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**Title:** Resolution approving the decision of the City Planning Commission on Application No. N 020037 ZRY, an amendment to the text of the Zoning Resolution regarding private roads (L.U. No. 77).

**Sponsors:** Melinda R. Katz, Tony Avella

**Indexes:**

**Attachments:** 1. Committee Report, 2. Hearing Transcript - Stated Meeting - 2/6

Date	Ver.	Action By	Action	Result
1/29/2002	*	Committee on Land Use	Approved by Committee with Modifications and Referred to CPC	
2/6/2002	*	City Council	Approved, by Council	Pass

THE COUNCIL OF THE CITY OF NEW YORK  
RESOLUTION NO. 54

Resolution approving the decision of the City Planning Commission on Application No. N 020037 ZRY, an amendment to the text of the Zoning Resolution regarding private roads (L.U. No. 77).

By Council Members Katz and Avella

WHEREAS, the City Planning Commission filed with the Council on December 12, 2001 its decision dated December 5, 2001 (the "Decision"), on the application submitted by the Department of City Planning, pursuant to Section 201 of the New York City Charter, for an amendment to the text of the Zoning Resolution (Application No. N 020037 ZRY) (the "Application");

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on January 25, 2002;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues and the Negative Declaration, issued on July 23, 2001 (CEQR No. 02DCP003Y);

RESOLVED:

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application the Council approves the Decision; and

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

\_\_\_\_\_ Matter in Graytone (print) or Redline (screen) is new, to be added;

Matter in Strikeout is old, to be deleted;  
Matter within # # is defined in Section 12-10;  
\* \* \* indicates where unchanged text appears in the Zoning Resolution;  
City Council changes are indicated by doubled-underlined.

Article 1  
General Provisions

\* \* \*

Chapter 2  
Construction of Language and Definitions

\* \* \*

12-10  
DEFINITIONS

\* \* \*

Private road

A "private road" is a right-of-way other than a #street#, that provides vehicular access from a #street# to any #dwelling unit# within a #development# where five or more #dwelling units# are within #buildings# or #building segments# that are located wholly beyond 50 feet of a #street line# or #street setback line#.

An individual driveway serving fewer than five parking spaces shall not be considered a #private road#.

\* \* \*

Street

A "Street" is:

(a) a way shown on the City Map; or

\* \* \*

(b) any other public way that on December 15, 1961, was performing the functions usually associated with a way shown on the City Map.

A driveway that serves only to give vehicular access to an #accessory# parking or loading facility, or to allow vehicles to take on or discharge passengers at the entrance to a #building#, shall not be considered a #street#.

A #private road#, or A a driveway that serves only to give vehicular access to an #accessory# parking or loading facility, or to allow vehicles to take on or discharge passengers at the entrance to a #building#, shall not be considered a #street#.

\* \* \*

Chapter 6  
Special Urban Design Guidelines: Streetscape  
Special Requirements for Developments in R9 and R10 Districts and  
Special Requirements for Developments with Private Roads

26-00  
Applicability of this Chapter

The regulations of this Chapter shall apply to:

(a) #Developments# in R9 and R10 Districts, as set forth in Section 26-10 (SPECIAL REQUIREMENTS FOR DEVELOPMENTS IN R9 AND R10 DISTRICTS). However, the provisions of Section 26-10 shall not apply within any Special Purpose District or to any #building developed# or #enlarged# pursuant to the Quality Housing Program; and

(b) #Developments# in R3, R4 and R5 Districts accessed by #private roads#, as set forth in Section 26-20 (SPECIAL REQUIREMENTS FOR DEVELOPMENTS WITH PRIVATE ROADS), except where such #developments# consist entirely of #single-family detached residences#, and except where such #developments# are accessed by #private roads# that existed on (the effective date of this amendment).

(Section 26-01 is moved and renumbered 26-12)

26-0210

Applicability of this Chapter SPECIAL REQUIREMENTS FOR DEVELOPMENTS IN R9 AND R10 DISTRICTS

The regulations of this Chapter shall apply to all #developments# constructed after April 21, 1977, within R9 and R10 Districts. However, this Chapter shall not apply within any Special Purpose District, nor shall it apply to any #development# pursuant to the Quality Housing Program., except as otherwise set forth herein.

An application to the Department of Buildings for a permit respecting any new #development# shall include a plan and an elevation, drawn to a scale of at least one sixteenth inch to a foot, of the new #building# and #buildings# on #contiguous lots# or #contiguous blocks# showing #arcades#, #street wall# articulation, curb cuts, #street# trees, sidewalk paving, a central refuse storage area and such other necessary information as may be required by the Commissioner of Buildings.

