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# Considerations behind public and private space

Creating an understanding of how considerations by  
 Dutch municipalities and private parties influence  
 the realization of public and private space



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## 1. Introduction

As long as the existence of human settlements public space has been an important resource for society. These places enable civil interaction on a level playing field, by creating the opportunity of random encounters between different people (Rogers, 1998; Lofland and, 2000). The (random) encounters between people in public space gives people information about other people and their identities, this can create more tolerance between groups in society which do not meet outside the public space. (Németh, 2008). The public space therefore functions as a neutral ground where different parts of society accidentally meet. This is therefore a very important resource for cities.

However, this important resource is not a given. Urban scholars are arguing that this very public space is under threat (Sorkin 1992; Mitchell 1995, 2003; Banerjee 2001; Voyce 2006; Madden 2010). Their statement is mainly based on that public space becomes more controlled in favour of commercial goals and Vasagar, J. (2012) also stated that there is a rise in outdoor space where business gains are chosen over community. Langstraat and Melik (2013) show that the literature mainly blames the involvement of the public sector, who privatize the public space (Loukaitou-Sideris, 1993; Banerjee, 2001; Kohn, 2004; Voyce, 2006). These privately-owned public spaces (POPS) frequently materialize when a local government does not have the funds or capacities to provide a good quality public space or service, they then turn to the market which sees an opportunity to make a profit (Banerjee, 2001). POPS also implemented by local governments to create high quality and spectacular public spaces to attract wealthier citizens and attract investments towards the region. This very focus on higher income citizens, with the focus on private interests, makes many POPS less welcoming for people who have less money or don't fit the target group (Collins, 2009). The negative and positive effects of POPS are well researched, but research on which considerations take place in developing public space with private involvement is lacking. Research in the considerations is needed to understand how the public spaces with private involvement comes to be.

This explorative research therefore focuses on which considerations take place within the Dutch municipalities during the development of POPS and other forms of private involvement in public space. Historically private involvement in public space is relatively new in the Netherlands, as the public sector is very strong, but since the 1980's the Dutch government delegated more responsibility towards local governments and the private sector. The relative novelty of the approach in the Netherlands therefore could influence how the municipalities deal with POPS. This makes the Dutch municipalities an interesting case to research. Also because of decentralization of the Dutch government the municipal governmental level has the planning power and responsibilities for development.

Because of the strong public power, privatization of Dutch public space is not to be seen as a complete private takeover, however it is more a complex reorganization of the different rights and roles of the public and private sector (de Magalhães, 2010). This complex reorganization is all the more interesting, because the interaction between the municipality and the private sector really shapes the public space. This interaction can take different forms and shapes, because of the still strong municipality, but with more private involvement than before.

The focus of this explorative research lays on Dutch municipalities of Zwolle and Leeuwarden. The decision-making process and the cooperation between the municipality is the most interesting part of the process as in this part of the process the responsibilities and ownership are decided. This will have a big impact on the space and usage, which in turn impacts the effects of the space on the interaction between users of the space. This explorative research therefore focuses on the negotiation process between the municipality and private party and analyses how this negotiation process is being influenced by the context. This finds the underlying considerations and possibly reduce negative effects of the implementation of public space with private involvement. Answering the main research question: "How do considerations by Dutch municipalities and private parties influence the realization of public and private space?".

## 2. Theoretical Framework

### 2.1 Definition of public space and public space with private involvement

Defining public space is crucial in understanding the importance of public space. The definition of public space from Németh (2008) is used for this paper, who describes it as a space that is accessible by the public in any kind of physical setting. Public space is inherently part of cities as it is a vital need to travel between private spaces and it functions as a place to communicate with each other (Mitchell, 2003). However, Kirby (2008) states that the social gains of public space are inflated, and those of private space are underestimated. This statement is again contradicted by Blomley (2001) and Rogers (1998), who state that public spaces create unregulated and accidental encounters between people, bringing people with different backgrounds into contact with each other (Blomley, 2001; Rogers, 1998). A private space would have less unregulated and accidental encounters as private parties often try to exclude undesired users and encourage desirable use (Cybriwsky, 1999; Staeheli and Mitchell, 2006). Truly publicly accessible space is therefore a powerful catalyst in creating social contact and an understanding of other people.

However, the catalyst effect can be influenced by the design and ownership of the public space. As Jan Gehl (1971) describes that optional activities (such as reading a book or meeting with friends) are especially dependant on the physical conditions of the exterior. The quality of the physical conditions also influences on how long the activities take place in the space, as a more enjoyable space invites people to stay longer and enjoy their activity. Jan Gehl (1971) argues that when the space is of poor quality, only the activities that are strictly necessary (daily shopping or traveling to work) take place in this space and even if optional activities take place, they will be very short. Meaning that a place of high quality enables more optional activities and a space of low-quality limits social activities. This effect is relevant for the social catalyst effect as the social activities depend on the presence of other people in the public space (Gehl, 1971). Meaning that a space with low quality, will have no optional activities, which results in a low presence of people, which results in no social activities. A space with a high quality on the other hand works the other way around and thus enables social activities. This is in line with the argument of Gehl, who states that 'social activities are indirectly supported whenever necessary and optional activities are given better conditions in public space' (Gehl, 1971, p12). Therefore, considerate design and of public space is a very important factor in planning cities. This design of the space is heavily influenced by who is responsible for the space and who owns the space. This responsibility and ownership lays in case of the Netherlands often in the hands of the municipality, this is however not always the case.

Public space does not have to be owned by the public. There are many common examples of Privately-Owned Public Spaces (POPS), like shopping malls, corporate plazas or railway terminals. POPS characterize themselves as spaces where the owner is required by law to keep the space public accessible, however the physical composition and the regulations follow the private interests of the owner, not the government (Smithsimon, 2008). This means that the private owner can restrict how the space will be used and by who, while keeping the space "technically" open to the public. These POPS typically materialize when the government does not have the capacity to provide public services and goods and the private market sees an opportunity to provide these services with profit in mind (Banerjee, 2001). The private market sees this as an opportunity because of the general consensus that good quality public spaces increases the value of surrounding property (Punter, 1990). The private then motivates the investment in public space by making profit by selling the surrounding buildings for a higher value. With this cooperation between government and the private sector, public space can still be constructed without the need of large public funding. Some scholars support this use of the private sector to supplement the availability of services within downtown areas, as it could help failing city centres (Garvin, 2002; Stone, 1989). Németh (2008) argues that with this model, the policymakers no longer see the space as a place of social interaction, but as a place of investment. This may have downsides, which we will discuss in the potential risks of POPS. Next to full private ownership, there are also other forms of private involvement in public space. The private party may be involved in maintaining the area, maintaining safety, designing the area, or having a powerful influence on the

space because of certain interests. An example of a different form of involvement is public space around housing that is developed by a private company. These kinds of spaces are constructed by the private company and may then be sold to the government, as they may better fit to maintain and control this space. These kinds of spaces are both public and private, however the level of private involvement results in a space that is heavily influenced by a private party. The space may therefore be exposed to some of the characteristics and effects of POPS.

## 2.2 The possible effects of POPS

The city is a meeting place of people from all kinds of different backgrounds. Mitchell (2003) states, that the city is a place where different people can meet each other and that everyone should have access to this unique melting pot of differences he stresses the need for actual open public space for everyone. However, it can be argued that these public spaces are not as accessible and heterogeneous as ideally described. The elements and range of the accessibility of the place are namely restricted with cultural and legal aspects (Smith and Low, 2006). Most scholars criticize cases where new POPS are constructed, as they find them restricting social interaction and limiting personal freedom (Sorkin, 1992). Keeping this in mind, Németh and Schmidt (2007) argue that a variety of private parties put security above social interaction by using design and rules to exclude certain people that are not desired. This is a very fundamental problem towards the unique opportunity public space has, namely creating encounters between people with different backgrounds and therefore increasing tolerance between people (Blomley, 2001; Rogers, 1998). It can be said that increasing security by using design and rules is a good thing, because it increases the perception of safety. This does have positive effects, like the attraction of groups of society that want to enjoy greater security such as children, elderly and females (Van Melik et al, 2009). However, research shows that increasing the safety perception by excluding “risk groups” (such as people with sneakers and hoodies), people may become distrusting and fearful towards the group that (Ellin, 1996). And therefore, decreasing social interaction between different layers of society in that space. Leading towards a more homogenous public in the space.

Nevertheless, a generalized claim that POPS are per definition exclusive cannot be made, as there are examples where private parties make extensive plans for the involvement of local communities (Langstraat & Melik, 2013). It is not strange that private parties strive for a safer and retail-oriented place instead of creating a place with great social interaction, because they seek to create a place where they can maximize their profit. This is for example also the case in the Beursplein (an open shopping strip) in Rotterdam, where there are almost no public sitting opportunities and the whole space is shop oriented. They want to stimulate consumer spending and increase the value of the land if they invest in real estate. This focus on commercial goals is not strange as private investment in property is generally to generate income, not providing a public service (Van Melik et al, 2009). The value is generally increased by making it scenic and nice looking, not that much by increasing the opportunities for people to meet (Staeheli and Mitchell, 2006). This results in another exclusive effect next to the security aspect of the privatization. As mentioned in the previous paragraph, social activities indirectly depend on the qualities of the public space (Gehl, 1971). Meaning that the design of the POPS may (unintentionally) limit the possible social activities by designing a space that looks pretty but merely services commercial goals.

An example of (unintended) exclusion is the Beursplein in Rotterdam (The Netherlands). In *figure 1* is an image displayed of the POPS in Rotterdam. This space is without invasive accessibility restrictions (except skating), so one would think that this space is non-restrictive. The design of the space however, steers strongly towards the shopping activity. It has no benches and no pleasant spaces to meet. Showing that the space does not limit social activities with exclusion and security measures, but it limits social activities by design. The space in *figure 2* (both pictures are taken on a sunny busy day) is a publicly owned public space which also does not limit accessibility, but it does support social activities by design. By creating a space where people can pleasantly meet and relax. Creating a mixed crowd of people with different activities, sparking social interaction. This comparison shows that

restricting the usage of the space by using design can have a significant impact on the amount of social activities that take place in the space.



Figure 1. POPS, Beursplein, Rotterdam (Jerde, 2009).



Figure 2. Publicly owned public space, Rembrandtplein, Amsterdam (PxHere-468297, 2017).

The threats to the vitality of public open space just as relevant in the Netherlands. For example, we look at the municipality of Rotterdam (2010) who argues that diversity is key in Rotterdam, because of its very diverse community and the function as melting pot in society. To sustain this diversity in a city a level playing field in public space can be vital. Because when public space becomes restricted different groups of society can lose contact with each other and alienate from each other. Restriction in the Netherlands is not as present as in the US, however it is there, and it can nudge certain groups out of these places. So does the lack of seating and meeting places at places like Beursplein stop people who want to relax and chat in the open space. Also, there are 68 camera's which can restrict the use, because people adapt their behaviour when they are watched by authorities (Van Melik et al, 2009). Most people are not aware of these restrictions but are being steered subconsciously.

### 2.3 Implementation of POPS in the Netherlands

POPS is also present in the Netherlands. According to Van Melik et al (2009) it is very likely that the private sector will have a more important role in the redevelopment of urban areas in the Netherlands. This rise of involvement of the public sector is in line with the more entrepreneurial manner of the Dutch municipalities, who are not merely focusing on public services anymore, but also on the prosperity of the city. This focus on prosperity and attracting investors requires the participation of the private sector, because the municipalities lack the resources to support such grand investments (Van Melik et al, 2009).

However, municipalities in the Netherlands are hesitant to direct responsibilities and power towards private parties, even today. Hence the rise of POPS in the Netherlands is not a straightforward privatization but it should be seen as a complex reorganization of the different responsibilities and roles of the players (Langstraat & Melik, 2013). This results in a great variation of effects, which differ greatly per municipality who all have different strategies. (De Magalhães, 2010). The implementation process of the POPS is a vital point in where the municipality has power to make rules and regulation regarding the POPS. This mainly materializes in the contract between the municipality and the private party.

The great variation public space contracts resulting of the redistribution of responsibilities, in combination with tailor made contracting, results in a great variety in how private parties are involved in public space in the Netherlands. As private parties and the government often work together to create public spaces that service both the needs of the private party and the demands of the government (Van Melik, 2009). Cooperation between the local government and the private party however does not mean that possible commercialization of the space is prevented. Research from Van Melik (2009) shows that private involvement in public space (that will be owned by the public) may

still result in commercialization of the space, as the private party may negotiate that the public spaces caters the surrounding private commercial facilities. This does not necessarily have to be a problem a commercial activity on public space can increase the usage of the space and therefore increase the interaction between people. It does not mean however, that the different forms in which private involvement in the Netherlands take place do not pose a threat of exclusion. As these entrepreneurial forms of public space can sharpen the socioeconomic inequalities of certain groups in society (MacLeod, 2002). The private parties still cater their own profit driven goals when they are merely involved and not the owners, and the municipality may not notice these motivations when they enable the development of these spaces.

