/ha nor could they support the developers required height of 6 storeys because of Land Use Scheme restrictions.

[2] Attempts were made to get information on the progression of this project without success

4.3.3.1 Inclusionary Housing Negotiations

Developer X approached the SDF custodian which is the City Transformation and Spatial Planning directorate to discuss any flexibilities of the policy, considering the prime location of their identified site and discussions and negotiation ensued over a period of approximately 11 months, according to Developer X (2018). The discussions between the City Transformation and Spatial Planning directorate and Developer X, were centred on reaching a balance between the City's development policy intent and the developer's proposal.

City Transformation and Spatial Planning (CT&SP) officials entered into negotiations with Developer X. They requested that the developer to set aside 20% of the envisioned development, at the developer's proposed density, for Inclusionary Housing (Official 2, 2018). This 20% requirement was based on the Inclusionary Housing requirement as set out in the City's SDF (City of Johannesburg, 2016). Affordability was described as catering to households earning R7000 or less per month. According to Official 2 (2018) who was actually involved in meetings between Developer X and the City's planning department, the department suggested that the developer register a Social Housing Company for the management of the affordable units. An alternative to this was for the developer to find a Social Housing Company to manage these units (ibid.). The challenge with this is that the inclusionary component constitutes a small number of units which, according to Official 2 (2018) makes it unattractive for a Social Housing Institution to manage. In summary, the developer had to provide for 20% Inclusionary Housing which was defined as catering to households earning R7000 or less per month and they had to register a Social Housing Company or find an existing one to manage these units.

The developer was keen to comply with this condition and work Inclusionary Housing into the development on condition that the Inclusionary Housing did not come at a cost to them, meaning that they did not want it to take away from the property rights that they would get for the market units (Developer X, 2018). In other words, the developer wanted a density bonus so that they could develop what they had intended originally and the inclusionary component as an addition to that, however they initially negotiated for only 10% Inclusionary Housing units (Pienaar, 2017). The developer also expected parking ratio relaxations for the inclusionary units so that they provide less parking for the inclusionary units and they expected not to have to pay development contributions on the Inclusionary Housing units (Developer X, 2018). Enhanced land use rights obtained through township establishment applications and rezoning applications result in the requirement for new or upgraded infrastructure and therefore

developers are required to contribute towards the capital cost of those services through what is termed bulk service contributions (City of Johannesburg, 2014). For residential development the contributions are based on the density applied for. In a similar vein, Parks Contributions are also payable by developers in lieu of open space provision. Developer X therefore sought exemption from such contributions in respect of the Inclusionary Housing units, in other words, not being charged contributions for those units. Developer X's greatest issue with the contributions payable was that they are charged per unit, at average figures of about R60 000 per unit, irrespective of the size of that unit (Developer X, 2018).

The Developers therefore proposed to add an extra storey to their development in order to incorporate the required Inclusionary Housing on condition that the City would not consider that as an additional storey in terms of their rights, because otherwise they would have to submit another application to the City to amend the land use rights of the property to accommodate the additional storey (Developer X, 2018). There were therefore a number of considerations placed on the table for the City: an augmentation of the existing development rights to accommodate an extra storey for Inclusionary Housing units and exemption from the payment of bulk service contributions on those units.

The CT&SP directorate officials could not commit to getting the bulk service contributions waived because the department has no authority on bulk contributions, but they were willing to grant the developers the additional storey and parking relaxation. In an 'in principle recommendation letter' to the developers, the City Transformation and Spatial Planning directorate supported the 220du/ha and a height of 5 storeys on condition that:

a. "20% of the units are for Inclusionary Housing. The layout of the Inclusionary Housing units must be similar to those in your proposal.
b. The inclusionary units must be owned and managed by a registered Social Housing Company. Here, an agreement must be made to sell the units, once built, to a registered Social Housing company who will own and manage the units as social housing" (Pienaar, 2017).

The letter further states that, the storeys and units that are for Inclusionary Housing should not be considered part of the 5 storeys or 220du/ha and will effectively be a density bonus. With regards to rates rebates, the letter specifies that the market units would be eligible for a 5% rates rebate which applies to sectional title developments over 80du/ha and must be applied for per the City's rates policy

(ibid.). Similarly, the Inclusionary Housing would be eligible for a 40% rates rebate that must be applied for by the Social Housing company responsible.

The two requests from the developer to which the directorate could commit were the valuation of the property excluding the Inclusionary Housing units for rates purposes and, the offsetting parks contributions for the inclusionary units. This was worded as follows in the letter:

e. "We cannot accommodate the request for the property to be valued excluding the 20% Inclusionary Housing, requested for rates purposes. The rebates mentioned above are the rates mechanisms available.
f. We cannot accommodate the request that direct development cost of the Inclusionary Housing be offset against the developers' council contributions towards parks" (Pienaar, 2017).

According to Official 1 (2018) who was also very involved in these engagements and Developer X (2018), the Land Use Management directorate was not in agreement with the condition of the density bonus. The Land Use Management directorate required that the developer submit another application to accommodate the additional storey because that is what is required in terms of the Land Use Scheme (ibid.). "…the city couldn't give us the extra height without us going through a rezoning application, which takes us back 2 years" (Developer X, 2018). On this basis, the developer did not go ahead with the development. According to the developer, this decision was made after approximately 11 months of negotiations with the City (Developer X, 2018).

4.3.3.2 Outcomes of Inclusionary Housing Negotiations

Although the City negotiated with this particular developer in favour of Inclusionary Housing as a condition for approval, the approach was mandatory. The developer's proposal was going to be approved by the City on condition that the developer provided Inclusionary Housing, otherwise, the developer would not be able to develop at the envisioned development densities.

The uniqueness of this case however lies in that regardless of the developer's willingness to develop Inclusionary Housing, the requirements that the developer had of the City in order to make the Inclusionary Housing financially viable, could not be met by the City. According the Developer X (2018), "there seemed to be a disconnect between City Transformation and Town Planning, and because of that disconnect, we saw red tape which means time, which means money… so we dropped the whole idea."

Lastly, a crucial issue that is highlighted in this case in terms of enabling the implementation of Inclusionary Housing is that of incentives. It appears that exemption from the payment of development contributions on Inclusionary Housing units would make the development of Inclusionary Housing much more viable for developers and thus a favourable incentive.

4.3.4 Midrand Inclusionary Housing Development, 2018

Midrand is an economic mixed-use node located in the northern region (referred to as Region A) of the City of Johannesburg municipality. It straddles the N1 motor highway and borders onto the City of Tshwane to the north. It is characterised by a wide range of land uses which include residential, industrial, retail and commercial. The most recent developments around the Midrand node include the popular Waterfall residential estate and the Mall of Africa shopping complex.

The Midrand area is home to approximately 87 387 people, based on 2011 Census data (Statssa, n.d). The distribution of average household income in Midrand is highest in the R307 601 – R614 400 income range (ibid.), which is approximately R25 300 – R51 200 per month. These income levels are well beyond the City's median income of approximately R3500 in 2011 figures (City of Johannesburg, 2016) and this illustrates the income exclusivity in Midrand. At 30% of household income, Midrand residents can afford rentals of between R7590 and R15 360. At an income of R3500 per month, affordable monthly rental is R1050, which means households of such income would not be able to reside in Midrand and would have to travel from distant localities to access the economic opportunities in Midrand. This demonstrates the need for more inclusive developments in this area for a better socio-economic balance.

The vision for the Midrand area is guided by the SDF and the Regional Spatial Development Framework (RSDF) for Region A. It also includes the Midrand Gautrain Station precinct as a public transport priority area (City of Johannesburg, 2010).

Developer Y is a residential and commercial property developer. On the residential front, Developer Y develops everything from small apartments all the way to big freehold stands and focuses on brownfield developments, close to amenities and commercial activity (Developer Y, 2018). Their market ranges between R1.2million and R8million and they cite their average price being R1.2million (ibid.). According to developer Y, this is the lower end of the free market and there is a good balance in profit and in development costs at this price point, because land in brownfield areas, where Developer Y is focused, is expensive (ibid.).

An initial town-planning application submitted to the City of Johannesburg in 2015 by Developer Y, sought to realise a mix of land use rights on a site that lies outside of the designated boundaries of the Midrand Node as illustrated in Figure 10. Developer Y had approached the City with a proposal for a mixed use development which included the following uses: commercial, retail, and places of instruction, restaurants and approximately 300 residential units (City of Johannesburg, 2017). In terms of the above mentioned policies, the only land use that could be developed on the subject site was residential.

