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Quality of public spaces in land subdivisions implemented through partnerships

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ABSTRACT

The paper conducts a study on urban regulation aimed at defining the quality of urban public spaces to promote the quality of urban life. The analyzed urban instrument is the land subdivision law and its various changes that have occurred over the years, since 1979. The analysis focuses on the recent changes carried out by Law No. 13,465/17 (*Lei n° 13.465/17*), which introduces the land subdivision modalities: controlled access allotments and condominium of lots, related to the management of public space by private agents. The objective is to assess whether the urban requirements demanded at the local level for these subdivision modalities have contributed to better urban spaces and to a management that guarantees adequate maintenance. As a method, it uses a comparative analysis of Law No. 6,766/79 (*Lei n° 6.766/79*) and the various changes that have occurred, regarding the urban requirements for the constitution of public spaces and their management, verifying the role of the federal government and local governments in this area. Based on this analysis, it carries out an empirical study of the project 'Cidade Urbitá', to be implemented in Brasília/DF, assessing the possibility that it will result in dynamic public spaces. As a contribution, recommendations are made, which could be adopted by municipalities when preparing municipal regulations in favor of public spaces that promote more dynamic urban life.

KEYWORDS: Self-governing**,** Controlled access allotments, Condominium of lots.

1 INTRODUCTION

Streets, squares, plazas, parks, gardens, etc., have a significant impact on urban dynamism. When well-planned and managed, they attract people to stay and move around, promote the use of environmentally friendly transportation - public and active - which contributes to emission reduction, while also bring positive health effects to those who choose to walk or cycle for transportation. Added to these are the economic benefits associated with dynamic streets and public spaces, such as the expansion of retail activity and the real state appreciation on adjacent spaces.

The multiple benefits associated with public space quality should make initiatives to promote the quality of these spaces an interest to the entire society, not just of the public administration. Although the constitutional definition assigns urban planning to municipalities, various members of society, including residents' and traders' associations, businesses, citizens, and authors dedicated to the topic (MALERONKA, 2010; COTA, 2010), understand that urban projects can be pragmatically the focus of both public and private action.

Partnerships between social sectors[1] focused on promoting the quality of public spaces are structured through various instruments of urban planning law that enable exchanges of benefits and burdens among partners. Knowledge of these mechanisms is essential for the structuring of regulations that guide the actions of private partners. At the same time, to ensure that the design and management of public spaces achieve urban dynamism, it is necessary, in addition to the possibilities of structuring partnerships, to understand the configurational elements that promote urban dynamism.

[1] Here we refer to partnerships between social sectors as public, private and third sector partnerships, within sociological terminology.

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To highlight the relevance of configurational characteristics of public spaces, one can refer to Jane Jacobs' classic book 'The Death and Life of Great American Cities' (JACOBS, 2007), where she emphasizes that:

> "(...) effective neighborhood physical planning for cities should aim at these purposes:
>
> First, to foster lively and interesting streets.
>
> Second, to make the fabric of these streets as continuous a network as possible *throughout* a district of potential subcity size and power.
>
> Third, to use parks and squares and public buildings as part of this street fabrics; use them to intensify and knit together the fabric's complexity and multiple use. (...)
>
> Fourth, to emphasize the functional identity of areas large enough to work as districts." (JACOBS, 2007, p. 94)

Among urban planning instruments, few address the regulation of public spaces, with the majority focused on regulating lots, whose predominant use is private. Land subdivision is the instrument concerning the procedure that initiates the production of new urbanized areas, thus capable of inducing quality in urban expansion from its conception (LEONELLI, 2010). Its organization and the form of management of the resulting public spaces, whether public or private, also have an impact on the quality of these urban spaces.

In this sense, the article intends to conduct a study of land subdivision regulations and the possible management models for subdivisions in accordance with the amendment to Law No. 6,766/79, that is, those promoted by Law No. 13,465/2017: controlled-access subdivisions and condominiums of lots. This discussion can shed light on the limitations and potentialities of each in promoting the quality of public spaces, whether through public or private management. Thus, the aim is to evaluate a case of land subdivision in relation to the sufficiency of local regulations to ensure that the adopted project and management definitions result in high-quality public spaces.