#### 2.4 The blurring of ownership over public space

As private involvement takes different forms and shapes in the Netherlands, this also happens in other countries. Also, here private involvement can take other shapes than regular POPS. For example, in the United Kingdom the management of public space has gradually changed from full governmental control to involvement of numeral stakeholders, including private parties (Magalhães & Carmona, 2006). This phenomenon is quite similar to the Dutch situation as also in the UK the public spaces are constructed in collaboration with private parties with jurisdiction the most important cooperation tool. As it is used to determine the responsibilities, which often can cause disputes later on. The private party which often constructs the public space has a profit motivation to construct it cheaply and when it is transferred to the municipality for management, this can cause high costs for the municipality. The most powerful tool therefore to prevent this are formal obligations, which are continuously innovated to cater to the changing private involvement in public space. For these formal documents the clear distinction of public and private space is necessary, and they mainly follow the same definition of ownership.

The formal distinction of public and private space however, conflicts with the main definition of Németh (2008), who states that public space is a space that is accessible by the public in any kind of physical setting. The formal definition (which is needed to clarify responsibility) thus differs from the perception definition, which describes accessibility and atmosphere. This further blurred the line between public space and private space, meaning that public space may very well be private space and vice versa, depending on the formal or perception perspective. This is also in line with other findings of Németh (2008), who states that 'publicly accessible space' can be any physical setting, which can be categorised in management, ownership, accessibility and relative publicness. This is an interesting phenomenon regarding this research, which tries to understand how the considerations made by the municipality and the private party influence the end result of the space. The blurring of the ownership definition makes it so that contractual and perceived responsibility is more important than actual legal ownership. As the owner is not always responsible for the space in certain contractual constructions. Meaning that the party with the most responsibility often has the most influence on the actual design and accessibility of the space. The party with the most responsibility who is managing the space namely formulates how public the public accessible place actual will be (Németh, 2008). This influence is vital for the positive social activities that can take place in the space. As the party with the most responsibility can often make the space better or worse fit for social activities, depending on their considerations.

#### 2.6 The spectrum of public and private space

Noticing the blurring lines between public space and private space and the different definitions of public and private space begs the question how they can be differentiated. As it is important to know who has the most influence over a (future) space, because they can (unintentionally) dictate if the space can be a powerful social catalysator. In this paper two different perspectives on public and private space are essential to differentiate the perception definition and the formal definition of public and private space. As mentioned in the previous chapter these definitions differ greatly in form and in

function. The perception definition determines whether a space is perceived as public, private, or in between. Depending on the design, atmosphere, and accessibility restrictions.

The perception definition can be placed on a scale, ranging from a place that is perceived public towards a place that is perceived private. This is illustrated on the horizontal axis of *figure 3*. The formal definition determines whether a place is legally owned by a public party, a private party, or variations in between these two absolutes. This is illustrated on the vertical axis of *figure 3*. To illustrate the spectrum with the two scales, four different extreme examples are placed upon this figure. Firstly, POPS for example is perceived as a public space but formal in hands of a private party. In its purest form it is thus placed in the top-left corner of *figure 3*. Secondly, a garden connected to a house is perceived as private and is formal in hands of a private party. This is thus placed on the top-right corner *figure 3*. Thirdly, a court or garden from a ministry is often perceived as private, but it is formally in hands of the public sector. It is thus placed in the bottom-right corner of *figure 3*. Lastly, a public city square with street furniture is generally perceived public, and in the case of the Netherlands most often formally owned by the public sector. This places this space on the bottom-left corner of *figure 3*. Often spaces don't fit these extremes and can be defined on a place between the extremes of the spectrum. Meaning that a space can be perceived neither public nor private, but formally owned by the public. Illustrating that the definition of public space is not an absolute but rather defined on two scales. The spectrum in *figure 3* can be used to analyse existing space. As it can be used to illustrate that a publicly owned space is perceived a private space, which may not be desired situation. The spectrum can also be used to show how future spaces may be defined when they are finished. As certain considerations by the municipality and private party that are made in the development process may shift the responsibility of the space towards a more public or private definition on both scales. Resulting in a space with such characteristics, because the negotiation process determines where on the two spectrums the actual space is going to be.

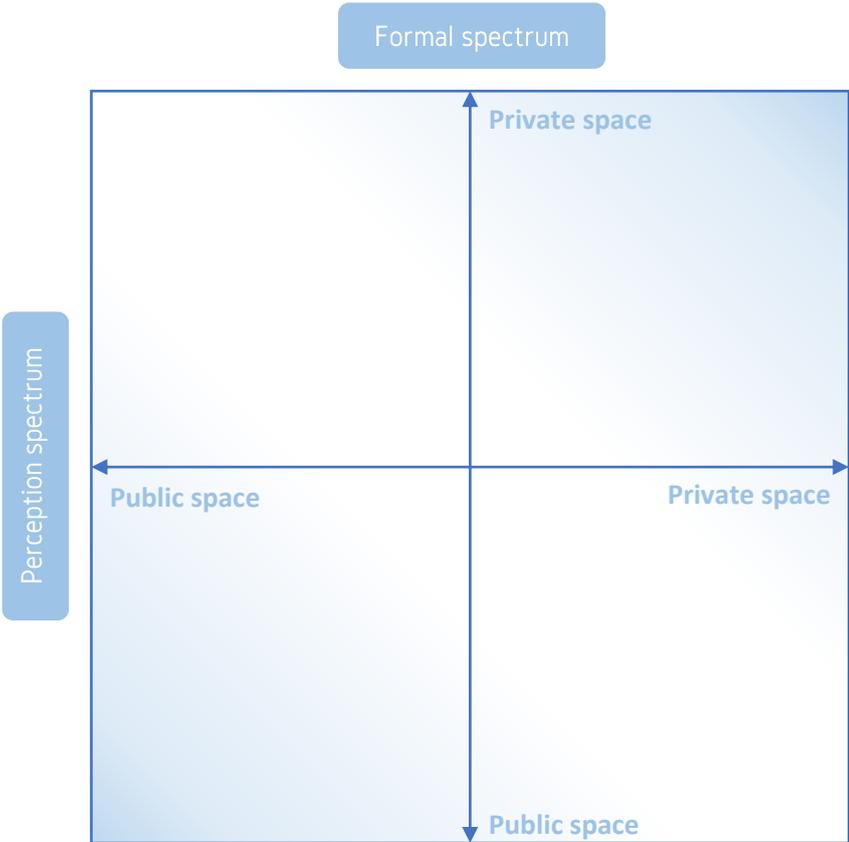
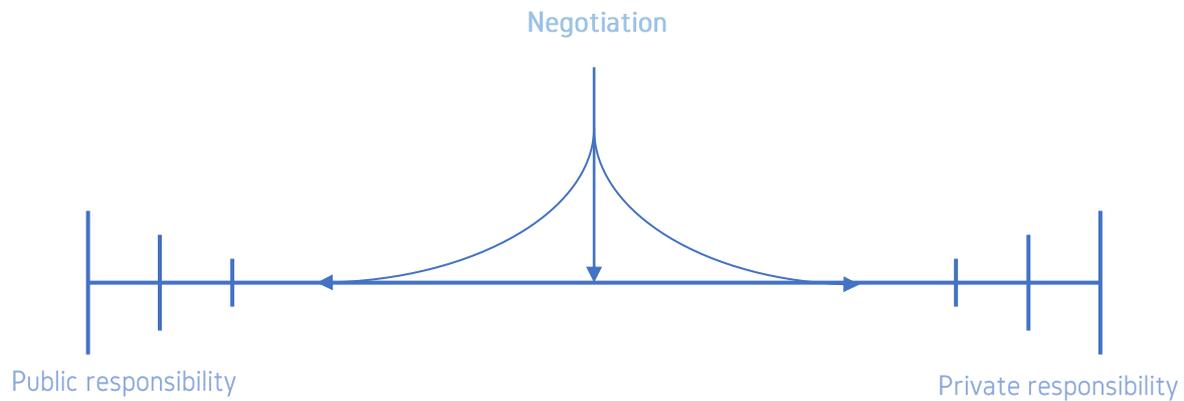


Figure 3. The Formal and perception spectrum of public and private space.

When both scales are combined it results in an overall scale which shows whether a place is more the responsibility of a public or a private party. This can be used to illustrate the outcome of the negotiation between the municipality and the private party. This is illustrated in *figure 4* which shows that from the negotiation process a great degree of different defined spaces can result. Meaning that certain considerations in the negotiation process can steer the space to a space with more public responsibility, more private responsibility, or something in between.



*Figure 4. The scale on which the outcome of the negotiation process can result in a space with more public or private responsibility.*

## 2.7 Subdivision of the formal definition

As stated above the perception definition and formal definition can both be placed on a spectrum. However, the formal definition is not as one-dimensional, as there is not one overall legal definition of the space. As Baron (2013) states that there is not one sole owner over the space but that there is a so-called bundle-of-rights. This bundle-of-rights consists of the owner of the surface of the land and other multiple parties which are bound by social and legal relationship. Meaning that one party can own the surface area of the space and another party owns the natural resources of the space. One thus does not have limitless ownership over a property. But is obligated to follow institutional and legal rules on the different levels of the bundle-of-rights. This theory of property is firmly in place in the Netherlands as the rights to a space are subdivided in several rights. Meaning that when one buys an immovable property in the Netherlands the individual has the right of ownership over the topsoil layer (with usufruct), groundwater that comes to the surface naturally or with machines, water on top of the soil (unless it is connected to water on other parcels), and buildings that are permanently attached to the soil (van Vliet, 2006). The person thus does not own minerals that are deep down in the earth, or the air far above the parcel. *Figure 5* further illustrates the bundle-of-rights in the Netherlands, it shows who normally has the rights over what part of the bundle according to the “Burgelijk Wetboek”, when the space is privately owned (Wettenbank, 2018).

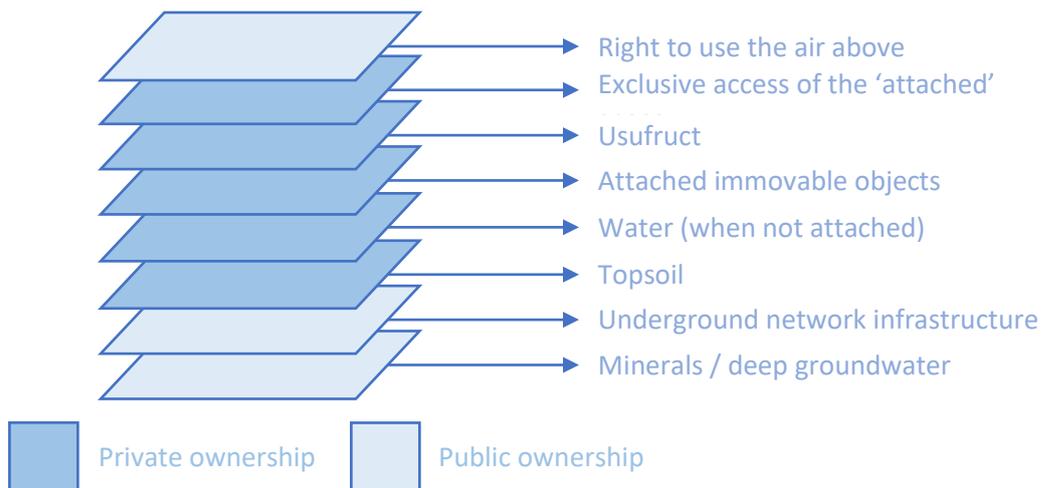


Figure 5. Typical bundle of rights in the Netherlands, but in reality it can vary depending on the context.

This is relevant for the formal definition as a shift on the spectrum of the formal definition does not always influence all rights in the bundle, but sometimes just certain rights within the bundle. Meaning that in a particular space the attached immovable objects may be made public but the topsoil stays in private hands. Adding another layer of depth to the formal definition of public and private space.

## 2.8 Conceptual model

Structuring the perception and formal definition, the spectrum, the bundle-of-rights, the interaction between the municipality, and the private party results in the following conceptual model (figure 6) of the development process of public space with private involvement.