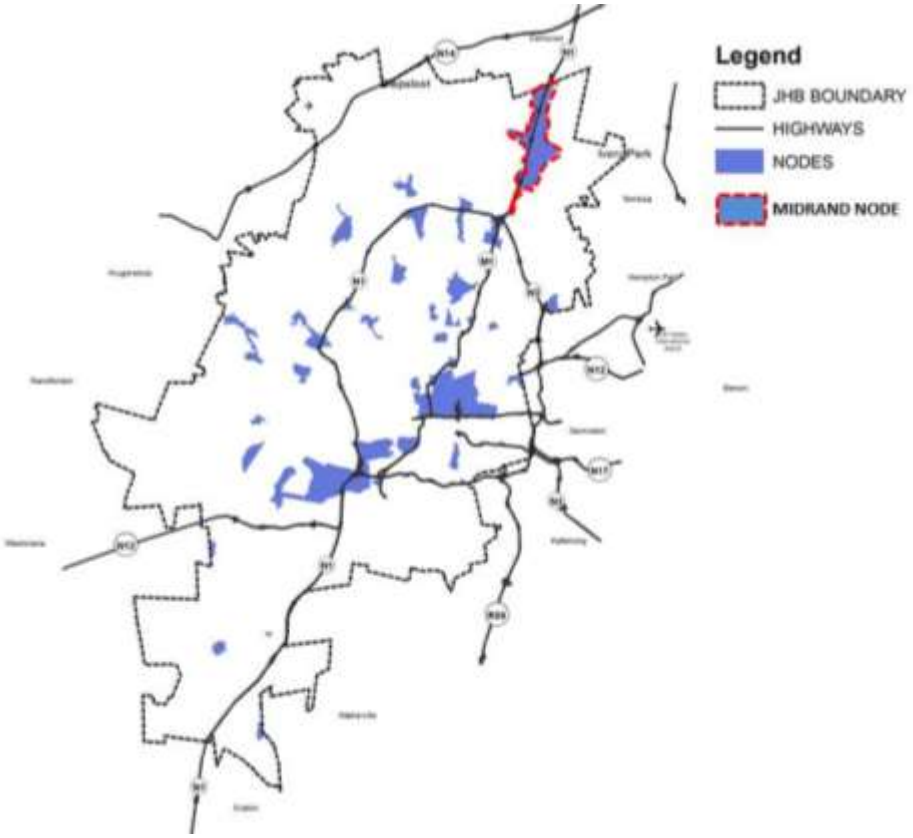

Figure 10: Nodes in the City of Johannesburg

Such an application therefore required an amendment of the Midrand nodal boundary to include the proposed development within the node in order to support all the proposed development rights. Given that the City's review of its SDF was eminent, this application was deferred for consideration after the SDF review process had been completed and the nodes and their boundaries as depicted in Figure 10 were being reconsidered. However, upon completion of the SDF, the nodes had not been reviewed due to time and capacity constraints and therefore the review of nodes and their boundaries was subject to

a separate process termed a nodal review, post the adoption of the revised SDF (City of Johannesburg, 2017).

The SDF was adopted as policy in June 2016 and it included a section on Inclusionary Housing; it mandated all developers who build residential developments of 10 units or more to develop 20% of such units as Inclusionary Housing (City of Johannesburg, 2016). Since the SDF did not consider any amendments to the nodes, this particular application resurfaced for consideration individually. The Development Planning department had supported the development as complimenting activity in the Waterfall precinct and considered it well located in close proximity to the Midrand nodal boundary, where the 2016 approved SDF supports residential densification of up to 120 dwelling units per hectare (City of Johannesburg, 2016). The department then drafted a report to Council, recommending the amendment of the Midrand node to include the subject development site. When this report was tabled at Council, it was returned to the Development Planning department for amendment, to include a 30% Inclusionary Housing requirement as a condition of approval of the policy amendment (Official 1, 2018). This Inclusionary Housing requirement was required by the City's council given that the SDF had already been approved and had an Inclusionary Housing requirement on all residential developments above 10 dwelling units (ibid.). Council thus realised this as an opportunity to begin enforcing this Inclusionary Housing requirement.

4.3.4.1 Inclusionary Housing Proposal

As a result of this Council resolution, the developer was then required to develop 30% of the total units to be developed on site as Inclusionary Housing units and in return would get their sought out development rights and receive a density bonus. A density bonus would mean that the Inclusionary Housing units would be considered as additional to the market units that the developers sought.

The income band used to define the targeted household incomes for the Inclusionary Housing units were to be determined in terms of the Social Housing Act (Act 16 of 2008) given that social housing caters for low to middle income households. This was done as a result of the absence of any Inclusionary Housing Policy or mechanisms for the implementation and management of Inclusionary Housing, at the time (City of Johannesburg, 2017). Social Housing which is already regulated, provided reference on affordable income brackets and the management of low to middle income housing which could be applied in the subject case.

The City's Inclusionary Housing requirement of Developer Y further prescribed that: the inclusionary units must be on the same site as the market units, that they must have the same external appearance as the market units; but may differ in size and internal finishes.

The node was amended by the City with conditions written as follows, per the department's report:

- "The developer is to allocate a minimum of 30% of the project units for low to middle income groups and,
- The units are to be managed by the developer or by a Social Housing Institution in line with the Social Housing Act, 2008 (Act 16 of 2008)" (City of Johannesburg, 2017).

The developers initially met these imposed requirements with some hesitance. "It was a problem initially because we did not know what it was" (Developer Y, 2018). They then requested some room to negotiate saying, "if you are going to enforce this, at least then give us the option of negotiating certain parameters …" (Developer Y, 2018). The developer's main concerns were: issues of financial viability, potential issues with managing the inclusionary units, the onerous processes for registering a social housing company and receipt of social housing grants and, a density bonus not being a good enough incentive to make the development financially viable for them.

The developers therefore agreed to the City's conditions and sought to negotiate the following: dwelling unit design, rental rate and parking relaxation. In their negotiations with the City to finalise the conditions of establishment of their township, they drafted a set of guidelines that would be applicable to the development of the Inclusionary Housing units within the development. These guidelines, which were the subject of negotiation in a number of meetings between the City's planners and the developer addressed unit design, ownership of the units, tenant qualifying criteria and applicable rental rate which were eventually agreed upon as follows:

- The Inclusionary Housing Units will be limited to 90 (ninety) units in the Scheme or 30 % (thirty percent) of the total units as proposed by the draft Inclusionary Housing Policy.
- The gross building area of the Inclusionary Housing Units will be limited to 18.31m² with a kitchenette and one bathroom.
- The maximum combined Rent may not exceed 33.3% of the combined gross monthly household income at the date of lease commencement.

- Maximum combined gross household income may not exceed R15 000.00 per month escalated by CPI with the base month being calculated from the date of issue of Occupation Certificate.
- The rental worked out to R3250 per Inclusionary Housing Unit per month in 2018.
- Rental market value will be capped at 33% of R15 000.00 (R4950), being the maximum combined gross household income.

The major incentive offered by the City here was the amendment of the SDF to accommodate this development and a density bonus, which meant that the developers could develop all their originally intended number of market units and add the Inclusionary Housing units onto that; a similar arrangement to what the Rosebank developers sought. This meant that the developers would still be able to develop their intended number of market units.

The outcome of this process was a drafted written agreement between the City's Development Planning department and the developer for the development of the Inclusionary Housing units per the above stated specifications. The management thereof was left to the developer to decide, although the presented options were: a partnership with a Social Housing Company, the registration of a Social Housing Company or management by the developer but in line with the Social Housing Act (City of Johannesburg, 2017). The developers opted to manage the units themselves in accordance with the above stated guidelines.

4.3.4.2 Outcomes of negotiations

On 26 September 2018 the City published a notice in the Provincial Gazette in terms of section 28 of the By-Laws declaring the Township as an approved township and adopting the Amendments Scheme. The development is currently under construction and has been advertised by the developer. The Inclusionary Units have been advertised as studio units of 15.7m^2 as illustrated in the artist impression below.



Figure 11: Waterfall Ridge Construction Progress as at October 2019 (www.crafthomes.co.za)



Figure 12: Artist Impression of Inclusionary Units in Vorna Valley (Waterfall Ridge Apartments Brochure, n.d)

4.4 CONCLUSION

Throughout the case studies detailed in this chapter, it is clear that the intention of the City of Johannesburg is that of realising affordable housing opportunities in mainly well located parts of the City, which developers have an interest to develop. Mixed income and social integration are reference phrases in the policy objectives of the some of the cited policies.

It is also evident in the Inclusionary Housing cases cited here that Inclusionary Housing in the City of Johannesburg has been introduced in cases where developers place pressure on the City to either exceed existing development parameters or to amend policy to accommodate their development proposals. In each of the cases except for Paterson Park, the developers had to comply with some form of Inclusionary Housing condition as a condition for them to be granted the development rights sought. Although there were negotiations with developers, the Inclusionary Housing condition was mandatory in all cases and the negotiation was only on the details of how it would be achieved. When looking at practice, however, the City of Johannesburg's approach to Inclusionary Housing has been a hybrid of mandatory and negotiated approaches. One of the officials indicated that making it mandatory was the only way to bring the developers to the table to discuss it, "The only way to negotiate was to start off with, you have to do this. If you start off with, you could possibly do this but, it would be literally the first thing that would be swept off the table" (Official 2, 2018). Thus, although some negotiation has been evident in the Inclusionary Housing approaches of the city, it was merely negotiation for purposes of clarifying how the Inclusionary Housing would be implemented and administered. This mandatory approach has been evidently successful in unlocking engagements with private developers on Inclusionary Housing and finding ways to make it viable although it has resulted in some developments not going ahead at all, like in the Rosebank case.

In the absence of an Inclusionary Housing policy to guide Inclusionary Housing implementation, the City worked around existing affordable housing policies and structures by referring to the Social Housing Act and Social Housing Institutions. However, the City has been somewhat challenged in executing this Inclusionary Housing objective outside of a guiding policy framework and the relevant institutional arrangements. This was very evident in the Rosebank case where the two directorates, City Transformation and Spatial Planning, and Land Use Management were not in agreement on a condition for realising Inclusionary Housing in the subject development proposal. This resulted in the developer

withdrawing from the entire development. It is also evident in the inability of the Development Planning department to offer any service contribution offsets to developers as an incentive for the provision of Inclusionary Housing. This means that the only incentives offered were density bonuses and parking relaxations, and these too were not without their challenges. The density bonus offered in the Rosebank case was evidently unsuccessful because the developer was still required to submit a rezoning application for the additional storey.

In the Ruimsig case, the challenge appeared to be around the lack of a dedicated, ring-fenced account into which the Inclusionary Housing contributions could be paid and monitored. All of these highlight some of the institutional challenges that have been hindrances to realising Inclusionary Housing outcomes. These are issues that would therefore need to be addressed by the City in a detailed Inclusionary Housing policy. The negotiation points presented begin to illustrate the tools and mechanisms which could make Inclusionary Housing more successful not only in Johannesburg but in potentially in cities across the country.