2 METHODOLOGY

The quality of public spaces in Brazilian cities does not result from the application of the land subdivision law that has been in effect since 1979, as it is known that, on average, a percentage exceeding 50% of urban structures occur irregularly. Therefore, what will be discussed here pertains to the portion of the city subject to regular land subdivision, where public spaces, when their subdivisions are registered in the registry office, come under the administration of the public authorities. What are the requirements for the development of subdivisions and the management of spaces to ensure high-quality public spaces, and how are these spaces managed and maintained over time? This will be the focus of the work.

In this regard, the method used was the analysis of land subdivision legislation as it existed prior to Law No. 13,465/2017, to identify the two aspects mentioned above: established urban requirements and systems for managing public spaces. Based on this analysis, tables are created to identify what has already been regulated in legal provisions and what gaps still exist.

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3 LAND SUBDIVISION: LEGAL ASPECTS, TYPOLOGIES AND URBAN REQUIREMENTS FOR PUBLIC SPACE QUALIFICATION

The process of urban land subdivision is governed by Federal Law No. 6,766/79, which deals with urban land subdivision, addressing urban, administrative, criminal, civil, and registration aspects (LEONELLI, 2010). Despite the time that has passed (43 years), its implementation remains a challenge today, despite adjustments made to accommodate new urban demands. In generic terms, to become an urban lot, according to Brazilian law, the land must go through the land subdivision process, thereby acquiring infrastructure and public spaces, which, among other functions, provide access to the new lots. This means that the land subdivision project regulates both public and private areas to be created in planned urban spaces (urban expansion areas defined by the urban perimeter).

According to Law No. 6,766/79 and its amendments, the process of developing the project and executing land subdivision is responsibility of the developer, typically a private agent, who must follow the guidelines of the Master Plan, zoning regulations, federal and municipal land subdivision laws, and other planning guidelines indicated by the public administration. Since land subdivision is the actual construction of the city, it is evident that the private sector (landowner) plays a significant role in urban production, highlighting the need for the regulations established by the public sector to be proper and robust enough to guide their activities.

As mentioned above, the municipality can and should define its own land subdivision law based on federal law provisions. However, here we will discuss the general regulations provided by the federal government with a focus on the treatment of public spaces.

The law contains basic regulations to be observed in urban planning, i.e., in the procedure of subdividing tracts of land into lots for construction, in determining the necessary basic infrastructure to serve the created properties, and in the possible forms of use of urban fractions (residential areas, instructional areas, etc.). To this end, it presents provisions distributed across 10 chapters. In Chapter I, definitions are presented, including the definition of a lot (Art. 2°, § 4°), which already incorporates basic infrastructure as a necessary component with effects on the condition of public space and, as will be seen, includes urban equipment for stormwater drainage, public lighting, sanitation, potable water supply, public and household electricity, and circulation routes (Art. 2°, § 5°).

> Law No. 6,766, Art. 2° (...)
>
> § 4° A lot is considered to be the land served by basic infrastructure whose dimensions comply with the urban indices defined by the master plan or municipal law for the zone in which it is located.
> § 5° The basic infrastructure of land subdivisions consists of urban equipment for stormwater drainage, public lighting, sanitation, potable water supply, public and household electricity, and circulation routes. (BRAZIL, 1979)

It also defines land subdivision typologies - allotment or dismemberment. Allotment is the subdivision of tracts of land into lots, with the opening of new circulation roads and public spaces or with the modification of existing roads, while subdivision refers to the subdivision into

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lots when there is use of the existing road system, without making alterations to these public spaces. In addition to this, there are determinations regarding areas where land subdivision is not permitted due to the risks it poses to the population and the environment.