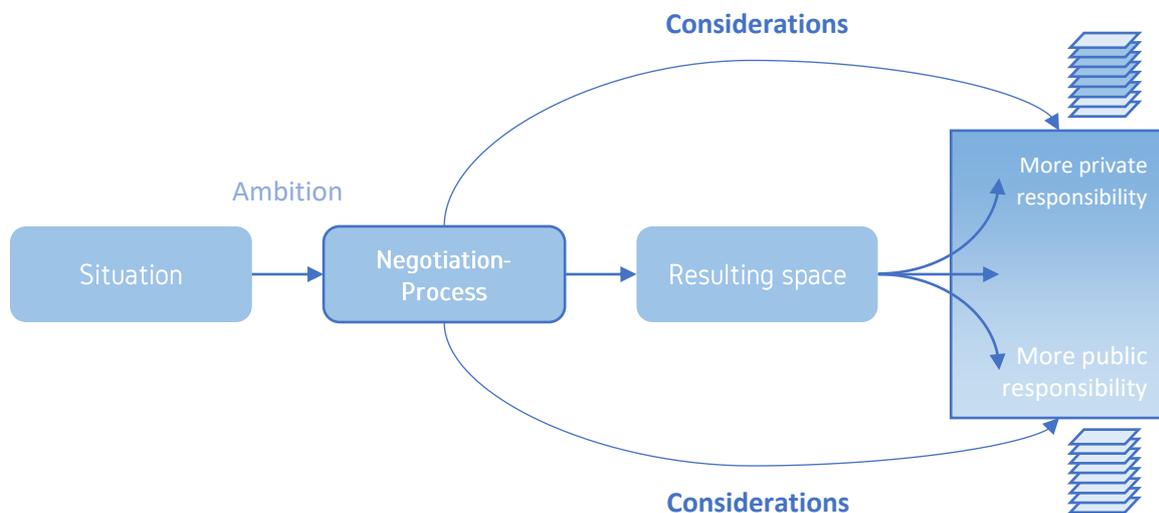


Figure 6. Conceptual model of the development process.

First there is an ambition by the Dutch municipality to make or redevelop a public space. The municipality may contact a private party to cooperate on the development of the public space because it may have benefits both financially and spatially. During the negotiation process the main decisions are made on the what the outcome of the process should be. During this process several considerations are made based upon the context of the space and the desires of the parties involved, which can be case specific. The considerations that are made by the municipality and the private party are ought to be one of the decisive factors in determining the degree of private or public responsibility. Meaning that the combination of several considerations can result in a space with more public responsibility or more private responsibility. This 'responsibility' is a combination of the perception

definition and the formal definition. Building upon the existing theories of the definition of public and private space. The considerations that result in the responsibility are the main focus of this paper as they shape the outcome of the space. This outcome can greatly influence whether the public space becomes a social catalysator with social activities, or a space with no or few social and optional activities. When a place has more private responsibility and ownership, they can dictate the usage and design. Meaning, that if the municipality wants a certain quality, they need to consider how they guarantee that quality when the responsibility.

### 3. Methodology

#### 3.1 Research strategy

To answer the main research question of the explorative research: “how do considerations by Dutch municipalities and private parties influence the realisation of public/private space?” deliberate choices in research design are made, which are illustrated in *figure 7*. This figure shows how this explorative research will be able to answer the research question. To substantiate the main research-question several sub-questions are constructed. Namely, “how can public space be defined”, “which public spaces with private involvement are the most common in the Netherlands?”, and “what are the important considerations that influence the outcome of public space with private involvement?”. The definition of public and private space is defined to demarcate the differences between these two definitions. Then an explorative research is done to find where the crucial decisions are made that influence the realisation of public/private space. This resulted in the finding that the negotiation process between the municipality and the private party is crucial in deciding whether a place becomes more public or more private. Further literature research showed that there are different considerations that influence the negotiation process, that then result in different outcomes of the space to be.

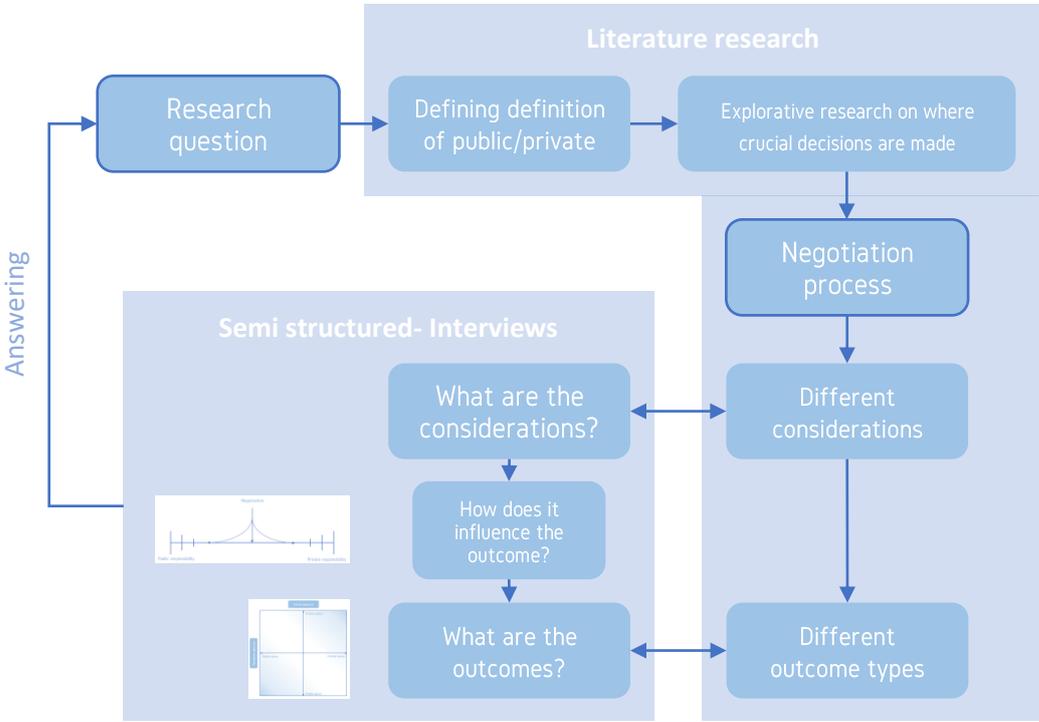


Figure 7. Research strategy of this paper.

To understand how these considerations lead to different public/private spaces semi-structured interviews are conducted. How and why this data is collected in such a way is explained in the following chapters. The outcome of these interviews leads back to the research question and answers how the considerations by Dutch municipalities and private parties influence the realisation of public/private space.

### 3.2 Semi-structured interviews

The choice for semi-structured interviews is made, because they give according to Longhurst (2010) insight in subjectivity, politics and power, which are highly relevant to the development of public space with private involvement. This because it is shown in the theoretic framework that a complex negotiation process with power plays takes place between the municipalities and the private parties. Also, this method is very useful in finding complex behaviour and opinions, this is relevant because this research aims to understand how the considerations by the stakeholders influence the realization of public space with private involvement. These considerations are embedded in an complex context and the semi-structured interviews are a good tool in gathering contextual information as well as the opinions behind the considerations. Other methods of data collection, such as collecting secondary data collection are less fit for this explorative research. As the secondary data has been gathered by another person, who did it for another reason (Longhurst, 2010). Meaning that the important contextual information may be lost, and explorative nature of this paper would be limited. As there is less room to react to findings, as the data is already gathered. Survey information could also have been used. However, some geographers state that survey information has limited value, especially compared to the very detailed an rich information that is gathered from in depth interviews (Winchester, 1999). Survey information is limited as the beforehand constructed questions depict what can be asked. Again limiting the explorative ambitions of this paper. The semi-structured interviews allow for immediate adaption to certain answers during the interview, fully enabling explorative research. The adaptability of the semi-structured interviews, combined with the more contextual information that can be gathered during a more in depth interview, make semi-structured interviews the best fit collection method for answering this research’s main question.

The data which is produced by the interviews is analysed, by creating summaries of these interviews and these summaries are then colour coded based on similarities between the different interviews. Within the semi structured interview various key questions (see *table 1*) are asked. These key questions are focused on the sub-questions of this research. They are used to direct to keep the interview on track to answers the most important sub questions of this research. The key questions are also used to create the possibility to compare answers which are based on roughly the same questions. There is only a relatively small amount of key questions during the hour-long interviews, but this is needed to leave room for insight in the nuance of the topic. As this explorative research tries to gather contextual information and the information outside these questions it is also very valuable to gather contextual information Longhurst (2010). Thus, within the interview there is left space to delve deeper into some of the particular answers when they can give valuable insights, by asking informal follow-up questions depending on their answers on the key questions.

Key questions	Serve these goals
What experience does your municipality have with private involvement in the development of public space?	To get a global understanding their experiences and introduce the topic if they have questions.
What are the most common public spaces with private involvement in your municipality?	Answering sub-question 2: “which public spaces with private involvement are the most common in the Netherlands?”
<i>Sub-question: What are the characteristics of these spaces?</i>	Answering sub-question 2
Why are public spaces with private involvement realized in your municipality?	Gathering context for sub-question 3
What are the most important considerations that influence the development of public space with private involvement?	Answering sub-question 3: “what are the important considerations that influence the outcome of public space with private involvement?”
<i>Sub-question: What is the effect of these considerations?</i>	Answering sub-question 3

Are you/is your municipality satisfied with the outcome of public spaces with private involvement? And why?	Gathering information on how the considerations by the municipality and private party resulted in a desired outcome.
<i>Sub-question: What kind of issues did you/the municipality run into regarding public spaces with private involvement?</i>	Gathering more specific information on what could go wrong. And gathering more context surrounding the negotiation between the municipality and the private party.

Table 1. Key questions from the semi structured interviews.

These key questions and answers are matched using the previously mentioned colour code. This to support arguments which have larger consensus between the experts. The semi-structured way of interviewing allows for delving into specific topics (like the considerations in the negotiation process) but it also allows for the introduction of new ones (Longhurst, 2010). Resulting in a broad understanding of the underlying negotiation process, without losing the focus of the research.

### Interviewees and their municipalities

Several municipalities are researched, namely the municipalities of Leeuwarden and Zwolle. The choice for multiple municipalities is made to enable comparison and better generalization. Another reason for the particular municipalities is the amount of urban area within the municipality. An urban municipality often has more public space than rural areas. Adding to this is the interest of private parties in public space, this is generally higher in urban areas as more investment is generally done in urban areas. Because of this, urban areas are a better fit to obtain as much information on the development of public space with private involvement. Four different experts working within these municipalities are contacted to be the subject for a semi-structured interview. The occupation of the four experts ranged from advisor plan development to project manager or infrastructure management. All of the four experts took part in different in-depth interviews that were an hour or slightly more. The interviews took place in comfortable non-restrictive places where they could speak freely. All the interviewees had a slightly different relationship with the planning of public space, this created a broader understanding of the subject. Experts working for the private parties are not interviewed as the public sector dictates the considerations and the structure of the negotiation process. The public sector is also obliged to give transparent information and are less prone than the private experts to protective answering for commercial reasons.

### Interviewee selection and amount of interviewees

Regarding the specific selection of interviewees and the number of interviewees several considerations are made. Specific interviewees are chosen because of their experience and relation to the topic. This is vital, as according to Longhurst (2010), a semi-structured interview is a qualitative method that does not aim to be representative (like quantitative methods), but it aims to understand the process and the decisions that individuals make. This is key in understanding the negotiation process that takes place between the municipality and the private sector. This paper does not try to prove a representative significant finding over how all Dutch municipalities act during the realisation of public space, but rather explore the different aspects that influence the negotiation process. This also partially explains the number of interviews, as it is not the goal to make a large generalized statement but present explorative findings. Another aspect that influenced the number of interviews is the degree of communication and cooperation of the municipalities and time constraints that limited the total amount of interviews. Findings of the research showed that the results were relatively homogeneous between the experts, which lowers the impact of the number of interviewees on the reliability of the statements that are made while discussing the results.

### 3.3 Analysis

The colour coded results from the semi-structured interviews are compared and analysed based upon the theoretic framework. Following the research strategy, the findings regarding the different considerations, how they influence the outcome, and the different outcomes are categorised. The great amount of answers from the experts is coupled to the previously mentioned main questions.

Regarding the different considerations that are made during the negotiation process. The most common considerations that were mentioned during the interview were listed, and also their likely hood to actually impact the outcome of the negotiation process. This results in a lot of considerations that are relevant to the main question of the research. The impacts of different considerations on the outcome of the negotiation process, that were mentioned by the experts, are compared. The most mentioned impact and the degree of the impact are recorded. Each consideration can impact the outcome of the negotiation process differently, depending on the context of the space to be. The impact of the aforementioned considerations is analysed using the perception spectrum and formal spectrum of public and private space, coupled with the bundle-of-rights theory. As shown in *figure 8*, a consideration can influence the outcome towards both sides of the spectrum or in between, depending on the context. The different types of context are derived from the interviews and presented using *figure 8*, for each context type respectively. These different contextual types will be visible on the right and the left of the “context” box.