This chapter has unpacked the planning system of the City of Johannesburg and its governance approaches by presenting an organogram of the City's departments, indicating where the Development Planning department sits and detailing the department's roles and responsibilities under each directorate. It highlights the significance of the Spatial Planning and Land Use Management Act No. 16 of 2013 in the governance processes related to planning and the requirements of planning policies such as the Spatial Development Framework, which include Inclusionary Housing.

The chapter has presented four cases of developments in which the City of Johannesburg has sought to implement Inclusionary Housing. These cases have been presented from the very first attempt of Inclusionary Housing implementation by the City, to the most recent. From these cases it has been concluded that the City of Johannesburg's approach to Inclusionary Housing is a hybrid of a mandatory approach and negotiation. This approach has enabled the City to bring developers to the table to start conceptualising Inclusionary Housing and how it would work.

5 FINDINGS AND ANALYSIS

The case studies outlined in the previous chapter present some of the different approaches that have been employed by the City of Johannesburg in implementing Inclusionary Housing. As is the case internationally, Inclusionary Housing has been employed by the City of Johannesburg as a land use tool, conditional to development approvals with the intention of creating affordable housing opportunities in close proximity to job opportunities and fostering socio-economic integration. The significant difference between the City of Johannesburg's approach and the international approaches is that, the City has up until February 2019 when the City's Inclusionary Housing policy was approved, sought to implement Inclusionary Housing outside of a detailed policy framework. This approach, as can be seen in the case studies and will be discussed in this section, presented some challenges and some benefits to the implementation of Inclusionary Housing in the City, however, we see that much could be learnt from the processes and outcomes of each of the cases. In fact, the City's Inclusionary Housing policy, approved in February 2019, seemed to have taken some lessons from these cases.

This chapter provides an analysis of the case study findings, and provides some analysis and views on the City's approved Inclusionary Housing policy. The chapter reflects on some of the views of interviewees and the literature review.

5.1 IMPLEMENTATION OF INCLUSIONARY HOUSING PROGRAMMES

The literature that has been reviewed shows that the implementation of Inclusionary Housing programmes differs across different countries based on the power of planning authorities to implement it. While in some countries, Inclusionary Housing programmes are a requirement from national or regional policy, in others it is instituted by the local authorities. California for example had a state-wide requirement for all jurisdictions to plan for future housing for all income groups (Talbert, Costa and Krumbein, 2006). In England it is a national requirement through the 1990 Town and Country Planning Act which empowers local authorities to require affordable housing provision from developers (Morrison and Burgess, 2013). Similarly, Spain had a National Land Act which stipulated that a minimum of 30% of newly built housing must be affordable (Meda, 2009). In this case, the government also fixed the prices and rentals of affordable housing units and provided subsidies to developers and targeted households (ibid.).

The City of Johannesburg's Inclusionary Housing initiatives presented in chapter 4 were carried out during a time when there was no Inclusionary Housing policy applicable in the City, province or even nationally. Although a National Framework for an Inclusionary Housing policy had been drafted, it has not been adopted. At a national level, however, SPLUMA which was adopted in 2013 makes reference to Inclusionary Housing or the inclusion of affordable housing in residential land development. Locally, the City's SDF adopted in 2016 introduced an Inclusionary Housing requirement in residential developments of a certain threshold. Other than the broad statements on Inclusionary Housing outlined in SPLUMA and the 20% Inclusionary Housing requirements stated in the City's SDF, there has been no higher level Inclusionary Housing policies. Based on this, and some of the challenges discussed later in this chapter on the implementation of Inclusionary Housing in Johannesburg, the case studies show that the City, having no higher level Inclusionary Housing policy framework, has been limited in terms of the incentives that it can offer to developers. As a result, the implementation of Inclusionary Housing in two of the four cases presented was unsuccessful due to institutional failures in the City administration to support it. Based on the literature that was reviewed, it is evident that local Inclusionary Housing programmes or policies that were supported by national policies, presented better incentives and institutional support. The following section presents the City of Johannesburg's Inclusionary Housing approaches and highlights key changes in approaches over the years.

5.2 INCLUSIONARY HOUSING APPROACHES OF THE CITY OF JOHANNESBURG

From the cases presented in chapter 4, it is evident that the City's approach to Inclusionary Housing has changed over the years in terms of the elements that are considered key components of Inclusionary Housing policies. Basolo (2011) refers to these as programme design elements and argues that they determine whether or not intended Inclusionary Housing outcomes are achieved. These elements include: whether the programme is mandatory or voluntary, the percentage of units to be made inclusionary, the package of incentives offered to developers as cost offsetting measures and, requirements in terms of units being developed on the same site as market units or not, or the payment of fees in lieu of building those units (Wiener and Barton, 2013, Meda, 2009). The literature reviewed in chapter 3 has shown that although every Inclusionary Housing programme has its own defined terms and parameters (based on the above elements) the majority of programmes are mandatory and the most common incentive is the density bonus. Percentage requirements for Inclusionary Housing generally range between 6 % and 35% of new residential development (Smit and Purchase, 2006).

The Johannesburg case studies show how the City's approach to Inclusionary Housing has shifted from one based on the payment of contributions in lieu of affordable housing provision, to percentage requirements of Inclusionary Housing to be developed by developers on the same site as the market units. The Inclusionary Housing requirements have gone from mandatory with specified contributions based on development density as was the case in Ruimsig-Poortview, to a mandatory percentage requirement for the development of Inclusionary Housing targeting the social housing market with room to negotiate how that could be achieved. The outcomes of each of the cases illustrate the challenges and benefits of the different approaches, and what is likely to be a more successful approach in the Johannesburg context.

There has also been an evident shift in approach in the Inclusionary Housing policies that the city has developed. We saw in the literature review that the City's first Inclusionary Housing policy presented both a mandatory, area targeted approach, and a negotiated approach targeted at City owned land. The preferred and promoted approach, according to that policy was the latter. The current policy, on the other hand, only presents a mandatory, city-wide approach offering 4 options. The fourth option offers developers the opportunity to negotiate an outcome with the City Transformation and Spatial Planning directorate (City of Johannesburg, 2019b). The key differences then, between the two policies is twofold: one is that the first presented an area targeted approach, whereas the current policy is applicable city-wide. The second difference is that the first policy presented both a mandatory and negotiated approach and in that case the negotiated approach represented a voluntary approach similar to the voluntary pro-active deal driven approach that was presented in the draft National Framework for an Inclusionary Housing policy. The negotiation in the current policy is only a negotiation of the terms to implement the mandated Inclusionary Housing requirement.

What is distinctly different in the City's current Inclusionary Housing policy from the previous policy and in fact from international Inclusionary Housing policies is that affordability in two of the 4 options presented in the policy is defined by the market, based on the size of the unit. In other words, in those options developers may develop slightly smaller units at market rate and they qualify as inclusionary in terms of this policy. This approach was evidenced in the Midrand case, where an agreement was reached for rentals capped by unit size.

Lastly, incentives offered to developers have remained fairly consistent over time. In the case studies, the City offered density bonuses and reductions in parking requirements as incentives to developers. It still offers these incentives with the addition of increases in Floor Area Ratios (FAR) in the approved

policy. The initial 2009 policy however, originally included more incentives: density bonuses, fast tracking of building plan applications and waiver of application and building plan fees, bulk contributions reductions, unit size reduction and relaxed parking requirements (City of Johannesburg, 2009). These incentives are all consistent with international Inclusionary Housing incentives.

One can conclude based on this analysis of Inclusionary Housing approaches that, the City of Johannesburg's approach to Inclusionary Housing presents a hybrid of a mandatory and negotiated approach. The requirement for the provision of Inclusionary Housing is mandatory but the details of how it is to be achieved are negotiated. It must be noted then, that the challenges and benefits of Inclusionary Housing in Johannesburg presented in this chapter reflect on this hybrid approach.

These approaches to Inclusionary Housing implementation have been developed and implemented within a very regulated municipal and planning environment, with applicable Municipal Planning Legislation, City By-Laws, Town Planning Schemes and broader spatial planning and land use management legislation. The research findings show that Inclusionary Housing in the City has been championed by the Development Planning department and applied as a condition to development applications. The planning system and approaches of the City's Development Planning department thus have a significant impact on the implementation and outcomes of Inclusionary Housing in the City. The following subsection briefly unpacks the City's planning system and approach.

5.2.1 The City of Johannesburg's approved Inclusionary Housing policy Approach

The approach taken in the approved Inclusionary Housing policy is a mandatory approach in that developers have to provide a minimum of 30% Inclusionary Housing in all residential developments of 20 dwelling units or more (City of Johannesburg, 2019b). However, it offers developers 4 options, shown in Table 5 to achieve this Inclusionary Housing requirement, with the last option being one that enables developers to negotiate with the City Transformation and Spatial Planning directorate (ibid.). These four options, provide some flexibility in how the Inclusionary Housing can be achieved.

Table 5: Inclusionary Housing Policy Options (City of Johannesburg, 2019b)

Option	Description	Details	Incentives (summary)
Option 1	**30% of Dwelling Units are:**	Social Housing; or FLISP Housing; or Housing with a rental cap: R2100 per month (2018 prices).	Increase in FAR equal to the total % of inclusionary housing (max 50% increase). Increase in density (in du/ha) to accommodate the extra units. Parking reduction for inclusionary units.
Option 2	10% of the total residential floor area is made up of small units. **At least 30% of total units in the development must be inclusionary housing.**	Minimum: 18m2 Maximum: 30m2 Average: 24m2	Increase in FAR to accommodate the 10% floor area for IH. Increase in density (in du/ha) to accommodate the extra units. Parking reduction for inclusionary units.
Option 3	20% of the total residential floor area is made up of units that are 50% of the average market unit size. **At least 30% of total units in the development must be inclusionary housing.**	Maximum: 150m2 Minimum: 18m2	Increase in FAR to accommodate the 20% floor area for IH. Increase in density (in du/ha) to accommodate the extra units.
Option 4	To the satisfaction (in writing) of City Transformation and Spatial Planning, City of Johannesburg		

Option 1 caters to the City's defined low-middle income households as defined and discussed earlier in this research report. Options 2 and 3 are basically market units at a smaller size, similar to what was agreed upon in the Midrand case. This was re-iterated by Official 1 (2018), "So the units are free on the open market, they are just small, so that will make them more affordable. The other option is say 20% of the floor area must be made up of units that are on average half the size of the market units in that development so if they are building 300m^2 market units, the inclusionary units which will be 20% of the development, will be 150m^2. And even though that's not poorest of the poor it'll still mix the income in that development. We are thinking that that's flexible enough for developers."