The structure of the law is as follows: Chapters II, III, and IV deal with urban and project requirements for land subdivision. Chapter V addresses the procedure for the approval of land subdivision projects, while Chapter VI focuses on the provisions regulating their subsequent registration. Subsequently, Chapter VII deals with contracts that confer rights to third parties over the lots resulting from approved land subdivisions, and finally, Chapters VIII, IX, and X present general, penal, and final provisions, addressing, among other topics, penalties for behaviors that do not comply with legal provisions. Therefore, norms related to public spaces of streets and adjacent open spaces are concentrated in the initial chapters, which are proposed to be examined.

Analyzing Chapters I and II in arts. 3º a 7º, some urban requirements for land subdivision can be identified, especially regarding public spaces. Initially, it can be observed that these requirements are relatively non-specific. They express the intention to promote road integration, topographical adequacy, and the provision of public spaces proportional to the expected occupancy density; they include the requirement to present the drawing of the road system with an indication of its hierarchy, linear and angular dimensions of the project, with radii, cords, arcs, tangency points, and central angles of the roads, longitudinal and transversal profiles of all circulation roads and squares, and the indication of alignment and leveling marks located at the angles of curves and projected roads (Art. 9º, § 1, II to V).

It should be noted that these design requirements refer to the technical representation of the project and do not encompass requirements that guide the design conception to achieve quality attributes.

The issue seems not to have sensitized the public authorities or society for, as can be seen in Table 1, the adjustments made over the years by laws no. 9,785/99, 10,932/04, 11,445/07, 13,465/17, 13,913/19, 14,285/21 and 14,620/23, which amended the original law in aspects related to common use spaces, do not address configurational aspects that could indeed promote dynamic public spaces.

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Table 1 – Amendments related to common use spaces approved since 1979 and still maintained in L 6,766/79

Law	Amendments to L 6766/79 affecting common spaces
L 9,785/99	• Defines a lot as a land served by basic infrastructure, which must meet the urbanistic indices defined by the master plan or municipal law; and defines the minimum basic infrastructure for lots located in ZHIS: circulation routes, stormwater drainage, water supply network, solutions for sanitary sewage, and household electricity (art. 2°, § 4° and § 6°); • Establishes that public spaces will be proportional to the occupancy density stipulated by the master plan or approved by municipal law; and determines the competence of municipalities to define permitted uses and urbanistic indices for land subdivision and occupancy (art. 4°, I, § 4°)
L 10,932/04	• Opens the possibility of requiring the reservation of a non-buildable strip linked to pipelines (art. 4°, §3°)
L 11,445/07	• Determines that basic infrastructure consists of urban equipment for stormwater drainage, public lighting, sanitary sewage, potable water supply, public and household electricity, and circulation routes. (art. 2º, §5º)
L 13,465/17	• Provides for the institutes of lot condominiums and controlled access allotments, defining them (art. 2°, §7º e §8º); • Establishes possibilities for the establishment of administrative limitations and real rights on private spaces to serve social interests (art. 4 º, § 4º); • Addresses activities related to the management of public space carried out by private entities, linking them to property management activities (art. 36-A)
L 13,913/19	• Specifies the minimum width of the public domain strip for highways. (art. 4º, III)
L 14,285/21	• Specifies the minimum width of the public domain strip for railways and non-buildable strips along flowing and dormant waters (art. 4º, III-A e III-B)
L 14,620/23	• Provides for the affectation regime by which the land and infrastructure of the development remain separate from the developer's assets and the treatment of the affectated assets, which must be well preserved and well managed. (arts. 18-A, 18-B, 18-C, 18-D, and 18-F) • Establishes the possibility of applying for the registration of areas intended for public use in developments that have been implemented but not registered. (art. 22 § 1° and 2°)

Source: elaborated by the authors.

The law suggests that more specific requirements be defined in municipal guidelines. However, a general assessment of municipal regulations indicates that few define requirements that have an impact on the quality of public spaces, complementing land subdivision regulations.