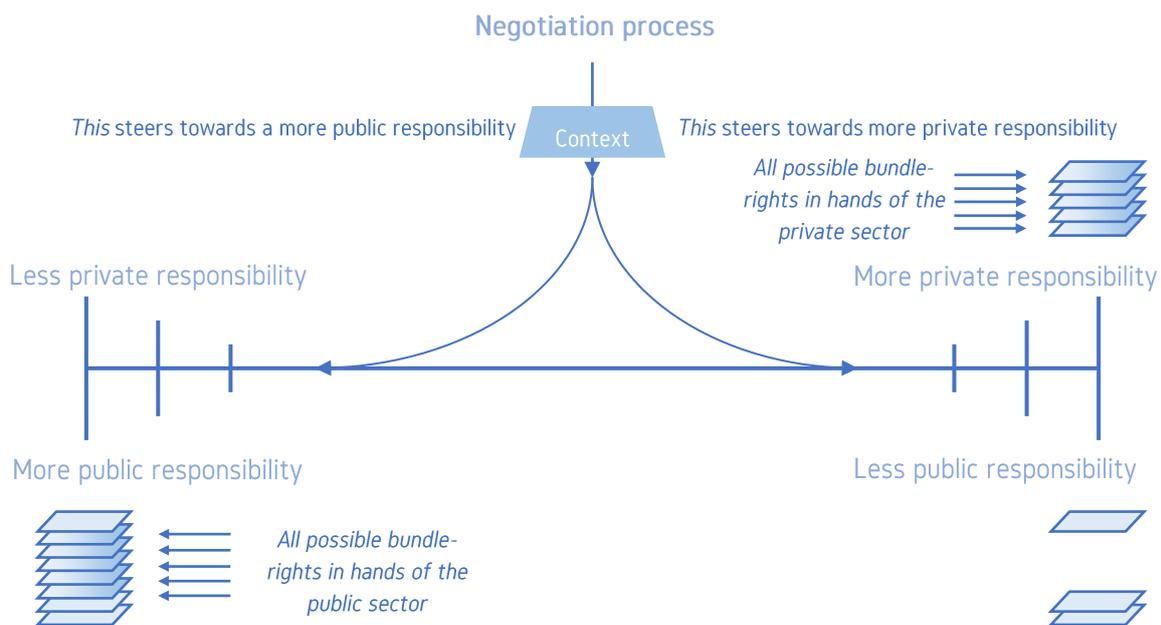


Figure 8. Analysis on how different considerations influence the outcome of the negotiation process.

The bundle-of-rights is also included in the results representation. Above the horizontal line are the rights that are in hands of the private sector illustrated, and below the horizontal line the rights that are in hands of the public sector. *Figure 8* illustrates the two extremes, where on the left a situation is shown where all the responsibilities lie by the public sector, and on the right the situation where all (possible) responsibilities lie by the private sector. In reality these two extremes are not always the case. Because, when a consideration steers the outcome more towards one side of the spectrum not all parts of the bundle of rights may be steered towards that direction. Certain layers of the bundle of rights are more relevant for certain considerations than other. Because of this in the results only particular layers are of interest. Regarding the tree layers on the bottom-right of the image, the top

layer of the bundle of rights (right to use the air above) and the two bottom layers (underground network infrastructure and minerals / deep groundwater) are always in hands of the public sector in the Netherlands. For example, when building public space investor satisfactory can be very important for a private company. Considering that maintaining public space is expensive and the returns are often minimal the private company can consider transferring the public space towards the public party. Meaning that it is likely that the outcome shifts towards public space on the spectrum when a private party with investors is involved. This can be done by just transferring the maintenance to the public party (giving up the exclusive access to the space) or by completely transferring the ownership of the space (also transferring the right over the attached immovable objects and the ownership of the topsoil). Combining the spectrum and the bundle of rights, the results are analysed in such a way that it becomes clear how each consideration influences the outcome of the negotiation process.

Regarding the most common outcomes of the negotiation process. The most common outcomes of public space with private involvement that were mentioned in the interviews will be listed and analysed. The most common outcomes are compared and categorized in several overall common outcomes. These outcomes are then placed on the two-dimensional spectrum of perception and formal definition of public space, displayed in *figure 9*. Displaying how each common outcome can be defined and showing the key differences between these common spaces.

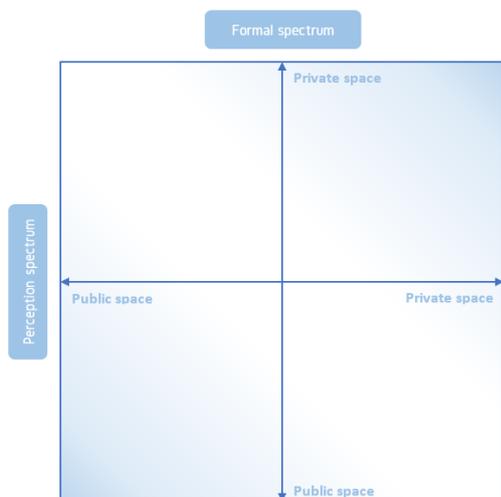


Figure 9. Two-dimensional spectrum of the perception and the formal definition of public space.

This tool of analyzation of public space can be used to categorize all degrees of public space, displaying the degree of public or private involvement.

### 3.4 Ethical considerations and limitations

Within this research, personal contact with interviewees is made which need several ethical considerations. This is needed to safeguard the good name of scientific research and the livelihoods of people who may be affected by this research. This awareness of the possible influence of the research on the population is much needed to sustain scientific research a cause no harm (Hennink et al., 2010). To guarantee this, this research is executed with honesty, professionalism, discretion, and humanity

The ethical considerations are put into action in the shape of a form and a short introduction. In the introduction the interviewer introduced himself as well as the main topic and goal of the interview. In the form general information about the research is given, as well as the duration of the interview. It is also stated that the information that is distributed during the interview will be handled with confidentiality. This includes audio data which is recorded during the interview. The interviewees signed a documented in which they agreed to recording of the interviews. The data in the research is not distributed in such a way that the information can be traced back to an individual level. It can only be

traced back to a certain municipality, but this is done with approval of the municipality. To guarantee false interpretations interviewees receive a copy of the processed data including conclusions. This enables them to propose alterations if their statements have been altered in such a way that they do not stand behind the given statements in the research. This will be done by sending emails to their personal work account, while the data within the document will be anonymized.

## 4. Results

The results are differentiated based on their topic, namely the negotiation process between the municipality and the private party and the outcome of this process in different circumstances. To create comprehensive and legitimate results, the most common findings between all the interviews are listed in a table. Also unexpected and atypical findings are listed as they can give unexpected new insights. Firstly, the results from the interviews with professionals within different Dutch municipalities regarding the different shapes of public space with private involvement.

### 4.1 Results regarding the most common public spaces with private involvement

On the question “What are the most common public spaces with private involvement in your municipality?” the interviewees answered that there are six main types of public space with private involvement. They can be seen in *table 2*. In this table the type of the public space is described together with the legal form of the space, according to the findings of the interviews. The last row describes how many experts within the municipalities stated that this form is fairly common within the Netherlands.

	Type of the public space	Form of private involvement	Number of experts (N=4)
1	Parks and green space around buildings of housing associations.	Owned by the private party but maintained by municipality.	4
2	Shopping malls (outdoor and indoor)	Owned, maintained and policed by the private party.	4
3	Service paths, parking spaces and small service areas around private developments.	Owned and maintained by the private party, policed by the municipality.	4
4	Large public infrastructure needed for private developments.	Built by the private party. Sold to the municipality, who also maintains it.	3
5	Large public spaces with a social role that are deemed necessary within the private development.	Built by the private party. Sold to the municipality, who also maintains it.	3
6	Public green outside the development area of new private developments.	Owned and maintained by the municipality, financial contribution from private party.	2

Table 2. Most common public spaces with private involvement (in no particular order).

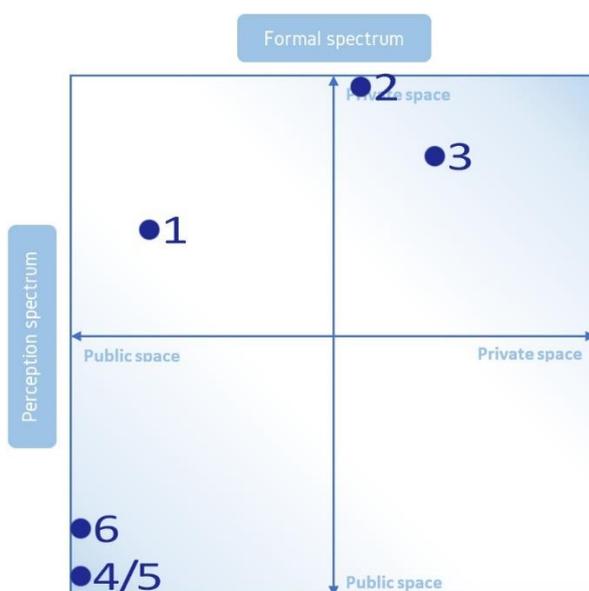


Figure 10. Placement of the different types on the two spectrums.

All these different types of public space with private involvement can be categorized using the formal and perception spectrum of public and private space. As all these spaces were mentioned by the experts as some sort of public space, they are all publicly accessible, however to different degrees. This is shown within the formal and perception spectrum of each type respectively as seen in *figure 10*. The location on the spectrum is based upon the degree of public accessibility and the degree of ownership. Location is not very exact as within each type there can be variations which can nudge the location slightly over the two scales. This is shown in the specific example section of the results. Each location is elaborated in the upcoming summary where each type will be described as the experts stated.

1. Parks and green space around buildings of housing associations.

Parks around the buildings of housing associations are often owned by the housing association, according to the interviewees. Between 1960 and 1990 housing associations were commissioned by the central government to supply parks and other forms of public space around their housing developments. The housing associations are commissioned to maintain the public space and keep it open to the public. In one of the interviews was said: "in the late 80's and early 90's the central government demanded that the park and pathways surrounding the new public housing development were open to the public of Zwolle". This often resulted in green space that surrounded apartment complexes that was accessible for everyone. Hence the more public space orientation on the perception spectrum. The interviewees mentioned that because of the location between and apartments the space does not always have a completely public atmosphere, therefore it is not placed completely to the left. Regarding the formal spectrum, the space is owned by the private party, but the municipality can dictate the usage of the space. For example, the municipality can have a contract with the housing association which states that certain there need to be particular paths that connect certain public spaces. Because of this, this type is not fully privately "owned", but certainly not publicly, hence the location of the type on the spectrum. From the 90's housing associations were commissioned to focus on their core business. This resulted the ongoing process of the detachment of the public space around the buildings. This could initiate a shift of the location of this type of public space on the spectrum towards more public ownership.

2. Shopping malls (outdoor and indoor).

The interviewees answered that shopping malls are often used as public space but are in private hands in the Netherlands. They are semi closed structures, with mainly commercial activity. However, they can have an important social function as they are often used as spaces to meet people and random public encounters take place in such spaces. The owners of the shopping mall are free to exclude certain groups of people, based on their own rules as the space is completely private. However, the space is often publicly accessible, and the exclusion is kept to a minimum (mostly regarding safety). This makes it that it is officially more private than public on the perception spectrum, mostly because of they can exclude, not because they often do. Because of this it is located on the far left of the private side of the perception spectrum. As the private party fully owns the space, they can dictate the design and usage (fitting within the local planning permissions). The maintenance as well as the safety is regulated by the private party, according to the interviewees. Because of this, this type is located on the top of the formal spectrum, as the local government has almost nothing to say except overall safety. However, there is an important remark to the control of the private party when the space has a very public atmosphere. Namely, in one interview was said: "when the space is privately owned but it looks public the municipality has some degree of responsibility and control over the space". Thus, when a privately owned space seems to be a public space that is under control of the municipality, for example an open square in front of a shopping mall, the municipality can pose demands on the design and operation of this space. As in the public opinion people often regard this as public space, and it is easier to shift some of the responsibilities to the municipality, to live up to the expectations of the

users. This could shift the location more down towards more public involvement, when this is applied locally.

### 3. Service paths, parking spaces and small service areas around private developments.

From the interviews became apparent that safety alleys and service paths between buildings are often in hands of the private parties. However, these areas are often freely accessible for people who do not live around these types of infrastructure. The larger service areas can function as public meeting places, as they are open spaces within neighbourhoods. Regarding the accessibility of the space, the space is often freely accessible. However, in certain neighbourhoods it is often regarded as a semiprivate space. Meaning that the space is used by local people only, and if it has a meeting function it is often only for the surrounding blocks. Meaning that people from outside the neighbourhood are often socially repelled from these spaces. Therefore, this typed is placed more on the private side of the perception spectrum, it is however not completely closed off and therefore not on the far-right side. The interviewees mentioned that safety alleys and service paths are maintained by the private party, as they own the ground and they often employ secondary private parties to maintain the space. However, the municipality is responsible for safety. This is stated in the contract as the municipality is often the party that is most suitable for this responsibility. They often guarantee safety in the surrounding area and including the private space is often a convenient solution. Because of this type is placed far towards private ownership on the formal spectrum, but not completely as the municipality polices the space.