The smaller market units cover the part of the Inclusionary Housing definition that refers to households that may not otherwise afford to live in those developments. The flexibility presented by the options in

Table 5 were received positively by some developers. Developer Y made the following commentary in relation to these options: “the fact that there’s flexibility in those options, it’s something we can definitely make work. We would feel better if we had flexibility in our bulk contributions and parks and all those things etc. The most important thing is the negotiation with mutual consent with council. The policy opens up room for discussion.” This final Inclusionary Housing policy is however not without its challenges.

5.3 THE COJ PLANNING APPROACH

As already alluded to in the previous chapter, planning in the City of Johannesburg’s planning framework is currently governed by SPLUMA which seeks to address past spatial and regulatory imbalances and to promote social and economic inclusion (SPLUMA, 2013). SPLUMA provides a framework for spatial planning and land use management in the country and it requires that Municipal SDFs identify designated areas where national or provincial Inclusionary Housing policies may be applied (ibid.).

One can conclude, based on the presented Inclusionary Housing case studies as well as both the Development Facilitation Act and the SPLUMA, that South Africa and the City of Johannesburg in particular has adopted a collaborative approach to planning. According to Fainstein (2000) collaborative planning is about understanding complexity and diversity and emphasizes the planner’s role in mediating among stakeholders. The Inclusionary Housing negotiations presented in the case studies in chapter 4 demonstrated the processes by which developers and planners reach agreement on Inclusionary Housing outcomes. This resonates with a collaborative form of planning.

According to Kam, Needham and Buitelaar (2013), planning systems are divided into those that leave room for discretion at the development control stage and those that do not. In some systems, however, there is room for deviation from the plan and in others the plan is revised to accommodate development initiatives (ibid.). The general sentiment from officials however is that plans present policy intent, and planners should analyse applications based on site specific merits. This implies that there is room for discretion in the application of the policies in the City of Johannesburg, and this is reflected in the sentiments of some of the planners interviewed:

> *“So, I personally think that there’s a lot of room for negotiation within the City’s local spatial policies and plans generally. That is not necessarily how it’s always applied….I believe that most development applications are negotiable in nature because you actually have particular policy*

outcomes in mind when you frame policies and plans, and there are more than one way to actually get to that point" (Official 2, 2018).

There are however, processes that need to be adhered to in cases of deviations from plans, which was demonstrated in the Midrand case study where a plan was amended to accommodate a proposed development initiative which resulted in the introduction of Inclusionary Housing. In this case, the SDF and the RSDF were revised to accommodate the development initiative. According to Kam, et al. (2013), in a discretionary system, the planning authority has the power to negotiate with developers on Inclusionary Housing provision and a whole host of other issues. Based on this, one can conclude that the City of Johannesburg has a discretionary planning system, evidenced in the Inclusionary Housing case studies and in the sentiments of officials interviewed. It is important to note, however, that although discretionary; the processes are regulated as there are processes followed in the revision or amendment of policies and in the approval of development applications.

The Midrand case study presented an approach where there was room for discretion, whereas the Rosebank case study presented one where the regulated processes were not enabling. In the Rosebank case, the City Transformation and Spatial Planning directorate had reached an agreement with the developer for a density bonus which would be translated into an additional storey on the development. We saw that because of processes prescribed by the Land Use Scheme, the developer would have had to submit another application to the City for an increase in height.

We have thus witnessed from the case studies how the planning system and approaches impact the outcomes of Inclusionary Housing implementation in the City, this is synthesized in section 5.4. The following section will present the challenges and benefits of the various approaches employed by the City of Johannesburg in Inclusionary Housing. The challenges and benefits presented are both from the City's perspective and from the developers' perspective, based on the interviews conducted with both parties. The section will some up key themes in the challenges and benefits of the City's Inclusionary Housing approaches.

5.4 Defining Inclusionary Housing and its intended outcomes in the City of Johannesburg

There are two definitions of Inclusionary Housing that have been presented by the City of Johannesburg. The one definition is outlined in the City's SDF as follows: "a housing programme that requires developers to dedicate a certain percentage of new housing developments to low income and low middle income households at affordable housing cost" (City of Johannesburg, 2016: 142). The second definition is presented in the City's now approved Inclusionary Housing policy as, "A housing programme that, through conditions attached to land use rights approvals, requires private developers to dedicate a certain percentage of new housing developments to low income and low middle income households, or to households that may not otherwise afford to live in those developments" (City of Johannesburg, 2019b).

It is evident from these definitions that the intent of Inclusionary Housing is the provision of affordable housing. In the SDF this intent is further elaborated as seeking to achieve a mix of income groups in well located areas of the City. "This SDF seeks to achieve a conscious mix of income groups in areas of the city that are well located and well serviced by jobs, social services and public transport" (City of Johannesburg, 2016: 141). Affordability in the SDF refers to households earning R7000 or less per month. In terms of the SDF, this affordability is based on the City's household monthly income distribution which is represented by the Figure 13 below:

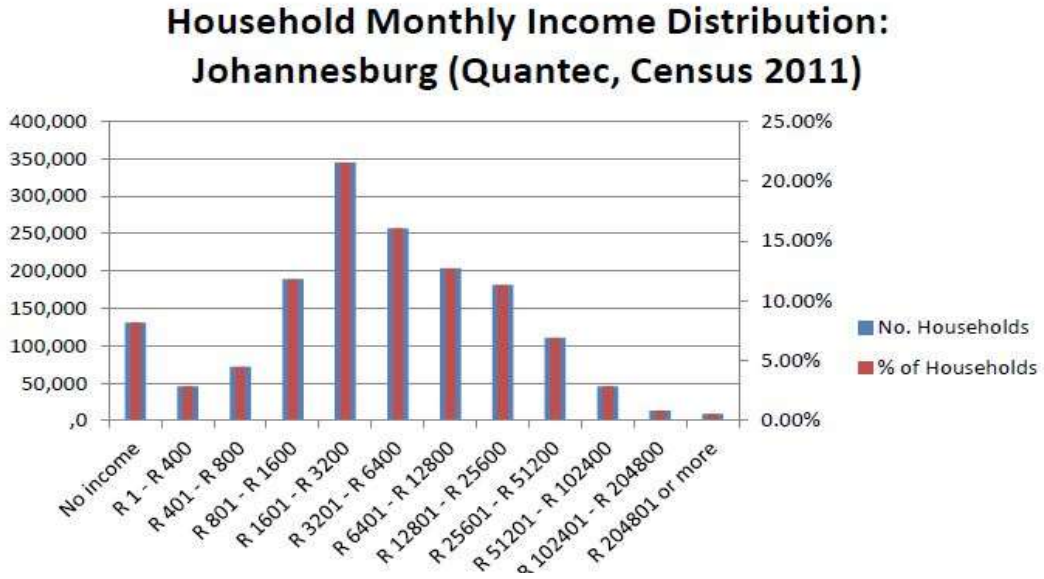

Figure 13: City of Johannesburg Household Income Distribution (City of Johannesburg SDF, 2016)

Figure 13 shows Johannesburg's monthly income distribution to be greatest in the R1601- R3200 cohort, with almost 22.5% of households. Both in the SDF and in the City's approved Inclusionary Housing policy, low-middle income households are defined as household incomes of R7000 per month or less (City of Johannesburg, 2019b). Again the intent of Inclusionary Housing development outlined in the approved policy is the mixing of households, and it is implied that socio-economic integration may be achieved in this manner. This is expressed in the policy as follows:

> "The post-apartheid era has seen very limited mixing of households across the city, both in terms of race and income. Thus, this framework aims to increase the supply of lower income housing, create more of a mix of income groups across new developments in the city, and create more affordable housing in areas that are well located in terms of access to jobs and amenities" (City of Johannesburg, 2019b:3).

There is thus consistency in the City's intent with Inclusionary Housing programmes and that is to achieve the development of affordable housing in well located areas and foster socio-economic integration through a mixing of income groups. It is therefore clear that the intended outcomes of the City's Inclusionary Housing initiatives are the provision of low-middle income housing, catering to households earning R7000 or less and achieving a mix of income groups in well located parts of the City that are well serviced by jobs, social services and public transport. The benefits of any Inclusionary Housing initiatives in the City of Johannesburg would thus be the achievement of these objectives. This is consistent with Inclusionary Housing outcomes of global Inclusionary Housing policies which can be summed up as; socio-economic integration through affordable housing provision.

5.4.1 Affordability and Socio-Economic Integration in the City of Johannesburg case studies

The above provides a basis upon which to analyse the outcomes of the cases presented in chapter 4. The framing of affordability in each of the case studies is different to what is defined above, in terms of affordability:

In the Ruimsig-Poortview case, contributions by developers were based on a percentage of the full housing subsidy at the time. Thus the affordable housing that was to be delivered through those funds was fully subsidised housing units. A full subsidy at the time, around 2005, catered for households earning between R0- R1500 per month.