From the discussion regarding land development laws and the requirements that promote more dynamic public spaces, it can be said that: (i) there are vague provisions that express the intention to promote road integration, topographic adequacy, and the provision of public spaces proportional to the expected occupancy density; (ii) there are general provisions about areas where urbanization is not allowed, as they pose a risk to public safety or to those areas which are subject of environmental legislation; (iii) there are definitions regarding the basic infrastructure of land subdivisions (rainwater drainage, water supply, sewage, roadways, electricity, and public lighting); (iv) there are no minimum space configuration requirements (definitions are limited to the format of technical drawings that are part of the land subdivision project and do not address their configuration).

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What was once mandatory regarding fees and minimum public space areas has been removed from federal regulations and left to be defined by municipalities, either through laws or guidelines provided to developers. Perhaps the most significant change has been the introduction of the possibility for public spaces to be managed by entrepreneurs and/or property owners, a topic that will be discussed in more detail here.

As a result, the changes have made federal requirements more general, while transferring the responsibility for urban space quality to municipalities. As previously mentioned, this has not motivated municipalities to take effective measures to achieve it. Thus, in many municipalities today, there is a lack of regulation of public spaces regarding their urban characteristics. Ultimately, it depends on the private entrepreneur's interest in promoting quality public spaces.

Regarding the management of public spaces, in the original legislation passed in 1979, there was no doubt that all of them, i.e., everything that was not part of private lots, would be under the management of the municipal government upon land development registration. It should be noted that the management of public spaces has also been deficient on the part of municipalities. Thus, the provision of services to lots (water, energy, sewage, waste collection, etc.) varies according to the local population's purchasing power, and the maintenance of roads and drainage systems in most developed areas is poor, with the level of service determined by the local population's pressure.

In this context, in which even basic infrastructure services are not provided satisfactorily, the quality of public spaces becomes a matter of lesser relevance, despite the initial discussion in this work about their benefits. It is in this scenario that the innovations brought about by the amendments with the publication of Law No. 13,465/17 stand out. Its provisions, especially paragraphs 7 and 8 of art. 2°, paragraph 4° of art. 4°, and art. 36-A, quoted below, mention condominiums of lots and controlled-access allotments. These legal institutions gain juridical status, increasing the space for discussions about the management of urban spaces structured around them.

> Law no. 6,766/79
>
> Art. 2°(...)
>
> § 7° The lot can be constituted as an autonomous property or as a unit within a condominium of lots.
> § 8° Controlled-access allotment is a type of land subdivision defined in accordance with the provisions of § 1° of this article, whose access control will be regulated by an act of the Municipal government, not being prohibited the access by pedestrians or non-resident vehicle drivers, duly identified or registered.
>
> (...)
>
> Art. 4° (...)
>
> § 4° In the case of lots within a condominium of lots, administrative limitations and real rights over third-party property may be established for the benefit of the public authorities, the general population, and the protection of the urban landscape, such as easements of passage, usufructs, and restrictions on the construction of walls.
>
> (...)

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> Art. 36-A The activities carried out by associations of property owners, rights holders, or residents in subdivisions or similar developments, as long as they are nonprofit, as well as by civil entities organized in pursuit of the collective interests of this public with the aim of managing, conserving, maintaining, regulating use and coexistence, and promoting the appreciation of the properties within the development, given their legal nature, are linked, based on criteria of affinity, similarity, and connection, to the activity of property management.
> Sole paragraph. Property management in the form described in the main article subjects its holders to the regulations and discipline specified in their constitutive acts, contributing as per these acts to support the achievement of their objectives. (BRAZIL, 1979)

According to Parecer No. 1 of the commission that reviewed provisional measure No. 759, later converted into Law No. 13,465/17, the justification for including provisions on condominiums of lots and controlled access allotments in Conversion Law Project PLV No. 12 can be summarized as follows:

> With the aim of incorporating into the legal system a universe of factual situations that require specific treatment, we introduced into the PVL, in addition to the real right of slab, the institutes of simple urban condominium and condominium of lots, as well as provisions relating to residential condominiums and controlled access allotments. (BRAZIL, 2017b p. 102-103)

Pinto (2017) notes that, although recently introduced into Brazilian law, the concept of lot condominiums had already been accepted in various municipalities under the names 'closed condominium' or 'horizontal condominium'. According to Kern (2019), the concepts of condominiums of lots and controlled access allotments had always been the subject of intense controversy regarding their admissibility due to the lack of national legislation. Being a recent addition to the Brazilian legal framework, the differences in how these institutes operate and the associated management models are generally still not well-known. It remains to be seen whether the practice of these types of developments will result in better-maintained public spaces by private entities, which is the subject of the next topic of discussion.