### 4. Large public transport infrastructure needed for private developments.

The interviewees mentioned that in most of the developments the roads and public infrastructure are in the hands of the municipality before, during and after the developments. However, according to them it does happen that the private party also develops the infrastructure within a development. They do however not keep this within their inventory as it is not profitable in the long run. They therefore sell the infrastructure to the municipality for ceremonial amount. The space is fully publicly accessible as it is part of the larger infrastructure within a city or town. It is therefore placed on fully on the left on the perception spectrum. The space is also fully owned by the municipality and they also impose a thorough quality check upon delivery, meaning that they can dictate the design even when a private party constructs the space. This makes this type of space fully publicly owned and it is therefore placed far down the formal spectrum.

### 5. Large public spaces with a social role that are deemed necessary within the private development.

Larger public spaces such as squares are often constructed when a new development is dense, according to the interviewees. This to accommodate social services which are needed for such a population. These spaces often function as social gathering places and are often deemed necessary for a vital and well-functioning development. This space is often also developed by the private party who constructs larger housing projects. However, similar to the public infrastructure, the private party has no financial interest in keeping the large public space in their portfolio. The municipality often is willing to buy this space to simplify maintenance and operation. Also, often for a ceremonial amount. The space is fully accessible for everyone as it is a public square, and therefore is this type placed on the far left of the perception spectrum. The space is fully owned by the municipality and they can dictate certain elements of the design as they will be buying the space. Because of this it sits on the bottom of the formal spectrum.

## 6. Public green that surrounds new private developments.

The private party that is developing a neighbourhood often wants to encompass as many units on the plot as possible to maximize profit, according to the interviewees. This often results in low amounts of greenery within the area owned by the developer (depending on the target group of the dwellings). However, the public green outside the owned land does influence the prices of the properties near the public green space. This could be an incentive for the developer to cooperate with the municipality to increase the quality of the public green and thereby increase the land value and increase profits. This type of space is fully accessible for everyone and therefore placed on the far left of the perception spectrum. Regarding the formal spectrum it is more complicated. The interviewees mentioned that green public infrastructure surrounding development areas can be interesting for private parties. In these situations, the municipality maintains full ownership over the space, but the private party makes an investment to increase the quality of the space. The motivation to create such a construction most often comes from the municipality, as they see an opportunity to create a higher quality if they can sway the private party to make an investment. The space is thus legally owned by the municipality, but as the private party makes a big investment, they can have an influence on the design. Because of this, the location of this type is mostly public but not fully as the private party does have an influence. As can be seen in *figure 10* the most common types differ greatly from each other, however most of the types can be considered extremes on the scale, as none of them are close to the mean. This will be discussed in the conclusion section of this paper.

### 4.2 Results regarding the negotiation/collaboration process

As stated in the theoretical framework the negotiation process within the collaboration between the public party and the private party is vital in determining the outcome of the process. Illustrated in *figure 11* is shown that 'considerations' (that are made during the negotiation process) determine whether a space becomes more privately owned or more publicly owned. These considerations are

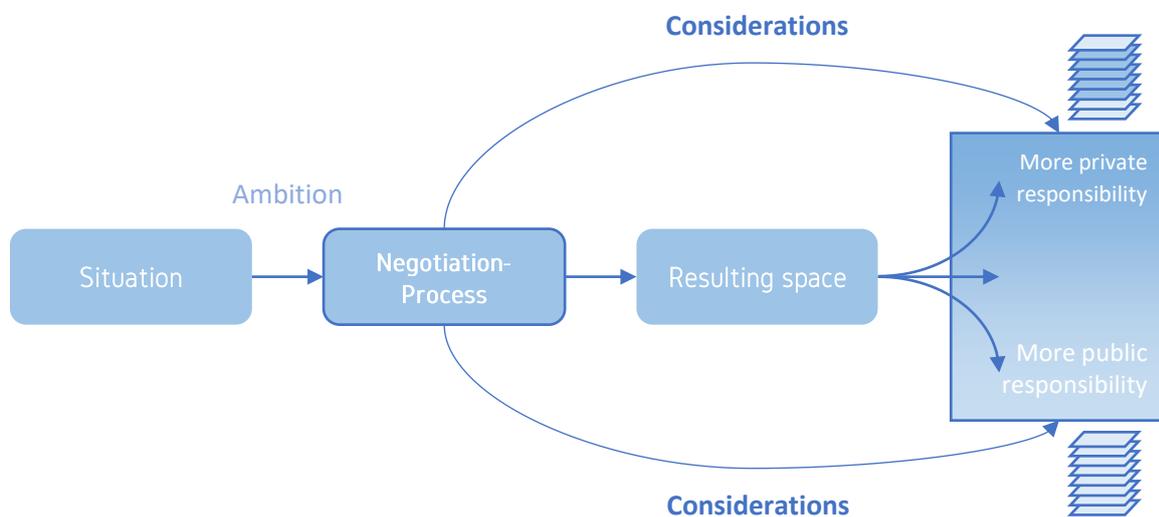


Figure 11. Conceptual model.

made based on the context of the space to be and the desires of the parties that are involved. The large range of contextual differences and desires makes it so that each time considerations can be made differently for different projects. This meant that a lot of different regulations and considerations influence the negotiation process between the municipality and the private party, according to the interviews. The most common findings are listed in *table 3*. Where the most common considerations are listed and which definition they influence. Meaning how a consideration can influence the placement of the public space on the formal and perception spectrum.

	Consideration	Mainly influences which definition?	Number of experts (N=4)
1	Liability	Formal definition	3
2	Water safety	Formal definition	4
3	Social importance	Formal definition & Perception definition	4
4	Investor satisfaction	Formal definition & Perception definition	3
5	Changing legislation	Formal definition & Perception definition	2
6	Practicality of the situation	Formal definition	3
7	Public safety	Formal definition & Perception definition	4
8	Clear ownership	Formal definition & Perception definition	2
9	Compensation or fines if needed	Formal definition	1
10	Reliability	Formal definition	2

*Table 3. The ten most common and important considerations according to the interviewees (in no particular order).*

The way in which each consideration influences the actual placement of the end result on the formal and perception spectrum differs greatly. One consideration on its own may not be able to shift the responsibility to the public or private side. But when different considerations add up, they may be able to influence the outcome significantly. This became apparent from the interviews with the experts, who all described the effects and motivations behind the considerations on the outcome of the project.

## 1. Liability.

From the interviews became apparent that when a space is constructed, it is very important to determine the legal liability of the space. As accidents may happen, or some parts of the space may not function properly. When a private party is liable for the safety in a space, they want to be able to control the space to guarantee the liability. But when the space is hard to control, or the municipality does not allow certain amounts of control the private party is likely to want to hand over the security to the municipality. Meaning that the controllability of the space influences if the space is going to have more public or more private responsibility on the formal spectrum, as seen in *figure 12*. Also, the interviewees said that financial means play an important role. When the private party does not have the means or does not make money, they do not want the liability for safety at that space. Meaning that a decrease in profitability for the private party means a shift towards the public side of the spectrum. This consideration mainly impacts the exclusive access of the 'attached' space part of the bundle-of-rights. Because, when one party needs to police the area, they need legal access to the space

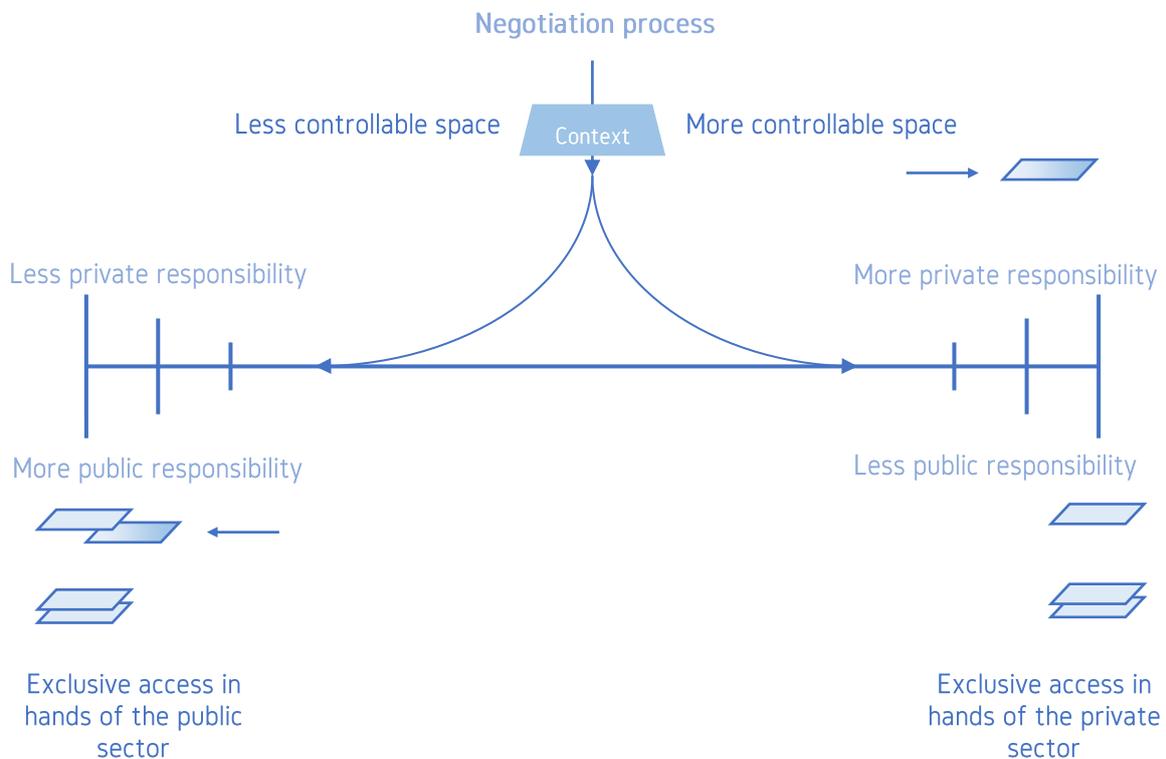


Figure 12. Impact of the controllability on the legal definition.

## 2. Water safety.

Water safety is a central topic within the Netherlands, as improper dealing with water levels can pose serious threats to the liveability, according to the interviewees. It is also one of the tools of the municipality as they can steer certain projects using the water safety as backbone of their argument. Generally, when the water can be managed locally the private developer is obligated to make a water management plan and show the municipality that their plan is future proof, within legislation. When the water in the space is very manageable the private party will have no problems and they can create private spaces. However, when the water problems are not manageable locally or to great, the private party may want to sell certain parts of the area to the municipality, as they can better manage the problem on a larger scale. It makes it so that the manageability of the water influences the formal definition of the space as seen in *figure 13*. This mainly impacts the right to the surface water and the right to the topsoil of the bundle-of-rights. Because ownership over these rights is necessary to manage the local water related problems. However, when water nuisance is coming from plots outside the owned land plot only transferring the rights to the water and soil will not be sufficient. In these cases, private parties are often reluctant to invest in the plot of land without help from the municipality, according to the interviewees.