In the Paterson Park case, the development was initially intended to cater for FLISP, bonded and social housing units (Appelbaum, 2016). This implies a mix of market units and subsidised units. FLISP is a partial subsidy to first time home owners that caters to households with incomes ranging from R3501 and R22 000 (Finance Linked Individual Subsidy Programme, n.d). Social Housing is rental housing that is regulated by the Social Housing Regulatory Authority and generally caters to households with incomes ranging from R1500 to R15 000 (Social Housing Regulatory Authority, n.d). The City of Johannesburg's Social Housing Company (JOSHCO) caters for household incomes from R3500 to R7500 per month, however it does cater for R2880 up to R18 000 monthly household incomes in some projects (JOSHCO, 2019).

Affordability in the Rosebank case was specified as households earning R7000 and less which aligns to the affordability defined in the SDF Inclusionary Housing requirement. Lastly, in the Midrand case affordability refers to monthly household incomes not exceeding R15 000.

In summary, affordability varied in each of these cases from no income to R1500 household income on the lower end, up to R15 000 incomes on the higher end as shown in Table 6. As a general rule used to determine affordability, it is said that housing costs should not exceed 30% of monthly household income. Thus approximately 30% (as a maximum) of the household income ranges presented here would amount to that household's monthly rental or bond costs. The exception would be the R0 to R1500 household incomes which are eligible for a full housing subsidy and is what the calculations in the Ruimsig case were based on. Table 6 presents an estimated rental for the mentioned household income ranges. The rental estimate is calculated at 30% of household income.

Table 6: Affordable Rental Ranges based on Household incomes

Housing Income Range	**Estimated Monthly Rental Range (30% of HH income)**
R0 – R1500	No rental
R3500 – R7500	R1050- R2250
Up to R7000	Up to R2100
R2880- R18 000	R864- R5400
Up to R15 000	Up to R4500

The rental ranges presented in Table 6 thus represent the rentals that would be introduced in each of the case study areas, through the Inclusionary Housing requirements. In Rosebank, therefore, the Inclusionary Housing would have introduced rentals of up to R2100 per month, whereas the lowest advertised monthly rentals in the area are approximately R4500. Similarly, in Paterson Park rentals ranging from R1050 to R2250 or R864 to R5400 would be introduced depending on the Social Housing institution that would develop the housing. At the time of writing this research report, the cheapest advertised rentals for suburbs surrounding Paterson Park, Norwood, Orange Grove and Orchards were R5000, R2300 and R5500 respectively. The cheapest advertised rental for Vorna Valley (the suburb within which the case study site is located in Midrand) is R3200. The rentals for the Inclusionary Housing units were worked out at R3250 in 2018 prices. This is summarised in Table 7 below, showing that the biggest gap between existing rentals and the proposed Inclusionary Housing is exhibited by the Rosebank case study. Furthermore, this shows that there is no big difference in the existing affordability and what was to be achieved through the Inclusionary Housing requirements, especially in Midrand where the difference is only an approximate R50. Thus all the cases except for the Midrand case would cater for a new income category in each case study area, therefore fostering economic integration.

Table 7: Existing Rentals versus Proposed Inclusionary Housing Rentals (in 2019)

Case Study	**Cheapest Monthly Rental Amount**	**Proposed Inclusionary Housing Monthly Rental Amounts**
Ruimsig-Poortview	R3500 (Ruimsig)	Fully subsidised housing
Paterson Park	R2300 (Orange Grove)	R864
Rosebank	R4500	R2100
Midrand	R3200	R3250

5.4.2 Summary of the City of Johannesburg case study outcomes

The benefits of Inclusionary housing in Johannesburg are twofold: one is the development of affordable housing in well located areas and the second is achieving a mix of incomes in developments. The outcomes of the case studies in relation to the intended outcomes of Inclusionary Housing in Johannesburg can be summarized as per Table 8.

Table 8: Summary of Case Study Outcomes

CASE STUDY	AFFORDABILITY	LOCATION	ECONOMIC INTEGRATION (INCOME MIX)	SOCIAL INTEGRATION
RUIMSIG-POORTVIEW	☺	✖	☺	?
PATERSON PARK	☺	☺	☺	?
ROSEBANK	☺	☺	☺	?
MIDRAND	✖	☺	✖	?

In terms of location, the Ruimsig Poortview case, was very peripherally located, as depicted by Figure 6 in section 4.3, without access to public transit nor any nodes nearby for access to job opportunities. As a result, this case did not represent well-located Inclusionary Housing. The other three cases, Paterson Park, Rosebank and Midrand were very well located with access to nodes and public transit, referring

again to Figure 6. In terms of the development of affordable housing in well located areas therefore, the latter three cases represented potential success.

The second outcome is the development of affordable housing. The target household incomes of each of the cases based on the figures presented in Table 7 can be deduced from Table 6. This shows the monthly household income ranges for each of the case studies to be as follows:

- Ruimsig-Poortview: R0- R1500;
- Paterson Park: R2880;
- Rosebank: up to R7000 and;
- Midrand: up to R15000.

In all the case studies with the exception of the Midrand one, the expected monthly household income was R0- R7000 which is in line with the low-middle income household earning of R7000 or less per month as specified in the SDF. In these cases, the City would have therefore achieved its targeted affordability range. In the Paterson Park and Rosebank cases, the City would have achieved both good location and targeted affordability in terms of the SDF which was the Inclusionary Housing reference policy applicable at the time all four cases were carried out. Unfortunately, the Rosebank development did not go ahead and that opportunity was lost, however, the Paterson Park development is still underway and the opportunity is yet to be realized. In the Midrand case, the City exceeded its affordability threshold by supporting rentals of R3250 for the 18m^2 units in that development.

Lastly, in terms of income mixes that were to be achieved in each of the developments, reflecting on the cheapest rental figures presented in Table 7 shows that, the Ruimsig-Poortview, Paterson Park and Rosebank cases proposed the introduction of much lower rentals than what existed in each area. In the Midrand case, the rentals of R3250 are within the range of the existing monthly rentals of R3200. In terms a different mix of household incomes, therefore, that would have only been achieved in the Ruimsig-Poortview, Paterson Park and Rosebank cases.

Overall, in terms of achieving the development of affordable housing in well located areas and achieving a conscious mix of income groups, only the Paterson Park and Rosebank cases would represent success. The Ruimsig-Poortview case does not qualify based on it peripheral location and the Midrand case does not qualify as achieving the City's intended Inclusionary Housing outcomes based on the fact that, it does not cater to the defined category of low-middle income households and the rental rates that it

offers are already available in the area where the development is taking place. Social integration could not be determined in any of the cases because none of the developments have been developed and occupied. As a result, no data from these case studies could be drawn to determine any social integration resulting from the Inclusionary Housing.

Each of the cases presented the challenges and benefits of implementing Inclusionary Housing in Johannesburg. Although all four cases mandated Inclusionary Housing provision or in lieu contributions, with the exception of Ruimsig-Poortview, they all left room for flexibility in terms of how such Inclusionary Housing would be achieved. The Rosebank case tested an approach where both the Inclusionary Housing percentage required and the affordability figures were inflexible. And the Midrand case tested an approach where the affordability threshold was stretched to market prices and not capped at R7000.

The following section presents the challenges and benefits of the City's approaches to Inclusionary Housing and reflects on some of the reasons why some of these cases were unsuccessful to implement, based on both developer and city official perspectives.

5.5 The Challenges and Benefits of the CoJ Inclusionary Housing approaches

It is agreed both among the City's planners, developers and other stakeholders that Inclusionary Housing in Johannesburg and in the country as a whole is necessary given the lack of affordable housing in the country and the spatial imbalances created by apartheid spatial planning. The greatest contention however, is in how Inclusionary Housing should be implemented.

Developers were viewed by the City's planning Officials to have been initially very negative and confrontational, "…with comments relating from just you have no idea what you are doing, right through to, this is socialist, communist planning and it is not the purpose and role of development to mess with things like the market" (Official 2, 2018). According to Official 1 (2018), the main reason for the resistance from the development community was not an opposition to the concept of inclusionary housing but rather the fact that it introduces more regulatory processes over and above existing regulatory processes that developers already have to comply with, thus affecting their profits.

The common arguments from developers are that Inclusionary Housing should be negotiated as opposed to being mandated, targeted to specific areas within the City and supported by cost off-setting incentives for developers. This contention and the arguments made by developers in Johannesburg is

common debate internationally around the implementation of Inclusionary Housing. A majority of Inclusionary Housing policies internationally are mandatory (Padilla, 1995). Whereas proponents of mandatory Inclusionary Housing policies argue that they increase affordable housing supply and ensure certainty in the market (Brunick, 2004), opponents argue that it actually exacerbates the shortage of affordable housing by causing developers to increase market unit prices or develop less housing (Talbert, Costa and Krumbein, 2006). Although none of these claims can be proven in this research for the Johannesburg context, the arguments made are reflected in some of the arguments of the interviewees of this research.

The case studies present different forms of negotiation for Inclusionary Housing outcomes which have presented varying challenges and benefits and yielded different outcomes. Negotiations in the Rosebank and Vorna Valley case studies were seen to have been positive, from the developers' side as they engaged the officials and sought to find ways of incorporating Inclusionary Housing into their developments. Official 1 saw those negotiations as being beneficial for the developers because they were being granted density bonuses which they otherwise would not have received. Official 1 does however allude to the fact that the processes were not very efficient. "…both processes haven't been very efficient because from the City's side, not much clarity on what we actually wanted, and from their side, a bit of frustration that it was taking long" (Official 1, 2018). In the Rosebank development there seemed to have been even more frustration because there was a written agreement from the City Transformation directorate to which the Land Use Management directorate was in disagreement. It is for these reasons that officials felt that it was important to get a policy in place.

"It's important to get the policy in place, because at the moment, there is no real framework as to what we can and can't approve "(Official 1, 2018).