3.1. Land subdivisions in the form of condominiums of lots and controlled access allotments

As mentioned, the changes introducing new forms of land subdivision in Brazilian legislation occurred with the publication of Law No. 13,465/17, which inserted the provision for condominiums of lots into the Civil Code (Law No. 10,406/02). The explanation of this can be found in art. 1,358-A of the code: "There may be, in land, designated portions that are exclusive property and portions that are common property of the condominium owners" (BRAZIL, 2002). Until the publication of Law No. 13,465/17, the types of condominiums allowed in Brazilian law were the ordinary or civil condominium, in which property rights are divided into shares or ideal fractions expressed without physical delimitation (with greater application in rural areas); and the building condominium (in apartment buildings or housing complexes), in which exclusive property rights over a delimited autonomous unit are combined with common property rights, expressed through ideal fractions.

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Therefore, the condominium of lots operates in a similar manner to the building condominium for houses, with the difference that in the latter, it is necessary for the developer to design the buildings to be constructed (KERN, 2019). In other words, while in the condominium for houses, the autonomous unit consists of both the land and the construction, in the condominium of lots, the autonomous unit corresponds only to the lot, and the condominium owner is free to build as they choose, provided that any imposed restrictions and urban planning regulations are adhered to.

It is important to note that in condominiums of lots, the common-use areas for condominium owners - which include roads, squares, and infrastructure for stormwater drainage, public lighting, sanitation, drinking water supply, and electric power - are privately owned. This differs from the infrastructure created through traditional land divisions, which becomes public domain after the land division is registered. In lot condominiums, the closure of the area is a matter of legal right, and its perimeter can be fenced, walled, equipped with a gatehouse and access control, provided it complies with municipal urban planning regulations. Access to these areas, as well as to autonomous units, is granted only with the authorization of the condominium owners, unlike in controlled access allotments, where spaces and infrastructure constitute public goods of common use.

Controlled access allotments, also introduced in the legal framework with the publication of Law No. 13,465/17, are the institute that ensures the ability of individuals to control access to a subdivided area through a municipal act of transfer, whether by concession or permission, of the use of public areas created from the subdivision. This model adheres to the provisions of the land division law regarding the infrastructure of public spaces, which become part of the municipality's domain upon subdivision registration. It should be noted that, being public, these open areas must be accessible to everyone, with access guaranteed through identification or registration at the gates, as established by art. 2°, § 8° of Law No. 6,766/79. This situation differs from what occurs in condominiums of lots, where there is the possibility of preventing non-residents from accessing because these are private areas.

Since private common-use open areas are created in the condominium of lots model, one immediately thinks of the potential inconvenience that municipal regulations may not cover in terms of regulating the quality of this space, which is not strictly public but plays an important role in the community's well-being. However, Pinto (2017) argues that common-use areas in lot condominiums can also contribute to the well-being of the general population if adequately regulated by the municipality. The author adds that the government can impose limitations and public rights of way on them, as provided for in art. 4°, § 4° of Law No. 6,766/79, citing the example of the pilotis spaces in Brasilia's buildings, which, although privately owned, are open to public use through urban regulations, constituting what Macedo (1995) refers to as semi-private spaces.