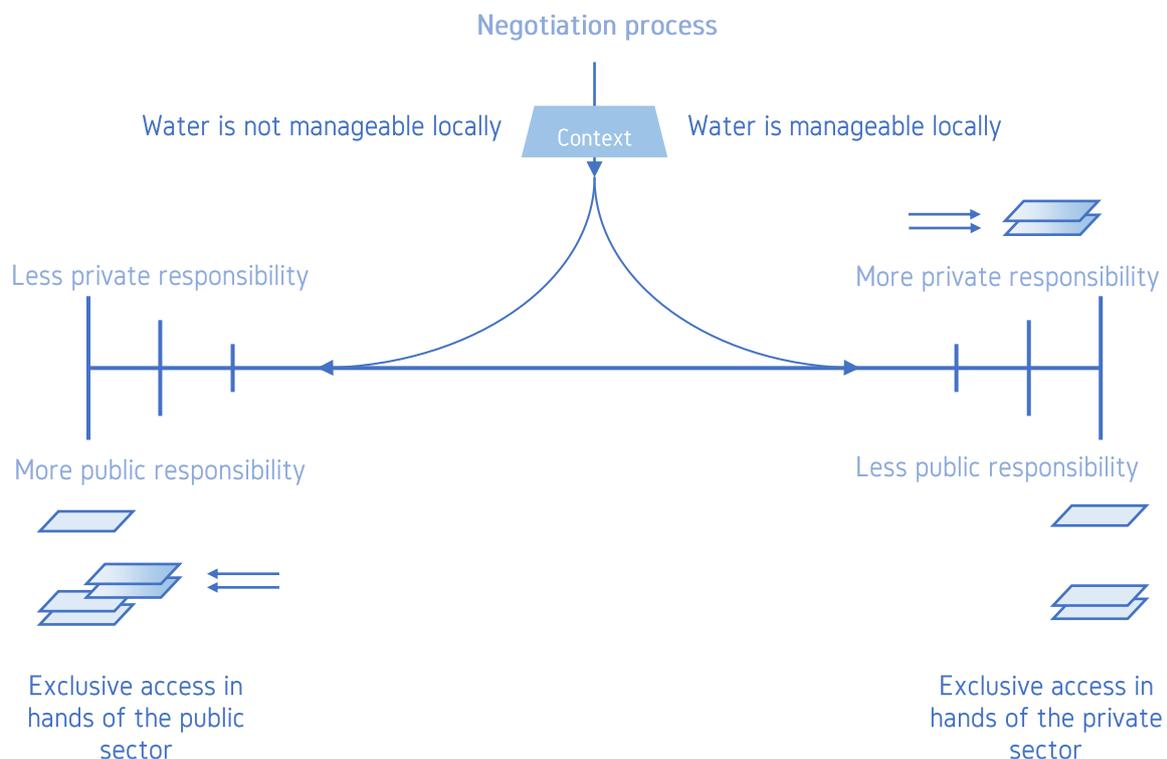


Figure 13. Impact of the manageability of the water on the formal definition.

### 3. Social importance.

The interviewees stated that the municipality is a public institution, all their actions have to be in the benefit of the (local)society. Their decisions have to be publicly motivated and may not serve private interests. Also, all the investments have to be in the public interest. Because of this, they critically analyse investments in public space and infrastructure. When a space only benefits a private party, the municipality will not opt for investment and/or ownership. However, when a space is very vital for the public interest the municipality is very likely to want control over the space and thus often own the space. More public interest makes it so that it will be more likely that the space will have more public responsibility, more private interest shifts the space to more private responsibility, as seen in *figure 14*. For the bundle-of-rights this means that exclusive access, the attached immovable objects, and the topsoil are mainly of interest for this consideration. As the interviewees said that the municipality is not allowed to invest in infrastructure and ground when it only serves private parties. In practice this often results in no public funding ownership at all. When there is public interest in the case the municipality will opt for public access and the private party often wants something in return. Meaning that the municipality will then often invest in the infrastructure (attached immovable objects). This also works the other way around, with private parties investing in infrastructure when they need the access.

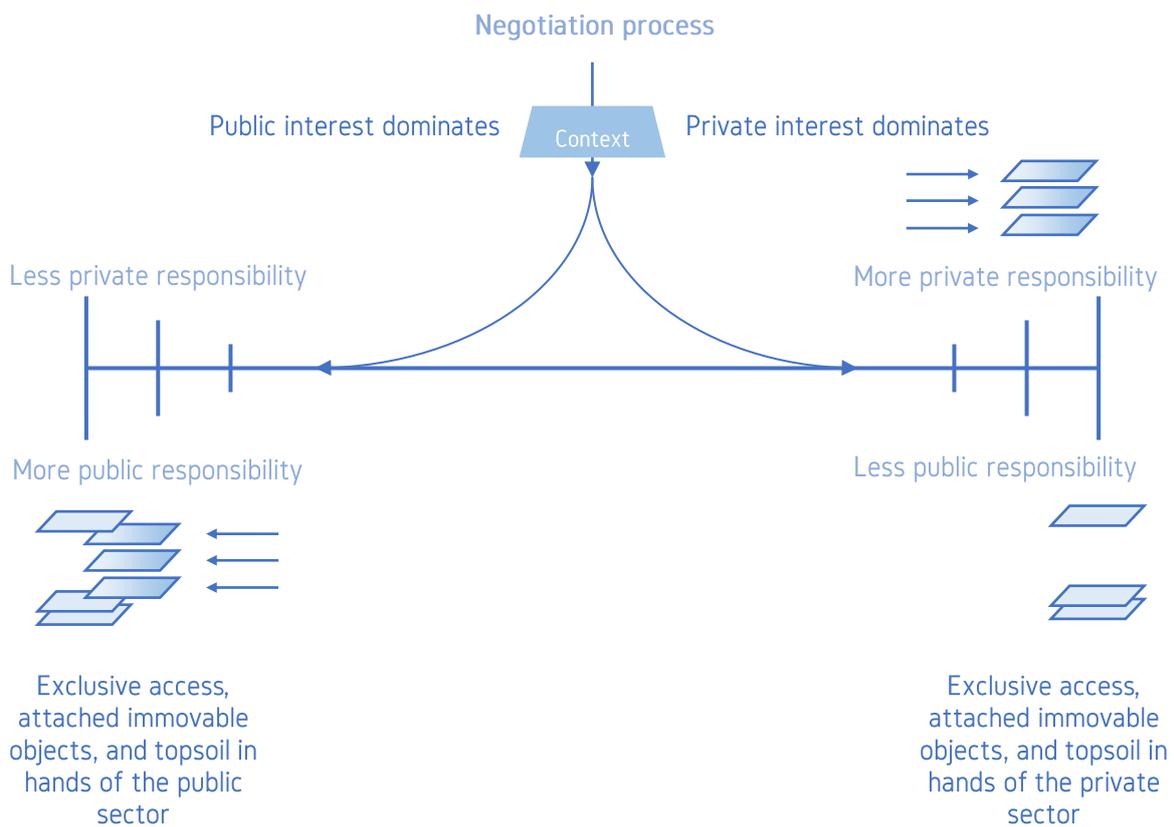


Figure 14. Impact of the public and private interests on the formal definition.

#### 4. Investor satisfaction.

Many bigger private parties have investors. The interviewees found that private companies have to keep their company interesting for investment they want to produce big returns. This means that all investments have to be justified. Investments in public space do generally have little return and are often are losing investment. Because of this companies with shareholders often do not invest in these risky investments. Private parties without shareholders and often ties to the government are more likely to invest in public space. As they focus more on the social qualities. Also, when the inhabitants themselves are involved in the private party the focus lays more on the quality of the public space than on making profit. Meaning that companies with shareholders who pursue profit will mostly opt for selling the space to a municipality and private parties with ties to the government or local ties are more likely to control the space themselves, as seen in *figure 15*. Regarding the bundle-of-rights, the exclusive access, attached immovable objects, and the topsoil are the most relevant. As stated before, investment in public space is often not worth it for investors, thus a private party with investors is not likely to want to own and maintain the public space. As the other rights are often not very relevant on public space like squares the whole bundle is often transferred to the municipality if the municipality accepts. When the private party does not have investors and wants to create goodwill within local context, they may opt for owning and maintaining the ground, holding the rights in the hands of the private party.

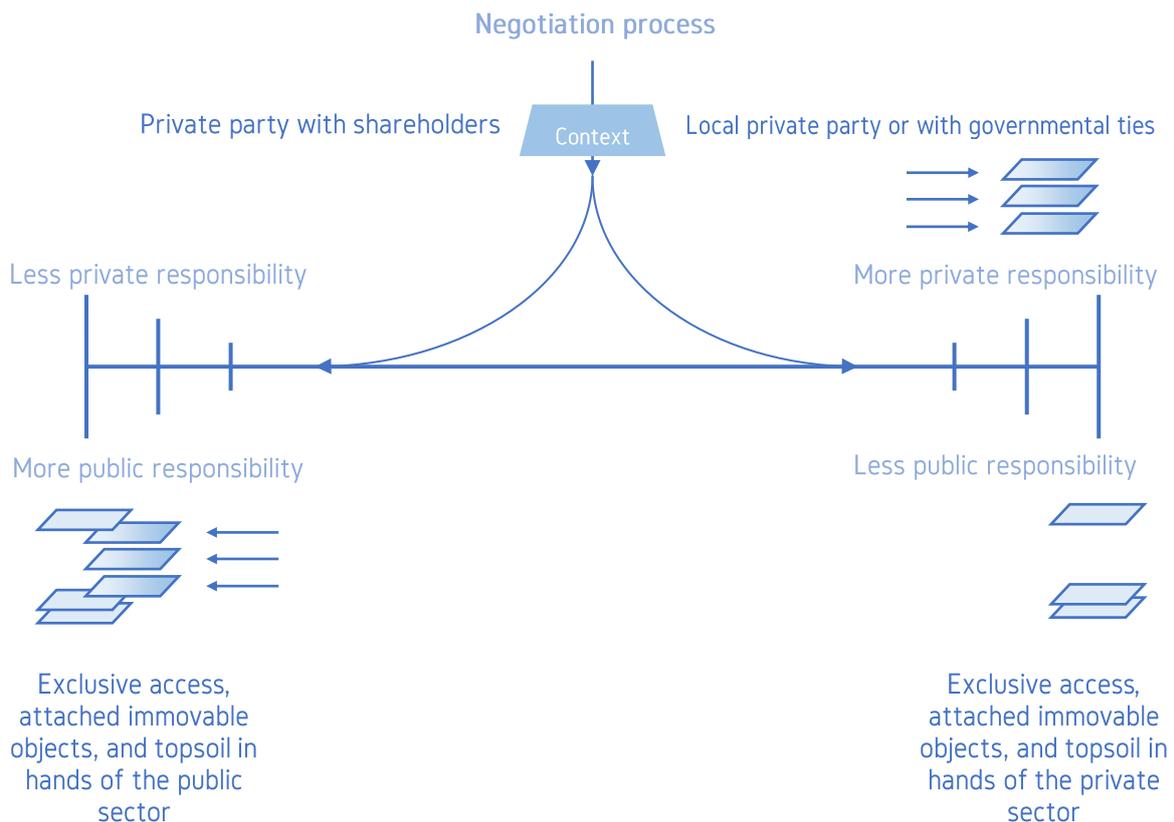


Figure 15. Impact of investor involvement on the formal definition.

## 5. Changing legislation.

A change in legislation can greatly influence the outcome of the development process of public space, according to the interviewees. For example, several experts within Dutch municipalities state that the new “Omgevingswet” will have a big impact on the negotiation process. As The municipality will receive more responsibility and power to shape the space. This could give more negotiation power to the municipalities. However, within an environmental vision all the plans have to be made knowledgeable beforehand. This restricts the practical ad hoc negotiation process that often takes place behind closed doors. This shows how new legalisation could greatly impact both the formal and perception definition of future projects. However, another expert within a municipality stated that often new legislation is just a rebrand of the existing legislation. And that the ways of negation and operation often do not change because the public servants stay the same and often do no change their ways. Also, it was state that when new legislation is vague, actual change can be very limited.

## 6. Practicality of the situation.

It became apparent from the interviews that while there is a great variation of public space projects there is not an unambiguously design for the negotiation project. Often small details can dictate if a space is more suitable for private or public ownership on both the formal and perception spectrum. For example, when an important through route for bicycles crosses a new public square, which a private party owns, they could opt to sell the square to the municipality as they can connect the space better with the important thoroughfare. These practicalities are often very specific and local but can have big influence on how much public or private a responsibility there will be. It is most of the case that when maintenance could be done easily by the municipality and when the municipality does want to control the maintenance, they want to own the space out of practicality. Meaning that when it is practical for the municipality to maintain the space, they want to own the space and the space shifts towards more public on the formal spectrum, as seen in *figure 16*. The desire of the municipality to own the space for easy maintenance leads to public ownership over the exclusive access, attached immovable objects, and the topsoil. This often results in complete ownership, according to the interviewees, as this is legally less complicated. When the space is not suited for the standardized maintenance of the municipality, they are less inclined to own the space, and the private party then often owns these rights