5.5.1 Challenges and benefits for City Officials

Four City officials from the Development Planning department were interviewed in this research. Official 1 is a senior specialist planner in the City Transformation and Spatial Planning directorate and deals with policy development as a city wide scale. Official 1 was involved in writing the SDF and in the formulation of the Inclusionary Housing policy. Official 1 was also involved in a number of cases with negotiating with certain developers for Inclusionary Housing development, including the Rosebank and Midrand cases. Official 2 is an assistant director for regional planning in the City Transformation and Spatial Planning directorate. Their area of work entails regional and localised spatial planning which includes the drafting, formulation and interpretation of the guiding spatial frameworks for the localised areas.

Official 2 had been with the City for 12.5 years at the time of interview and had been in involved in the Paterson Park and Rosebank cases. Official 3 is an assistant director in the Land Use Development Management directorate. Their area of work entails the processing and evaluation of town planning applications and they deal specifically with the Sandton and Midrand areas. They had been with the City for 19 years at the time of interview and were involved in the Midrand Inclusionary Housing case study. Lastly, Official 4 is also an assistant director in the Land Use Development Management directorate and had been with the City for over 30 years at the time of interview. Official 4 was involved in the Ruimsig-Poortview Inclusionary Housing case study.

These Officials cited a number of challenges in their experiences with negotiating for Inclusionary Housing as development outcomes, in the cases presented. The main overarching challenge appears to have been some uncertainties from the planning Officials on the parameters of what they could and could not do due to a lack of formal mechanisms to guide the process at the time (Official 1, 2018).

"We don't have formal mechanisms in place at the moment, like a letter from CT[3] or if it's just a meeting or if its put into a precinct plan, so the technicalities of it, need to be tied up" (Official 1, 2018).

Other challenges faced by the City officials were based on the following: defining what is meant by 'inclusionary'; points of negotiation with developers which hinge on an understanding of development feasibilities; what is and is not be feasible financially and lastly, a lack of institutional support for implementing Inclusionary Housing.

One of the main challenges faced by the city officials in some of these cases, and probably more so with the Rosebank and Midrand cases, was the inability to engage with developers in a language that they understood. Official 2 (2018) highlighted that as city planners, they lack an understanding of development feasibilities which puts them at a disadvantage when it comes to engaging with developers on what is realistically feasible in a development. This touches on Meda's (2009) argument that there may be problems in negotiation between city officials and developers due to poorer negotiation capacity and market awareness of the local authorities. "There's a lot of things I don't know about and I can't explain to a developer to help them make it work" (Official 2, 2019).

Another challenge was the lack of a clear definition of what is meant by Inclusionary Housing, how it should be implemented and its implications, this includes the administration of the Inclusionary Housing (Official 2, 2018). This lack of clarity and lack of institutional arrangements for administrative purposes,

[3] CT refers to the City Transformation and Spatial Planning directorate

again, placed City Officials at a slight disadvantage in the negotiations for Inclusionary Housing, which has impeded its implementation, as was the case in the Rosebank case. It has meant that the city officials are unclear of the parameters of this Inclusionary Housing that they are advocating for, thus drawing out negotiation processes over long periods. The trial and error witnessed in the attempted cases however, demonstrate a learning process for officials in better understanding what works.

Linked to this lack of administrative or institutional arrangements, was the inability of City officials to oversee the entire Inclusionary Housing development and allocation process (Official 3, 2018). Officials thus have no control over who ends up in these inclusionary units and therefore there is no guarantee that they will be serving their purpose (ibid.). It also appears that the department within the City of Johannesburg that has been leading in testing Inclusionary Housing development is not one that can offer financial incentives to developers, like rates rebates and tariffs, which according to Official 2 (2019) would actually ease the burden of implementing it. All of these issues impacted on the negotiation processes and the outcomes of the Inclusionary Housing initiatives undertaken.

There were however some benefits cited by officials to these negotiation processes, outside of a formal policy framework. They presented opportunities for developers and communities to engage on issues of socio-economic integration and forced developers to think about addressing inequality through Inclusionary Housing development (Official 2, 2018). These different examples will demonstrate different ways of doing Inclusionary Housing in different contexts, so there is some learning from this and the City will be able to see what works better and what does not work (ibid.).

There have also been some lessons in terms of being better able to negotiate with developers. “It’s been beneficial for the City to learn more about what’s possible with Inclusionary Housing, but I doubt that if you speak to any developers that they would say it’s beneficial to them” (Official 1, 2019). Lessons from the cases have informed the final approved Inclusionary Housing policy approach.

In conclusion it can be argued that these Inclusionary Housing negotiations have improved governance in the City of Johannesburg, by engaging different sectors on the urban challenge of affordable housing. Urban governance can be seen as a set of practices aimed at addressing key urban challenges, Smit (2018).

5.5.2 Challenges and benefits for Developers

Four developers were interviewed as part of this research: Developers X and Y who have been described in chapter 4 and were involved in the Rosebank and Midrand Inclusionary Housing cases and an additional two developers, who will be referred to as Developers W and Z. Developer W is an affordable housing developer, developing units ranging between R450 000 and R860 000 as well as social housing. Developer Z is also a major affordable housing developer that is focused on the development of RDP Housing, FLISP housing and social rental housing. Their market ranges between R500 000 and R850 000. Their model is based on partnerships with local authorities and provincial housing departments.

Beyond the experiences of developers X and Y in their Inclusionary Housing negotiation processes, all four developers presented a perspective on their residential development experiences in the City of Johannesburg. The main challenge that all developers cited was the lengthy application processes. According to developer X (2018), a rezoning application takes 2 years without any objections and with objections, potentially 3 years. An added issue to long application processing times is that the market also changes over time and the developers' costs add up because of land holding costs.

> *"At the moment the biggest issue we have is the time period that Council takes to process applications. …to get all the rights in place, now it can take you up to 36 months and in the meantime, we get charged interest on the land, or the money that you've used. You can figure out the market today, how it's going to be in 36 months' time, we don't know" (Developer Y, 2018).*

Another major issue for developers is the changes in planning policies which they argue are disruptive and affects their planning by potentially prolonging development applications or derailing investments made by developers based on previous policies. Developers argue that they make land investments based on prevailing spatial policy at the time and policy changes may take place during an application process and depending on the changes, the developer may want to take advantage of the changes, which means restarting their development application process. Based on Developer X's views this opens up opportunity for objectors to come in, which also delays the applications, because then that application is referred to the Municipal Planning Tribunal as set out in the Development application process diagram presented in Chapter 4. Contrary to the above, envisioned development may no longer

be applicable on a particular site. Lastly, a major challenge for developers is infrastructure, with Developers Y and Z both alluding to infrastructure being under strain, citing electricity in particular.

The greatest challenge for developers in the Inclusionary Housing negotiation processes was the lack of financial incentives to offset development costs. According to Developer X (2018) contributions for residential development are based on density and the charge is the same figure per unit regardless of unit size. In a similar fashion, the cost per m^2 to build a market unit is the same as when building an Inclusionary Housing unit (Developer X, 2018). A density bonus is therefore not a good incentive because with increased densities, there is an increase in development contributions and parking requirements for the developer. Developers thus expect the City to waive development contributions on the Inclusionary Housing units and even offer rates rebates. On the administrative side, the developers were concerned about the management of the units and certainty of buyers in the case of sale units. In order for developers to get bank financing on developments, they need to presell 70% of the units. The addition of Inclusionary Housing units to this presents a concern for developers in this regard.

Not much could be said in terms of benefits of negotiating Inclusionary Housing from the developers' perspectives. *"…there are no benefits, there are none. It's kind of something that us developers need to grapple with. I don't think the incentives have been thought through" (Developer X, 2018).* Nevertheless, Developer Y (2018) did mention that the willingness from the City officials to engage with them to find solutions to the imposed Inclusionary Housing condition on their application, was of benefit to them because they were able to respond to the City's requirements in a feasible manner from a development perspective.

5.6 OUTCOMES OF THE CITY'S INCLUSIONARY HOUSING APPROACHES

The main outcome of Inclusionary Housing policies or programmes is the production of new affordable housing. According to Padilla (1995) Inclusionary Housing programmes produce more affordable housing where it traditionally has not been available, therefore increasing socio-economic integration. The City of Johannesburg sought socio-economic integration and the provision of affordable housing in well located areas through its Inclusionary Housing initiatives. Based on the cases presented and on the 2009 Inclusionary Housing Policy in the City of Johannesburg, it appears that the City has been largely unsuccessful at actually implementing Inclusionary Housing and some of the reasons for this have been presented in the previous section. An evident outcome of the City's attempts at implementing Inclusionary Housing has been the development and approval of an Inclusionary Housing policy which will guide the development of Inclusionary Housing in the city. The policy approach reflects some of the lessons learnt from the approaches taken in the case studies and this is evident in the options that the policy offers.

The policy was a much needed framework, according to City officials. According to one of the officials, "The new policy, once it's approved, will give us a more solid foundation to work on and to negotiate on and will outline all the processes and what should take place. So it'll make the whole process more formal and more cohesive but also give us a stronger tool to say that this thing is mandatory in certain cases" (Official 1, 2018). A policy was seen as clearing up some of the uncertainties that the City officials had in negotiating for Inclusionary Housing development in the presented case studies and in all other cases. Although the policy was met with much resistance by developers initially, with headlines such as, "City of Joburg draft Inclusionary Housing Policy unworkable- SAPOA" (James, 2018), there were however, some changes in perspective.

5.7 CONCLUSION: A MANDATORY VERSUS A NEGOTIATED APPROACH TO INCLUSIONARY HOUSING IN JOHANNESBURG

The City of Johannesburg negotiated Inclusionary Housing outcomes outside of approved Inclusionary Housing policy locally and even nationally or provincially. The City's planning approach as guided by SPLUMA has enabled the planning department to engage with developers based on their development needs, in favour of Inclusionary Housing outcomes. There have been some challenges with these processes, the main challenges being:

- uncertainties from the City planners on the possible Inclusionary Housing parameters and feasibilities,
- the lack of broader institutional support of the initiatives and,
- the inability of the planning department to offer financial incentives to offset development costs.