According to Coelho (2019), even though it is possible to require that open area systems resulting from the creation of new lots be freely accessible, for example, through administrative limitations and easements, federal law does not establish effective parameters for how this should occur. In situations where the allocation of areas for common use by the population is not required, the author draws attention to the possibility that the developer may opt for reduced inclusion of these spaces (with negative consequences for urban dynamism),

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considering that they would require maintenance at their expense until delegated to the condominium. The author also warns of the possibility that, by legally instituting condominium of lots and controlled access allotments, Law No. 13,465/17 could lead to the proliferation of a typology of urban areas that favor walled enclosures, compromising the urban landscape, segregating spaces, creating urban barriers that express a certain hostility, or even preventing public access to common goods, such as beaches and natural parks. On the other hand, Kern (2019) emphasizes that the law brought legal security and transparency to a situation that was already occurring. According to Pinto (2017), meeting public interest and fulfilling the social function of property would fundamentally depend on proper municipal regulation in line with the master plan. In this regard, even the construction of walls is subject to permission or prohibition by the municipality, depending on each situation presented.

With a focus on the management of common-use spaces, in the case of condominiums of lots, these areas, being private, are managed by the condominium itself. In controlled access allotments, on the other hand, open areas such as streets, squares, and parks are public but are generally managed by the private sector in partnership with the government. This is because their use is granted by the government to individuals organized in the form of residents' associations, property owners, or rights holders.

Although in both condominium of lots and controlled access allotments models, the burden of maintaining these spaces falls on private agents, in many cases, residents or condominium owners perceive direct management of their immediate urban environment as advantageous. This is because they have greater ease and precision in diagnosing the needs of these areas and greater freedom to contract services that best suit them, with the result being an improvement in quality of life, dynamism, and the consequent appreciation of their property. According to Pinto (2017, p. 16), these arrangements for managing urban space through partnerships between the private and public sectors "can be a solution to the chronic problem of poor maintenance and neglect of public areas, which promotes the degradation of public spaces." Furthermore, it is worth noting that community organization, aimed at improving the common-use environment, has been highlighted by several authors as a factor that promotes urban dynamism. Both self-management and the formation of community and trust networks are emphasized by Jacobs (2009), Alexander et al. (2013), and GDTI & Nacto (2018) as mechanisms that enhance the quality of public spaces.

Within the scope of these arrangements in which the management of public spaces is conducted privately, various elements can be included, such as installation, maintenance, and renewal of urban furniture, artistic elements, landscaping, and coatings that compose public spaces, cleanliness and security of the area, actions that reinforce community unity and identity, local events, and even other services typically provided by the public administration. Pinto (2017) believes that:

> The urban equipment necessary for the provision of public services, such as water supply ducts, sewage systems, telecommunications, and gas pipelines, as well as electricity distribution infrastructure, should continue to be managed and maintained by the respective concessionaires and individually used by condominium owners. However, there is nothing preventing contractual arrangements from being established through negotiation

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> between the parties, involving the execution of less complex measures by the condominium. (PINTO, 2017, p. 17)

What remains to be discussed is the need, in both types of land subdivision where public spaces are managed by the government and in these two new modalities, for the municipality to actually establish in its regulatory framework a law that defines the urbanistic requirements for the qualification of public spaces. This has not been seen frequently, and we will investigate here whether practice is pointing in that direction or not.

4 URBAN LEGISLATION IN THE FEDERAL DISTRICT PROMOTING DYNAMIC PUBLIC SPACES IN LAND SUBDIVISIONS: THE 'CIDADE URBITÁ' NEIGHBORHOOD

The issue raised here pertains to urban legislation governing land subdivision at the local level, in which one would expect to find requirements aimed at ensuring the quality of public spaces originating from such subdivisions. Is local urban regulation and the guidance provided by the administration sufficient to define dynamic public spaces? Does the introduction of private entities both in the development and management of public spaces, in cases of self-management, go beyond what is merely required and produce better and better-maintained spaces?

Let's consider a case study of a recent land subdivision in the Federal District, the construction of the new neighborhood 'Cidade Urbitá' in the Administrative Region of Sobradinho. Designed for a population of around 120,000 residents, the neighborhood will be implemented in an area of 658.7 hectares, partly on the land of the former *Fazenda Paranoazinho*, with a projected development timeline of approximately 30 years (FEDERAL DISTRICT, 2018).