26-0011

GENERAL PURPOSES General Purposes

\* \* \*

26-0112

General Provisions

In harmony with the general purposes and intent of this Resolution and the general purposes of this Chapter Section 26-10, the regulations of this Chapter Sections 26-13 through 26-17, inclusive, are intended to:

- (a) guide the location of arcades to assure horizontal continuity of new developments with existing building arcades and to maintain visual continuity at street level;
- (b) require transparency and/or articulation of front walls to improve the visual quality of the street;
- (c) provide for street tree planting in order to enhance the visual character of the neighborhood;
- (d) require decorative paving to improve the quality of the street environment;
- (e) limit the number and location of curb cuts, minimizing undue conflict between pedestrian and vehicular movements; and
- (f) eliminate trash on sidewalks by requirement central refuse storage areas within the zoning lot.

26-0313

Definitions

For the purposes of Sections 26-10 through 26-17, inclusive, the following definitions shall apply:

Development

For the purposes of this Chapter, "Development" includes construction of a new #building or other structure# on a #zoning lot#, the relocation of an existing #building# on another #zoning lot# or an #enlargement# involving an increase in #lot coverage#.

Contiguous lot

For the purposes of this Chapter, a "contiguous lot" is a #zoning lot# which shares a common #side lot line# with the #zoning lot# of the #development#.

Contiguous block

For the purpose of this Chapter, a "contiguous block" is a #block# containing one or more #zoning lots# separated by a #narrow street# from the #block# containing the new #development#.

26-0414

Horizontal Continuity

\* \* \*

26-041141

Arcades

\* \* \*

26-042142

Street tree planting

\* \* \*

26-043143  
Street wall articulation

\* \* \*

26-0515  
Curb Cuts

\* \* \*

26-0616  
Central Refuse Storage Area

\* \* \*

26-0717  
Streetscape Modifications

\* \* \*

26-20  
SPECIAL REQUIREMENTS FOR DEVELOPMENTS WITH PRIVATE ROADS

To provide for the orderly development of #residences# that are distant from #streets#, site planning requirements are established in Sections 26-20 through 26-27, inclusive. The regulations of this Section are intended to:

- (a) optimize vehicular access within a #development# containing #private roads#;
- (b) regulate the size of and distance between curb cuts to minimize undue conflict between pedestrian and vehicular movement;
- (c) provide for sidewalks to facilitate social interaction and enhance pedestrian safety; and,
- (d) provide for tree planting along #private roads# in order to enhance the visual and environmental character of the neighborhood.

26-21  
Requirements for Private Roads

#Private roads# shall consist of a paved road bed constructed to minimum Department of Transportation standards for public streets, including curbs and curb drops. The minimum width of a #private road# shall be 38 feet from curb to curb along its entire length, or, for #developments# where at least three #accessory# parking spaces are provided for every two #dwelling units# and no such spaces are located within the bed of a #private road#, the minimum width shall be 34 feet. The entrance to any #group parking facility# may be narrower than such minimum widths for a distance not to exceed 20 feet, and a #private road# may contain a landscaped median provided the paved width of such #private road# meets the minimum width required exclusive of such medians. The City Planning Commission may modify the required width of a #private road# pursuant to Section 26-26 (Modification and Waiver Provisions).

26-22  
Requirements for Curbs and Curb Cuts

Curbs shall be provided along each side of the entire length of a #private road#.

A curb cut, excluding splays, from a #street# to a #private road# may be as wide as such #private road#. Curb cuts providing access from #private roads# to parking spaces located outside the road bed of the #private road# shall not exceed a width of 18 feet, including splays. A minimum distance of 16 feet of uninterrupted curb space shall be maintained between all curb cuts.

26-23  
Requirements for Planting Strips

A minimum three-foot wide planting strip shall be provided adjacent to and along the entire length of the required curb. Within the required planting strip, one tree of at least three inches in caliper shall be planted for every 25 feet of length of such planting strip.

Driveways are permitted to traverse such planting strips, and utilities are permitted to be located within such planting strips.

26-24  
Requirements for Sidewalks

A minimum four-foot wide paved sidewalk shall be provided adjacent to and along the entire length of the required planting strips. However, no sidewalk shall be required along that side of a #private road# that does not have a building wall facing it.

26-25  
Requirements for Open Areas Between Required Sidewalks and Buildings

An area open to the sky at least five feet in depth shall be provided between a required sidewalk and any #building#, except that any driveway or parking space located within such open area shall have a depth of at least 18 feet measured perpendicular to such sidewalk. Such open area shall be planted except for parking spaces and entryways to #buildings#. Where an open area at least 18 feet in depth is required, overhangs of #buildings# above the first #story# that project not more than three feet into the required open area are permitted, provided the lowest level of the overhang is at least seven feet above grade at the face of the #building#. Supports for such overhang are permitted provided that the total area occupied by such supports does not exceed 15 percent of the area underneath the overhang.