These challenges have resulted in the failure of some of the initiatives. However, there have also been some benefits from these initiatives. They have opened up opportunities for developers and communities to engage on issues of socio-economic integration and have started conversations within the development community around addressing inequality through Inclusionary Housing and how it could be achieved. It can also be argued that improved governance in the City of Johannesburg, through engaging different sectors on the urban challenge of affordable housing is a key outcome of these processes. Lastly, lessons from the cases have informed the City's final approved Inclusionary Housing policy approach which requires 30% Inclusionary Housing from all residential developments in the city, but provides four options for developers to choose from in implementing.

It appears that the intended outcomes of Inclusionary Housing as defined in the City's SDF; well-located affordable housing and economic integration could only be achieved in two of the four presented cases: Paterson Park and Rosebank. Unfortunately, the Rosebank case was abandoned, thus leaving only Paterson Park as a potential successful initiative by the City of Johannesburg at realizing its intended Inclusionary Housing outcomes. The Midrand case however also presents success in terms of the actual physical implementation of an Inclusionary Housing agreement. Social integration however is subject of further research.

Mandating Inclusionary Housing has proven beneficial in the City of Johannesburg in unlocking engagements with developers and the resulting negotiations have been beneficial in terms of finding ways to make Inclusionary Housing work in different Johannesburg contexts. There is thus no clear cut distinction between mandatory and negotiated approaches to Inclusionary Housing in the City of Johannesburg, but a hybrid of the two.

Based on the challenges and the arguments made in the literature for and against mandatory and negotiated approaches to Inclusionary Housing, it appears that a mandatory approach with negotiated outcomes is likely the most favourable in Johannesburg to ensure the feasible delivery of affordable housing. It is also evident that institutional arrangements in support of the City's Inclusionary Housing initiatives are crucial for its success.

6 CONCLUSIONS: A MANDATORY VERSUS A NEGOTIATED APPROACH TO INCLUSIONARY HOUSING IN JOHANNESBURG

6.1 INTRODUCTION

The literature that was reviewed has shown that a range of Inclusionary Housing programmes or practices have been adopted in many countries globally to address affordable housing delivery and social inclusion challenges. Inclusionary Housing has been defined as a mechanism that makes use of the planning system to create affordable housing opportunities through private developers. Programmes also generally offer financial assistance or regulatory relief as cost offsetting measures to developers. The state may also provide subsidies to developers and targeted households. Lastly, in the literature it was shown that most policies are mandatory, with flexibility in implementation options.

This research set out to add to the body of knowledge on Inclusionary Housing particularly in the South African context. It sought to do this through an exploration of two main approaches to implementing Inclusionary Housing: regulated which is defined as being prescribed through policy, and negotiated which is defined as being agreed upon between the City and developers through negotiation. Regulated and negotiated were related to the common international terminology which refers to mandatory and voluntary options to Inclusionary Housing policies based on Padilla's (1995) definition of the two.

Chapters 4 and 5 presented and analysed the City of Johannesburg Inclusionary Housing cases. They presented a perspective on the City's approaches to Inclusionary Housing and the related challenges and benefits. This chapter presents a summary of the research findings and draws conclusions from these which inform the recommendations.

6.2 SUMMARY OF RESEARCH FINDINGS

There are a couple of lessons that can be drawn from this research on Inclusionary Housing policies or programmes. Firstly, some level of Inclusionary Housing intervention is necessary to ensure the provision of well-located affordable housing and socio-economic integration in cities. How these interventions are designed is the pivot upon which the success or failure of Inclusionary Housing rests. A number of components contribute to Inclusionary Housing policy design and implementation. A key component is that which has been the main subject of this research, which is whether Inclusionary Housing requirements are mandatory or voluntary. Although it is evident that mandatory policies have had much more success in producing affordable housing, they have also had some challenges which demonstrate that although Inclusionary Housing requirements may be mandatory, there needs to be some level of flexibility in implementation options. A critical lesson related to this can be drawn from the Malaysian experience where their mandatory 30% Inclusionary Housing requirement resulted in an oversupply of affordable housing units and abandoned projects due to a lack of buyers (Smit and Purchase, 2006). As Kam, Needham and Buitelaar (2013) correctly conclude, the success of a mandatory inclusionary housing policy depends on the ability of the targeted households to finance its acquisition. This leads to the next key component of Inclusionary Housing policy design, and that is defining affordability. In many of the programmes internationally, affordability was based on a percentage of an area's median income. This meant that the Inclusionary Housing target household income varied across the City. Defining affordability is a critical component of an Inclusionary Housing policy and its success or failure based on the target households' abilities to access such housing. Another crucial component of every Inclusionary Housing policy is the cost offsetting incentives that it offers developers as, we have seen from the literature and in the case studies that project viability for developers hinges on the cost-offsetting measures. Whether such measures are social housing grants as is the case in some countries, such as England, or faster plan approvals and tax incentives, cost offsetting incentives are significant determinants of project success. The implementation of Inclusionary Housing must therefore be worked into land use regulatory processes, such as Municipal Planning By-Laws and the Land Use Schemes, in the South African context, in order to enable unlock good incentives, adequate to ensure profitability to developers.

A lot can be drawn from the four cases from the city of Johannesburg on how Inclusionary Housing could be implemented and what its challenges but also its benefits could be in the South African context. Each of the cases presented in this research tell a slightly different story of City's approach to Inclusionary Housing.

In the Ruimsig-Poortview case, the City sought to gain Inclusionary Housing from a policy amendment that was required to enable the development of the area. Such Inclusionary Housing was to be developed by the City through contributions that would have been made by developers in the area, in lieu of Inclusionary Housing. The Paterson Park case on the other hand, presented a scenario where the City sought to maximise outcomes on land that it owns through an Inclusionary Housing requirement in the development brief. In this case the Inclusionary Housing was to be designed and developed by a developer chosen by the City's property company through a tender process. In the Rosebank case, the City used the developers' need for a density higher than what was stipulated in the relevant spatial plans as leverage to negotiate for Inclusionary Housing outcomes. This case shows some level of success with negotiations, representing a collaborative planning approach. Finally, the Midrand case, like the Ruimsig-Poortview case sought to achieve Inclusionary Housing as a bargaining chip for the policy changes required to accommodate the developer's envisioned development.

Although each of these cases tell a slightly different story, in all of the cases, the City of Johannesburg sought to balance developer needs or requirements with its development objectives of creating inclusive neighbourhoods. The approach simply evolved from requiring developers to make financial contributions towards the development of Inclusionary Housing to requiring that they set aside a certain percentage of their developments for Inclusionary Housing. Through a collaborative planning approach, the cases show that the City negotiated with developers through a series of meetings with the aim of reaching consensus on the achievement of Inclusionary Housing.

We can see from these cases and from the initial and current Inclusionary Housing policies that there has been a changing policy environment in the City in relation to Inclusionary Housing and there were two components to this shift. The first was from a policy that presented both mandatory and voluntary approaches to one that is mandatory but with options. The second shift was in affordability thresholds which have been broadened from being very defined to being market determined based on unit sizes. These have been significant shifts which are also evident in the case studies. Although the reasons for this shift have not been explored in this research it is evident from the case study findings that Inclusionary Housing has increasingly become more implementable with the adjustments made over

time. The City's Inclusionary Housing definition has thus evolved from one that was targeted at low and low-middle income households only, per the SDF definition and the City's initial Inclusionary Housing policy, to one that includes not only low and low-middle income households but households that would otherwise not afford to live in those developments. We saw from the research findings that low and low-middle income referred to household incomes of R7000 and less per month (City of Johannesburg, 2016).

This definition has expanded the City's scope of what is considered as "inclusionary" and affordable. It is a soft approach to Inclusionary Housing considering that Johannesburg's median household income ranges between R1601 and R3200. This broadened definition therefore does not force all developers everywhere across the City to provide for the defined low-middle income households. Although such an inclusionary or affordability target does not exist in the international definitions, some Inclusionary Housing policies such as the Californian ones, use a percentage of an area's median income as the targeted inclusionary households (Judd and Rosen, 1992). This means that the target households would vary across the State of California. Similarly, the target households to benefit from Inclusionary Housing in Johannesburg will vary depending on the housing market in a particular area. Despite the shifting policy environment and definition of Inclusionary Housing in the City, the intended outcomes of Inclusionary Housing have remained the same: the provision of affordable housing in well-located parts of the City and the achievement of socio-economic integration.

The cases demonstrated that, well-located affordable housing can be achieved in Johannesburg through mandatory Inclusionary Housing initiatives. Socio-economic integration, however could not be fully evaluated in this research. Whilst economic integration could be concluded from household income figures presented, social integration could not be confirmed because none of the case studies presented had been fully developed and occupied. Thus socio-economic integration is subject to further research.

From these cases we are able to draw the following conclusions:

The mandatory Inclusionary Housing requirements for Inclusionary Housing have brought the City's planners and developers together to deliberate on how to realise Inclusionary Housing in the City. The engagements held between the City planners and developers sought to reach consensus on the most feasible ways in which Inclusionary Housing could be achieved in the respective projects. This demonstrates an expansion of governance in the City.

Developers and City planners can collaborate in pursuit of Inclusionary Housing objectives and, although the City has been met with challenges in its pursuit of Inclusionary Housing outcomes, lessons (summed up in in the following section 6.2.1) have been learnt and parameters for Inclusionary Housing in Johannesburg tested; which has influenced the City's approved Inclusionary Housing policy.

Inclusionary Housing outcomes of well-located affordable housing and economic integration can be achieved through the City's hybrid approach of a mandated Inclusionary Housing requirement and negotiated outcomes. Nevertheless, better institutional arrangements need to be put in place by the City to create a more enabling environment for developers and, social integration still needs to be examined.