The Urbanization Plan for Urbitá (*Plano de Urbanização Urbitá*) received support from various advisory and consultancy services from prominent national and international firms, including Gehl Architects – Urban Quality Consultants (SANTOS, 2022). This was a decision made by the developer itself and not a requirement of the local administration. According to the analyzed documentation, the project's main guidelines prioritize the pedestrian experience through mixed land use and the creation of new centers for employment and income generation. The project aligns with the concept of a neighborhood with greater autonomy, going beyond the minimum provision of space for public equipment required by law. It aims to have greater independence from downtown Brasilia, avoiding the typical pendulum-like movements of neighborhoods that end up becoming bedroom towns. To achieve this, the Urbitá project, as described in the descriptive memorial, proposes building typologies that promote integration between buildings and public spaces and claims to have conceptual solutions that integrate the streets and open public spaces within the neighborhood into a network.

The land subdivision project for the entire neighborhood includes the provision for opening several streets and creating public spaces that will come under the domain and management of the Federal District upon registration of the subdivision. It also creates public spaces that align with the proposed block layout, providing opportunities for community organization for the self-management of urban services, possibly using the new provisions

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introduced by Law No. 13,465/17. Therefore, the development represents a blend of traditional land subdivision and the new legal possibilities, owing to local regulations for land subdivision.

The District Law No. 992/95 (*Lei ° 992/95*) and District Decree No. 28,864/08 (*Decreto n° 28.864/08*) constitute the local regulations for land subdivision for urban purposes in the federal unit where Urbitá is located. Law No. 992/95 consists of 12 articles that outline procedures for the approval of land subdivision with local authorities and introduce the possibility of establishing a horizontal condominium with the implementation and self-management of common areas by the condominium owner, which predates Federal Law No. 13,465/17. The decree, which regulates it, primarily focuses on defining the administrative process for land subdivision and the submission of technical documents, touching on the theme of public spaces by reiterating what is stipulated in Law No. 6,766/79 regarding the proportion of areas allocated for public spaces relative to the density of the subdivision's insertion zone and the specification of components of circulation infrastructure that must be executed, such as earthworks, circulation system, demarcation of blocks and lots, roadways, curbs, road pavement and sidewalks.

It is noticeable that the provisions, summarized in Table 2, have some positive aspects, such as making the definition of infrastructure implementation more specific, including the need for sidewalk installation. However, in general, the legislation does not properly address aspects of the spatial configuration of public spaces. Regarding the management of these spaces, the district law mentions the possibility of establishing a horizontal condominium but does not clearly address the condominium of lots and controlled access allotments, since it predates the federal law. This leads to a lack of requirements concerning the quality of maintenance for public spaces or privately used common spaces when managed by private entities. Therefore, there is a certain ambiguity in local legislation, which necessitates an update, as the omission even weakens the enforcement process itself. A gap in regulation is also observed regarding the allocation of responsibilities between the public and private sectors in partnerships for the management of these spaces.

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Table 2 – Provisions related to common use areas in the Federal District legislation on land subdivision.

Legislation	Provisions related to spaces of common use
District Law no. 992/95	• Establishes the authority responsible for issuing design standards and the timing for the presentation of the preliminary study, complementary projects, infrastructure projects, and the implementation of urban equipment. (Art. 3º, III e XIII) • Allows for the formation of a horizontal condominium in which responsibility for urbanization and the implementation of urban infrastructure falls on the condominium owners. (Art. 8º)
District Decree no. 28.864/08	• Identifies the authority responsible for providing urban planning guidelines for the land subdivision project. (Art. 7º) • Determines that public spaces shall be proportional to the expected occupancy density as specified in the regulations for the zone in which they are located. (Art. 7º, § 2º) • Specifies the need to conduct consultations regarding the existence, interference, or projection of networks or services, as well as the possibility of servicing the land subdivision by the services under their responsibility, during the preparation of preliminary studies. (Art. 9º) • Prescribes the technical documents to be submitted. (Art. 10) • Specifies the compliance inspection of works and adherence to the schedule. (Art. 16) • Mandates that the implementation of urban equipment and road systems shall adhere to the provisions of Law No. 6,766/79, Complementary Law No. 803/2009, and other applicable regulations, including works related to (i) earthmoving, circulation system, blocks and lots demarcation, roadways, curbs, and road and sidewalk paving; (ii) water supply system; (iii) stormwater drainage system; (iv) sewage system; (v) electricity and public lighting system.