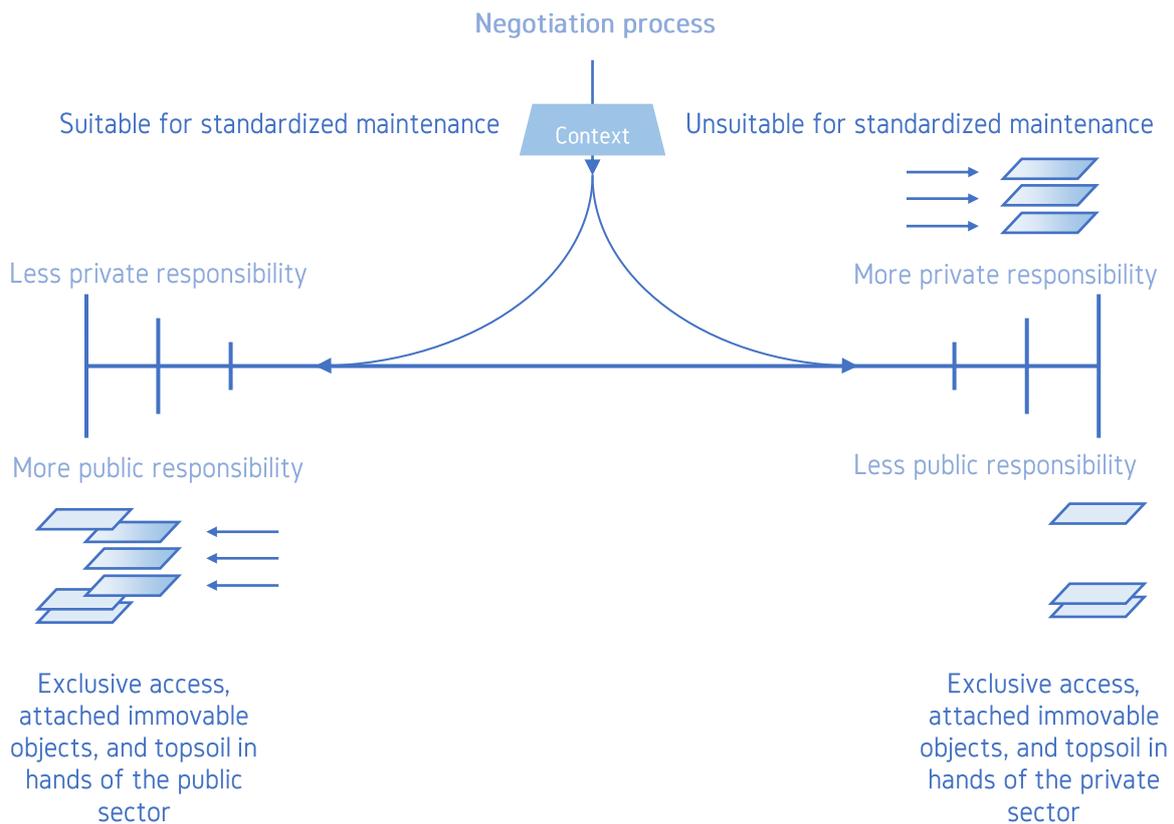


Figure 16. Impact of the practicality on the formal definition.

## 7. Public safety.

According to the interviewees, public safety is very important for any development and strict regulation is imposed on this aspect. New developments have to follow regulation regarding access for emergency vehicles and also escape routes. Private parties are often well able to follow the regulation and have experience doing so. Thus, often it does not have an impact on the formal and perception definition. However, this is not always the case when certain parts of the infrastructure are vital for public safety the municipality wants to control these spaces to guaranty the accessibility. On the other hand, when a private party wants to develop very expensive housing or retail, they often want a very high degree of public safety in the area and therefore want more control of the area. The interviewees mentioned that this can also mean that the area is restricted, and that certain people may not enter the area, shifting the perception definition towards more private responsibility. Resulting in that the space becomes more public when the overall public safety is very vital in an area, and the space becomes more private when the private party wants to guarantee high standard for local public safety, as stated in *figure 17*. The right to exclusively access the space is the most important right from the bundle-of-rights in this case. As when a private party wants to guarantee a certain level of security, they want to control who has access to the space. When the space is vital for public safety the municipality needs the rights to cross the space and then thus needs these rights.

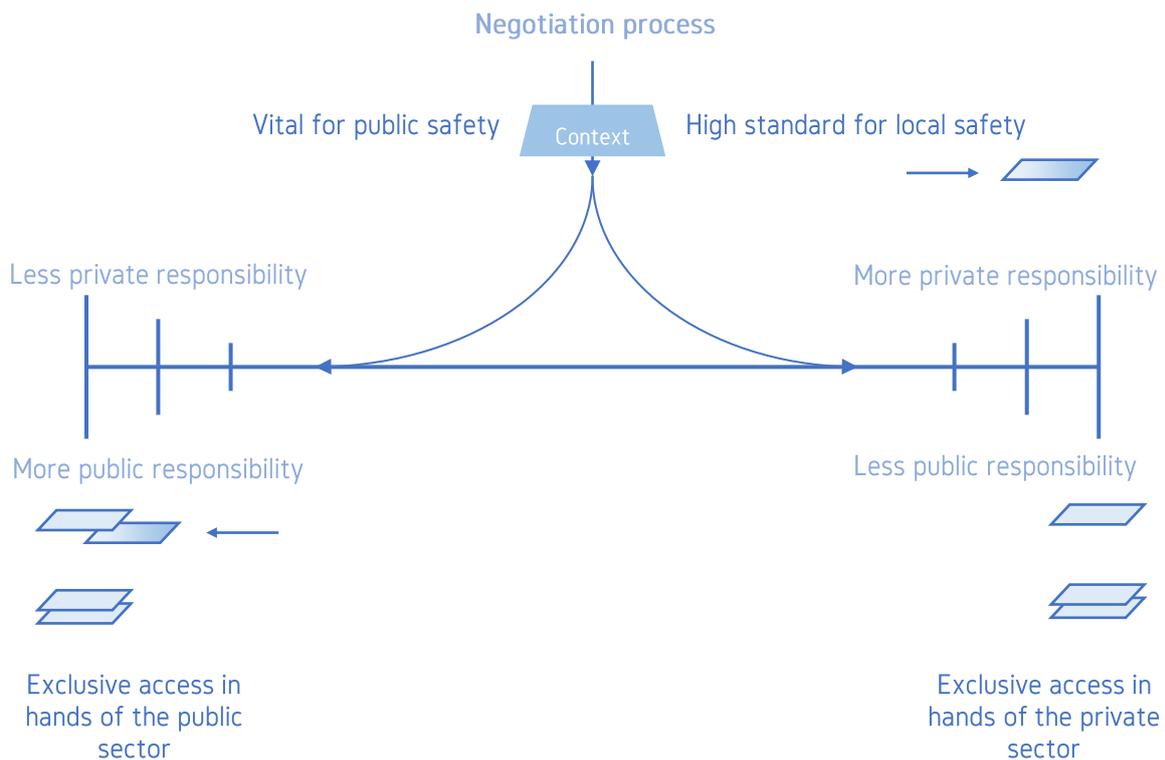


Figure 17. Impact of the safety standards on the formal definition.

## 8. Clear ownership.

It became apparent from the interviews that companies which maintain the public space do often not have clear maps of which spaces they should maintain. Because of this, municipalities try to create some sort of continuity between public spaces owned by the municipality. This prevents accidents where maintenance companies maintain space that is not actually owned by the municipalities or vice versa. The continuity often consists of certain design elements or clear boundaries between public and private space. Meaning that this not only influence the formal definition of the space but also the perception, as certain design elements can dictate the usage of the space. Also, to maintain the element of continuity the municipalities thus tries to own all of the large public spaces, as people expect the spaces to be owned by the municipality. Meaning that the amount of continuity of the public space leads to more public responsibility and less demand for continuity enables more differentiated private development, as shown in *figure 18*. To control the continuity the public party or the private party needs the rights to the attached immovable objects as part of their bundle-of-rights. As this right contains the design elements. However, wo construct these design elements rights to the topsoil layer are also needed. According to the interviewees, the municipality often then wants all the rights as this is legally clearer, this is however not always necessary. When continuity in design is not necessarily needed or practical the private party often designs and owns the space.

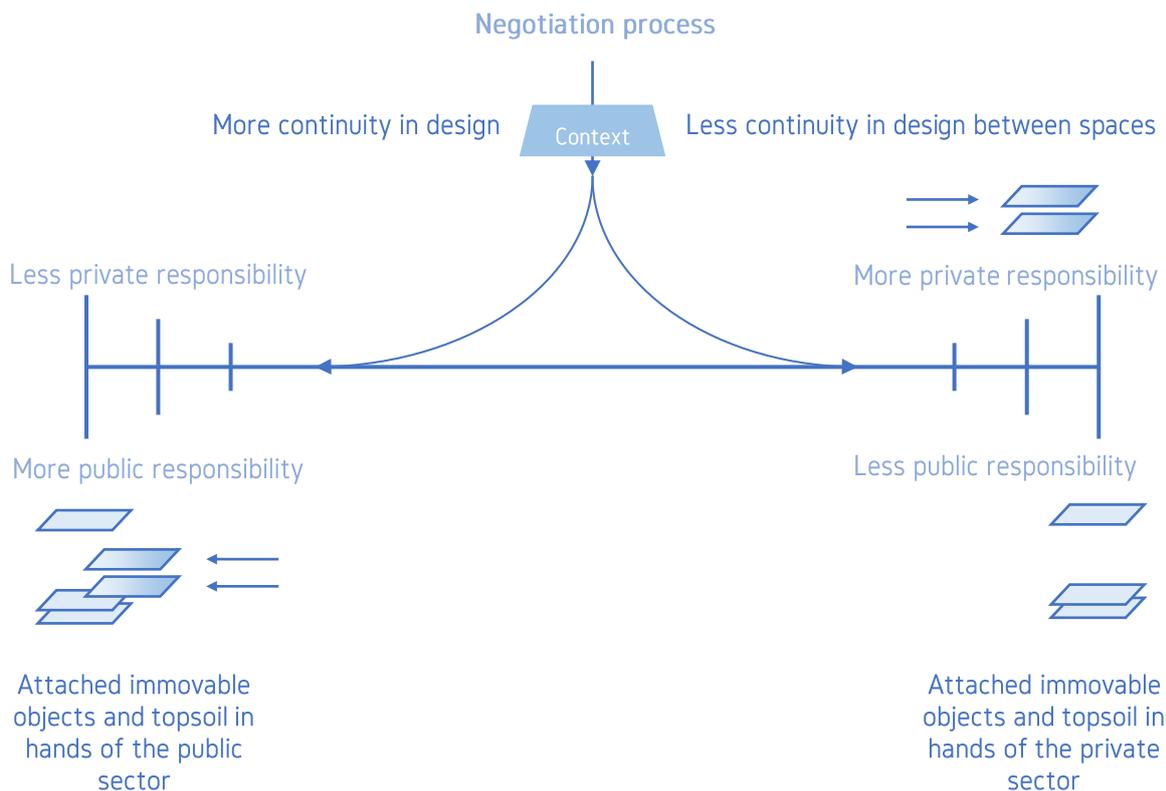


Figure 18. Impact of clear ownership on the perception/formal definition.

## 9. Compensation or fines if needed.

Some municipalities opt for compensation to push their agendas, according to the interviewees. This can be a valid way to influence private development without the need to actually own the space. For example, in the municipality wants to promote the planting of trees. However, when it is needed to cut trees for a development the private party often does not have a financial impulse for planting more trees than were cut. To encourage planting more trees the municipality of Leeuwarden demands compensation of €500, - per tree that the development does not replant. This encourages the private party to consider replanting all the trees that were cut. The municipality does not need to own the grounds to enforce their agenda. Thus, the usage of fines or compensation enables more private ownership as it is less needed for the municipality to own ground to push their agenda, as seen in *figure 19*. The ownership over the attached immovable objects and the topsoil is vital for pushing the agenda of the municipality if they do not opt for compensation or fines. When they do steer the project with compensation and/or fines they do need parts of the bundle-of-rights for that particular matter. And full private ownership is very possible regarding this consideration.

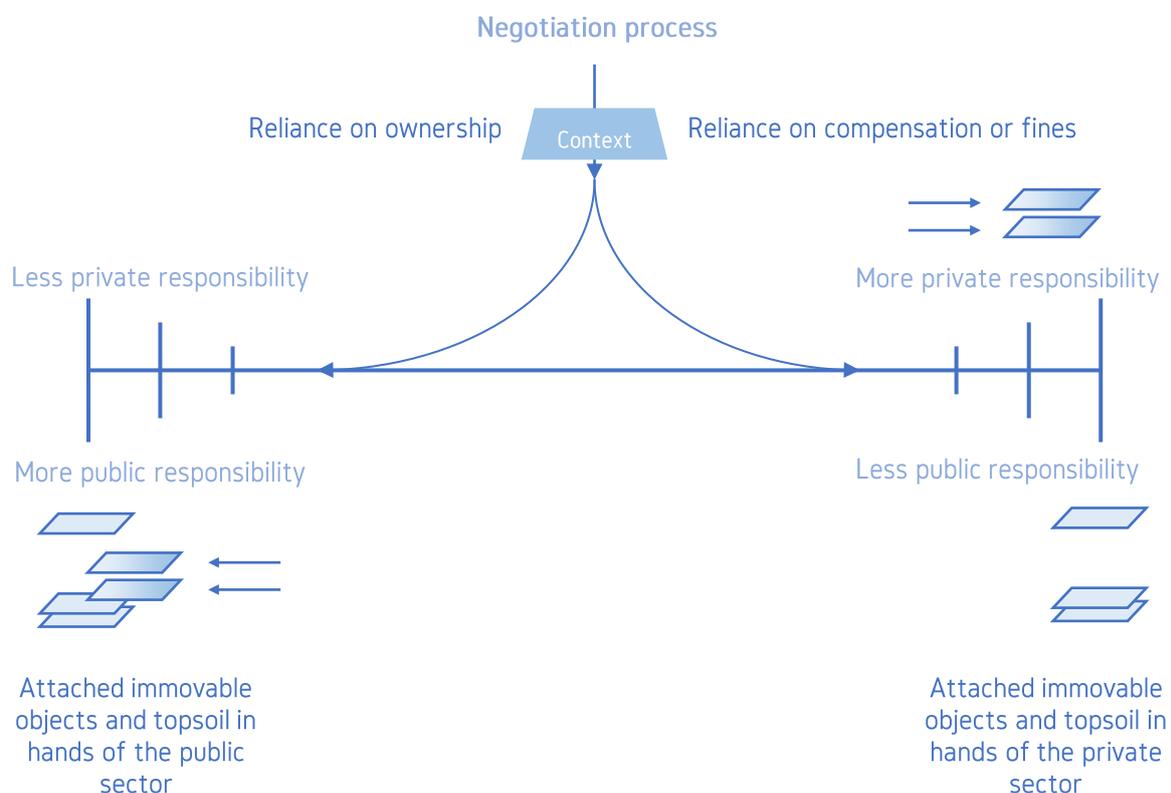


Figure 19. Impact of compensation and /or fines on the formal definition.