As a result, mandating Inclusionary Housing in South Africa may be a good starting point to initiating engagements with the private sector towards affordable housing delivery solutions.

6.2.1 City of Johannesburg Inclusionary Housing approaches and lessons learnt

Although negotiations took time and were challenging for both city officials and developers, agreements were reached even though not all resulted in Inclusionary Housing developments being built. Of the four cases presented, two are currently being implemented and the City now has an approved Inclusionary Housing policy which drew from some of the lessons in the tested cases.

Through the Inclusionary Housing initiatives presented and analysed in this research report, the following lessons in relation to Inclusionary Housing in Johannesburg have been learnt:

- The implementation of Inclusionary Housing needs to be complimented by appropriate institutional arrangements in support of its delivery,
- A policy framework is necessary to clearly define what is meant by "inclusionary", to outline how it should be implemented and therefore guide planners in their negotiations with developers,

- A mandated Inclusionary Housing requirement as a condition for development is necessary in Johannesburg in order to drive Inclusionary Housing outcomes however, negotiations as witnessed in the case studies foster relationships between the City and developers,
- Inclusionary Housing negotiations have presented opportunities for developers and communities to engage on issues of socio-economic integration in the city and demonstrated what is possible with implementing Inclusionary Housing,
- Financial incentives to offset development costs are crucial in negotiating for Inclusionary Housing,
- Lastly, measures need to be put in place to administer the beneficiaries of Inclusionary Housing developments to ensure that such housing is allocated to the targeted households.

6.3 CONCLUSIONS

Inclusionary Housing is a land use tool used by governments to create affordable housing through the private sector, by mandating or encouraging developers to set aside a certain percentage of their developments for affordable housing development. Land Use Regulatory systems thus play a significant role in the implementation of Inclusionary Housing and its success. It's origins through a U.S Civil Rights movement attempt to address racial segregation has made it synonymous with social integration and socio-economic balance. They key outcomes of Inclusionary Housing policies internationally are therefore, affordable housing provision and socio-economic integration.

There is a lot of debate around Inclusionary Housing and its ability to produce affordable housing and achieve its intended outcomes of socio-economic integration. Evidence in the United States shows that Inclusionary Housing programmes have resulted in increased affordable housing delivery and social integration. There is also debate around its impact on the housing and development market, with arguments that it may slow down or halt housing development thereby making housing more unaffordable.

Inclusionary Housing in South Africa is still at its infancy and there is still a lot to be learnt through trial and error as has been the case in the City of Johannesburg. The unchanged spatial landscape of South African cities warrants the need for tools like Inclusionary Housing interventions in order to address affordable housing provision in well located parts of cities and foster socio-economic integration.

The country has made significant strides in investigating Inclusionary Housing from a national level, through the Framework for an Inclusionary Housing policy that was drafted. This framework has guided

the efforts of the City of Johannesburg and the City of Cape Town at grappling with the Inclusionary Housing concept. South Africa has also, through the SPLUMA, reinforced the need to address affordable housing and established the legislative framework for Inclusionary Housing in the country through its requirements for SDFs to designate areas where Inclusionary Housing policy may be applicable and, its requirement for land use schemes to include provisions for the promotion of affordable housing.

Some key concerns with Inclusionary Housing in South Africa that have been noted are its sustainability and retaining affordability over the long term, and this is not unique to South Africa. The most significant challenge specific to South Africa may be the high income inequality, know to be among the highest in the world. When compared to other countries, the gap between the proportion of people that are able to access housing through the market versus those who seek affordable housing in South Africa is very high (Smit and Purchase, 2006). Whereas the proportion of the population that fall in the affordable category is 10%-20% in the United States and the U.K, the comparable proportion is said to be 70%-80% in South Africa. This places a significant challenge on efforts to provide affordable housing in South Africa than elsewhere in the world, thus Inclusionary Housing needs to be carefully considered and supported by other instruments and policies targeted at low-middle income household support.

The City of Johannesburg case studies demonstrate ways in which Inclusionary Housing can be implemented in South Africa and show how the City's collaborative planning approach has re-enforced urban governance in the City in the sphere of land allocation and land use management. It has demonstrated how urban planning is used as an urban governance tool in promoting social change, as described by Muchandenyika and Williams (2016). The City's approach demonstrates in practice how planning practices appreciate the complexities of urban issues and regulation as argued in collaborative planning theory by the likes of Healey (2003) and Todes (2011). It has demonstrated that a hybrid of regulation and an appreciation of complexities through negotiation can co-exist.

The City of Johannesburg experience demonstrates some of the challenges and benefits that may be experienced by other localities in South Africa. It shows that Inclusionary Housing as a land use tool is workable in the South African planning context, particularly given the legislative context presented in SPLUMA. We see in these findings how Inclusionary Housing initiatives can extend governance in the relationships between the public and private sectors and thus deliver on Inclusionary Housing outcomes. Although affordable housing delivery has been and is a public mandate, Inclusionary Housing presents a role for actors other than the government in achieving this goal. This resonates with Pierre (2005) definition of governance. It demonstrates a complex relationship between two actors with different

priorities and objectives. Although no actual affordable housing delivery has materialized in Johannesburg over its many years of attempting to implement Inclusionary Housing, the case studies presented show that Johannesburg is headed towards actual delivery of affordable housing, particularly in the Midrand and Paterson cases which were still underway at the point of concluding this research.

6.3.1 A negotiated versus a regulated approach to Inclusionary Housing in Johannesburg

It has been argued by Lerman (2006), Brunick (2004) that mandatory programs have been more successful than voluntary ones because they ensure certainty and stability of the investment market for the private sector because it is predictable, it sets uniform standards and requirements which establish a level playing field for developers. On the other hand, Calavita and Mallach (2010) have argued that the shift toward more flexible planning approaches and away from regulation emphasizes land market liberalization, negotiation and public- private partnerships, which results in higher levels of developer buy in. The collaborative nature of the City of Johannesburg's planning approach makes room for negotiation in implementing the City's policies, however this is not done at the expense of regulation.

The research findings show that that there is no clear-cut distinction between mandatory and negotiated approaches to Inclusionary Housing in the City of Johannesburg. However, it can be concluded that the City's approach is a mandatory one given that developers have been mandated to develop or contribute to Inclusionary Housing as a condition of development approval.

Whether or not this approach is the best suited to the Johannesburg context; one needs to determine whether it has or can achieve the City's Inclusionary Housing objectives. Although social integration could not be determined from the presented cases, conclusions could be drawn on good location and affordability which demonstrate that the City's approach could yield success. However, as was concluded in chapter 5, there is no clear cut distinction between a mandatory and voluntary approach to Inclusionary Housing in Johannesburg.

As a result, the City's approach cannot be analysed in a manner that makes a distinction between regulated and negotiated approaches. The challenges and benefits of both regulated and negotiated approaches need to be considered as both are reflected in the City's hybrid approach. Considerations for the best approach in Johannesburg must also be made in light of the challenges and benefits raised in the approaches taken in the case studies which go beyond just the mandatory or voluntary nature of the City's Inclusionary Housing approach.

This research only focused on one element in Inclusionary Housing programme design, and the findings show that this component cannot be considered in isolation of other elements in evaluating the success of Inclusionary Housing. The incentives offered among other things, are major contributors towards the success of Inclusionary Housing. The analysis of these other design elements in Johannesburg therefore still require further research, which leads me to the recommendations of this research.

6.4 RECOMMENDATIONS

Some gaps remain with regards to Inclusionary Housing approaches suitable to the Johannesburg and overall South African context due to the limited number of cases available. This research only explored one design element of Inclusionary Housing programmes and therefore all the other elements: how affordability is defined and the types of incentives offered still need further research and analysis. The research findings, however, do offer insights into these elements from which recommendations can be drawn.

One of the key shortcomings of the City of Johannesburg's Inclusionary Housing initiatives and its approved policy is its inability to offer financial incentives to offset development costs. The development of feasible financial incentives is therefore a critical area for further research in the South African Inclusionary Housing context.

Further investigation is also required into how municipalities can make use of the option of payment of in-lieu fees by developers. Cities need to consider institutional arrangements that enable the efficient implementation Inclusionary Housing.

Defining what is meant by affordability in the context of Inclusionary Housing in South Africa, considering the country's housing market- price cliffs and the subsidy systems is also an area of research that needs to be explored. Such research can open up the possibilities of better aligning Inclusionary Housing target households with access to housing finance and create certainty of this market for developers. Better co-ordination across the spheres of government responsible for planning and housing also feeds into this. Perhaps the legislation of Inclusionary Housing nationally, through an Inclusionary Housing framework, could aid this process as well; but such a framework would need to allow municipalities some flexibility in exploring its implementation within their different contexts.

On the cases covered in this research, further research needs to be carried out post the development of the Inclusionary Housing in order to determine whether or not the implementation of Inclusionary

Housing resulted in any social integration. The sustainability of the Inclusionary Housing units over time also needs to be monitored as this would determine the success of the City's Inclusionary Housing initiatives in the long run, the ability to retain those units within the affordability thresholds defined by the City.

A key recommendation for the City of Johannesburg is the investigation of reasonable financial incentives or service contributions exemptions that will make the implementation of Inclusionary Housing more viable for developers whilst reaching further down market in terms of affordability thresholds. This presents the opportunity for the policy to be much more inclusionary than is currently the case, given that option 1 of the 4 options available to developers, can easily be avoided.

Secondly, the negotiation terms that are applicable to the fourth option in the approved Inclusionary Housing policy must be set out in order to present a level field for all developers that choose to exercise that option.

Lastly, the City must look into institutional arrangements and capacity focused on the implementation of its Inclusionary Housing policy in order to avoid delays in processing Inclusionary Housing applications, be better capacitated to negotiate with developers and to be able to monitor the impact of said policy.

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