Source: elaborated by the authors.

While spatial requirements for public space projects are not explicitly mentioned in the District Law and Decree related to land subdivision, there are other local legislations and documents that regulate public spaces, and these were considered by the Urbitá Project and are listed below:

(i) District Law No. 4,566/2011, which establishes the Urban Transport and Mobility Master Plan of the Federal District - PDTU/DF
(ii) District Law No. 3,885/2006, which deals with the urban cycling mobility policy to promote bicycle use in the Federal District;
(iii) District Law No. 4,397/2009, which establishes the Cycle Path System within the scope of the Federal District;
(iv) Decree No. 38,047/2017, which establishes road standards, concepts and parameters for the dimensioning of the urban road system of the Federal District;
(v) DIUR 08/2018, which establishes urban planning guidelines for the Sobradinho and Grande Colorado Region;
(vi) DIUPE 24/2020, which establishes specific urban planning guidelines for urban land subdivision projects;
(vii) Technical Note 02/2015. DAUrb/SUAT, which establishes guidelines for the road system of new land subdivision;

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(viii) Technical Study 03/2017 COINST/SUGEST/SEGETH, which deals with the development of urban and architectural projects regarding the relationship between public and private space, with special attention to active facades.

(ix) SEGETH Urbanization Guide. 2017. Establishes parameters for the requalification of sidewalks and public spaces in the Federal District.

As seen, local regulations on land subdivision alone are not capable of defining the quality of public spaces created. There is still a need to evaluate the content of other mentioned legislations and documents to understand whether the requirements can lead to the achievement of characteristics that promote urban dynamism in public spaces. Nevertheless, it is noted that in the Government of the Federal District, there are regulations that include requirements for the qualification of public spaces. However, there is a need for consolidation on this matter.

The existence of a series of scattered regulations at the local level that address requirements related to the design of public spaces amplifies the difficulties for the public administration to take control of what is required and what is necessary to ensure the quality of the produced urbanization. In the case studied, it is observed that there was a significant effort to evaluate laws, decrees, and even internal documents of the public administration in order to proceed satisfactorily.

Finally, it is evident that the administration of the Federal District has already made efforts to regulate for urban quality. However, the challenge lies in the organization, compilation, and revision of norms and laws to make the planning process smoother and more secure, which also reflects in trust in the quality of urban projects carried out. In the case of Urbitá, the urban developer turned to various specialized consultancies to outline strategies for the construction of the new neighborhood, striving for a dynamic neighborhood with quality of life. The choice to do so certainly also contributed to increasing credibility and confidence in the quality of the project – including with effects on attracting partners to support the development of the new neighborhood.

FINAL CONSIDERATIONS

Land subdivision, as an urban planning tool through which new urban areas and public spaces are created, relies significantly on the involvement of the private sector in terms of design, implementation, and management of these spaces. The introduction of new institutes into the federal land subdivision law - controlled access allotments and condominiums of lots - has given legal status to situations that were already occurring, emphasizing the need to broaden discussions on promoting the quality of public spaces. This applies both when they are exclusively managed by the public administration and when responsibilities are assumed by residents' associations and condominium owners. In this regard, it is crucial to impose requirements related to the quality of self-management and maintenance of public spaces and common-use private spaces, while strengthening the means to monitor their compliance.

Regarding the requirements related to configurational aspects for the design of public spaces at the beginning of the land subdivision, it was understood, based on the case studied,

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that local legislation dedicated to land subdivision alone is insufficient to define the creation of high-quality public spaces. Even in the Federal District, this legislation is scattered and difficult to consult and implement, a situation likely present in many Brazilian municipalities. Considering the dispersion of regulations affecting public spaces, it is recognized the challenge of necessary revisions, editing, and normative compilations that would bring more organization, fluidity, and security to the planning of public spaces, enabling cities to become more dynamic.

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