## 10. Reliability.

According to the interviewees, reliability of the structural elements of the public space is important for the owner of the space as they often maintain the space. High reliability can decrease the maintenance costs significantly. As stated in the type chapter of public space with private involvement, the municipality often buys public space from private parties because they can manage the maintenance more easily. However, as they have to pay for the maintenance, they want a guaranty for good structural quality of the space. To ensure this the municipality creates a roadmap for the private party and they sign an exploitation agreement, after which the municipality states how they follow the quality document for public space. When the private party cannot produce a space to follow these standards the municipality will not buy the space. Thus, the reliability of the space dictates if the space will have more public responsibility on the formal spectrum, as seen in *figure 20*. Thus, if the quality is guaranteed two parts of the bundle-of-rights are the most of interest for the municipality, namely the rights to all the attached immovable objects and the rights to the topsoil layer. As these rights contain the parts that need to be maintained. However, it is often common that the municipality then owns all the rights as then all factors can be controlled. And when they own the ground, they often make the place publicly accessible.

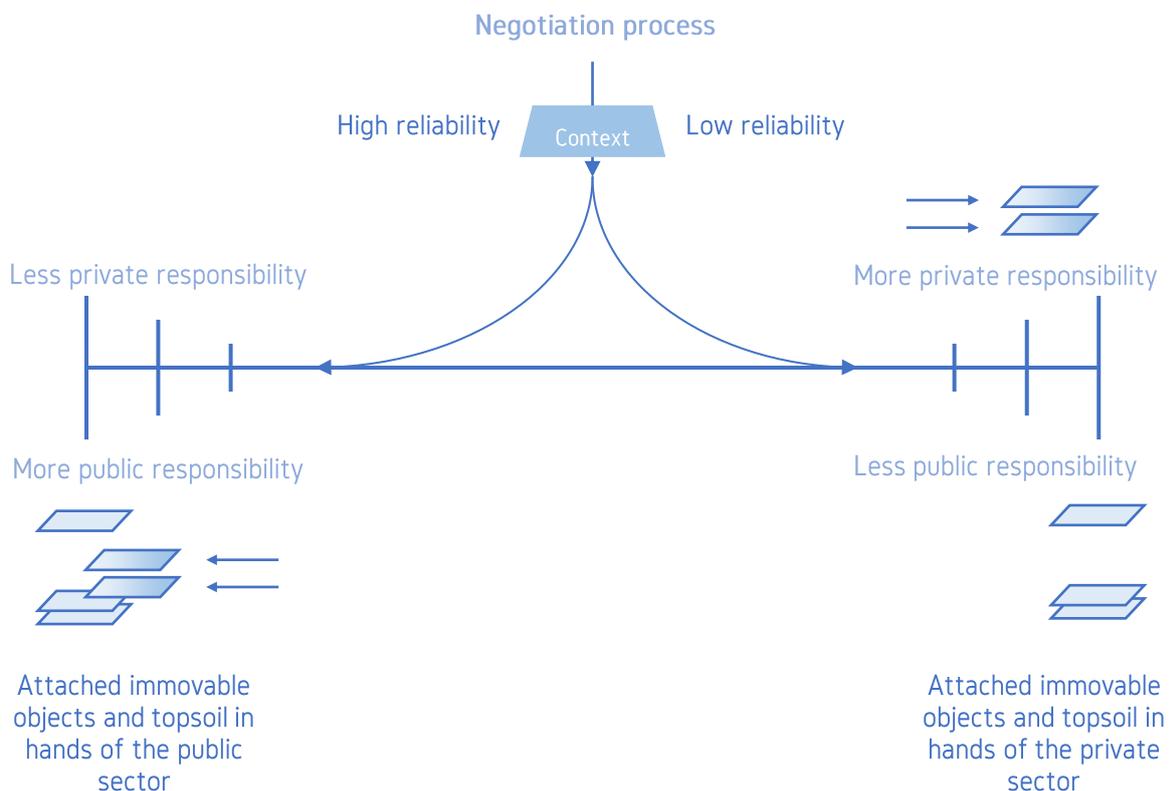


Figure 20. Impact of the quality of the space on the legal spectrum.

## 5. Conclusion and discussion

This research aims to understand how considerations by Dutch municipalities and private parties influence the realisation of public/private space. It became apparent that there are several important considerations that influence the realisation of public/private space depending on their context and the desires of the involved parties. How these considerations influence the process is answered using the several sub question, whose conclusions are mentioned separately in the next section.

### 5.1 Conclusion

The first sub-question answers how public and private space can be defined. From literature research it becomes apparent that there are two different definitions. Namely the perception definition and the formal definition. The perception definition is based on the definition of Németh (2008), who describes it as a space that is accessible by everyone. In practice this often results in the definition that a space is public, when it is perceived to be accessible for the public by the public. Making a space which is owned by a private party but open to the public a public space, following the perception definition. The other definition is based on the legal framework in the Netherlands. According to this definition a space is public when it is legally owned by a public party and the space is private when it is legally owned by a private party (van Vliet, 2006). Meaning that even when the space is publicly accessible but owned by a private party it is still defined as a private space. This formal definition is subdivided in the bundle of rights. Clarifying that the ownership of space in the Netherlands is layered and considerations have an impact on different layers of the bundle of rights. The defining of public space with private involvement provided the necessary information in understanding the differences between spaces, which is needed to understand how these differences come to be.

The second sub-question explains which public spaces with private involvement are the most common in the Netherlands. The interviews showed there was a great degree of different spaces. Namely, parks and green space around buildings of housing associations, shopping malls, service paths and parking spaces, large public infrastructure needed for private developments, large public spaces with a social role that are deemed necessary within the private development, and public green outside the development area of new private developments. Knowing that these spaces are the most common it can be assumed that the context and desires that create these spaces are also the most common in the Netherlands. The degree of different spaces also shows that they differentiate on the perception definition spectrum and formal definition spectrum. Showing the usability of the two different spectrums to differentiate projects based on their definition.

The third sub-question searches for important considerations that influence the outcome of public space with private involvement. The most important considerations are liability, water safety, social importance, investor satisfaction, changing legislation, practicality of the situation, public safety, clear ownership, compensation or fines, and reliability. These considerations are ought to be the most influential on the negotiation phase of the development of public space and therefore important to understand.

Returning to the main question, the results show how the aforementioned most important considerations actually influence the outcome of the public space with private involvement. The findings are in line with the theory mentioned in the theoretic framework. It also builds upon the theory by combining the perception and formal definition and defining the responsibility factor. When the municipality and the private party cooperate, each party makes considerations based upon the context of the space and their desires. The consideration can shift the perception and formal definition of the space either to one side or the other of the spectrum. Meaning that the end result can mean more public or private responsibility. From the interviews became clear that each consideration on its own may not be sufficient to steer the project towards public or private respectively, but when they add up, they may be able to have more impact on the outcome of the project. For each consideration

two extremes are found that steer the outcome towards a more public or more private space. These impacts particular parts of the bundle-of-rights, depending on the context and desires, showing the legal impact of the consideration. Knowing how these considerations influence the process beforehand can be useful in preventing negative effects of private involvement in public space and enhance the positive effects. For example, the 'public safety consideration' influences 'exclusive access to the space' part of the bundle-of-rights. By knowing that this consideration is key in influencing the accessibility of the space the municipality can change the context or desires that surround the project to steer towards a more accessible space. This can be done by following the results from research that state that the consideration is based upon the degree of desired safety and the need for public safety. By proposing a project with less exclusive housing (meaning very high security standards are less likely) the accessibility of the space will probably be more public. This can partially mitigate the expected exclusive effects of POPS, mentioned by Collins (2009). The knowledge of how each consideration influences the process dissects the complicated drivers of the negotiation process in understandable chunks. Enabling pinpointing certain considerations that can be influenced to reach the desired outcome of the negotiation process.

## 5.2 Discussion

### Scientific relevance

The contribution of this paper to the scientific field is based upon the understanding of the considerations that make public space with private involvement. Several previous studies are focused on the effects of public space with private involvement, but the drivers behind the realisation of these spaces are still relatively under-researched space (Loukaitou-Sideris, 1993; Banerjee, 2001; Kohn, 2004; Joyce, 2006). This paper creates an understanding on how the negotiation process between Dutch municipalities and private parties shape the public spaces with private involvement. Revealing which considerations lead towards certain outcomes, that may be desired or not desired. This could be used in partially mitigating the proposed negative effects of public space with private involvement.

### Further research

As this an explorative research in understanding the process behind the realisation of public space with private involvement, more research should be done on the significant impact of the considerations respectively. As this research only shows which considerations have an impact, and how they impact, but not the degree such impact. Further quantitative research is needed to make accurate generalized conclusions on how much the considerations impact the actual outcome of the process. Further research could also build upon the theory from this paper to conduct cases studies on real life public spaces with private involvement. Using the perception and formal spectrums to categorize spaces and track down which considerations were decisive in the negotiation process of those projects. Another suggestion is conducting research on the private part of the negotiation, as this research is focused on the data from the municipalities. This research focused on data from the municipalities as this less influenced by financial motives, but larger research with more data could gather useful information from the private parties, to create a better understanding of this subject.

### Reliability of the statements

Regarding the reliability of the data several statements need to be made. As this is an explorative research that tries to create an understanding no large amounts of quantitative data has been collected. The conclusions are based upon a limited number of interviews. The impact of this small sample on the reliability of the statements in this paper is reduced by the homogeneous data, reducing the standard deviation. However, the statements in this paper are still based upon a relatively small amount of data, making it so that the findings are not proven significant and further research is needed to solidify the statements made in this paper. This reduces the reliability of this research and that is partially due time constraints and the communication with Dutch municipalities. However, the findings

of the research can prove useful in understanding the considerations behind public space with private involvement and can be used as the base for further research in the matter.

### Reflection

The research method of semi-structured interviews proved to be an effective tool in collecting large amounts of qualitative information. It also enabled to gather information on the personal experience of the experts which enriched the results from this research. The amount of the research and the amount of different municipalities however, should have been higher. This would have solidified the reliability of the conclusions and statements that are made from the data. This was partially due to the arranging process of the interviews. The communication with some municipalities went smoothly, but with others it went difficult. The slow communication proved to be a time constraint on the research as it shifted the whole timeline of the research. In hindsight pre-planning the interviews beforehand would have been beneficial to the timeline of this research. Planning the interviews very early in the timeline would have been an improvement. The actual questions could have been developed after planning the interviews to save time.

This explorative research gave me better insight in how to do research. The first findings from the interview presented new information which were different from the initial expectations that were derived from literature. This was a helpful lesson in adapting research and reconstructing research questions. This adaptability gave me insights in what research really is. It is almost never a clean and predictable path, but more uncertain, and full of surprises. This shaped my thinking on what good research is. As in the beginning you think that following strict lines will deliver the best result. But, staying open to new findings and surprises can greatly benefit the value of the research. While still maintaining a certain level of structural and theoretical framework. It also became apparent that while doing this research, that the “truth” is very subjective, especially in social sciences. This makes it even more interesting, as the framing and perspective of a research is even more important when truths are so subjective. I tried to stay open to new perspectives to limit steering information in a certain direction. Doing research revealed how difficult this is, but I learned valuable lessons in preventing steering information. This by focussing strongly on the information derived from the interviews and presenting them as correctly to my capabilities. I strive to always keep improving, and this research was a very helpful experience.

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