26-26  
Modification and Waiver Provisions

- (a) The City Planning Commission may, by authorization, allow modifications to or waivers of the requirements of this Section 26-20, inclusive, provided that:
- (1) such modifications or waivers will enhance the design quality of the #development#,
  - (2) any decrease in the required width of the paved road bed is in conjunction with a superior parking plan that would not be feasible with a wider road bed, and
    - (3) any decrease in the required width of the paved road bed will result in the preservation of existing natural features or a superior landscaping plan than would not be feasible with a wider road bed.
- (b) The City Planning Commission may, by authorization, allow modifications to or waivers of the requirements of this Section 26-20, inclusive, for #developments# within the #Special South Richmond Development District#:
- (1) that contain #designated open space# and a portion of the #waterfront esplanade#, where such #development#:
    - (i) has been granted an authorization pursuant to Section 107-65 (Modifications of Existing Topography) within one year prior to (the effective date of this amendment), or
    - (ii) is conditioned upon a restrictive declaration that has received a minor modification by the City Planning Commission, or
  - (2) that are located wholly or partially within Area M and have filed an application for an authorization pursuant to Section 107-69 (Residential Uses in Area M) within one year prior to (the effective date of adoption of this amendment by the City Planning Commission), or
  - (3) that have been granted authorizations pursuant to Section 107-64 (Removal of Trees) and 107-65 (Modifications of Existing Topography) and are located on a #zoning lot# where a change in the City Map has been approved within three years prior to (the effective date of this amendment) and where certified copies of the alteration map for such change in the City Map have not yet been filed in accordance with Section 198, subsection (c), of the New York City Charter, as of (the effective date of this amendment).
- (4) No modification or waiver may be granted under this subdivision which would waive or decrease the width of the paved street bed in excess of 34 feet.

In order to authorize such modifications or waivers pursuant to this paragraph (b), the Commission shall find that such #development# constitutes a good site plan, and that such #development# provides adequate access to all #dwelling units#, adequate parking spaces located outside of the road-bed of the #private road#, adequate spacing of all curb cuts, and adequate landscaping.

26-27  
Waiver of Bulk Regulations for Developments within Unimproved Streets

In R3, R4 and R5 Districts, and in C1 and C2 Districts mapped within R3, R4 and R5 Districts, and in C3 Districts, for:

- (a) #developments# of at least 20 #dwelling units# accessed by #private roads# consisting in part of construction within #streets# that are unimproved and for which the Board of Standards and Appeals has granted a permit pursuant to Section 35 of the General City Law, and
- (b) for #developments# of less than 20 #dwelling units# accessed by #private roads# consisting in part of construction within #streets# that are unimproved and for which the Board of Standards and Appeals has granted a permit pursuant to Section 35 of the General City Law and where such #development# has received an authorization pursuant to paragraph (a) of Section 26-26,

the City Planning Commission may authorize the waiver of #bulk# regulations affected by such #streets# where such #development# would be #non-complying# absent such waiver, provided the Board of Standards and Appeals has prescribed conditions pursuant to Section 35 of the General City Law which require the portion of the #development# to be located within the unimproved #streets# to be compliant and conforming to the provisions of this Resolution. Such waivers shall only be so necessary to address #non-compliance# resulting from the location of the #development# within and outside the unimproved #streets#. The City Planning Commission shall find that the #private roads# are adequate to serve present and future transportation needs; that, through the grant of such waivers, the development# complies to the maximum extent feasible with all applicable zoning regulations as if such unimproved #streets# were not mapped, and that the #private road# system results in a good site plan.

\* \* \*

Chapter 7  
Special Regulations

\* \* \*

37-10  
Applicability of Article II, Chapter 6, to Developments with Private Roads

In C1 or C2 Districts mapped within R3, R4 or R5 Districts, and in C3 Districts, the provisions of Section 26-20 (SPECIAL REQUIREMENTS FOR DEVELOPMENTS WITH PRIVATE ROADS) shall apply to any #development# containing #private roads#, except where such #developments# contain #private roads# constructed prior to (the effective date of this amendment). In addition, the open area between buildings and sidewalks required pursuant to Section 26-25 need not be planted where such open areas front upon #commercial uses#.

\* \* \*

Article VII  
Chapter 2  
Interpretations and Variances

72-00  
POWERS OF THE BOARD OF STANDARDS AND APPEALS

72-01  
General Provisions

The Board of Standards and Appeals (referred to hereinafter as the Board) shall have the power, pursuant to the provisions of the New York City Charter and of this Resolution, after public notice and hearing:

\* \* \*

(g) to waive #bulk# regulations affected by unimproved #streets# where #development# consists in part of construction within such #streets# and where such #development# would be #non-complying# absent such waiver, provided the Board has granted a permit pursuant to Section 35 of the General City Law and has prescribed conditions which require the portion of the #development# to be located within the unimproved #streets# to be compliant and conforming to the provisions of this Resolution. Such bulk waivers shall only be as necessary to address #non-compliance# resulting from the location of the #development# within and outside the unimproved #streets#, and the #development# as a whole shall comply to the maximum extent feasible with all applicable zoning regulations as if such unimproved #streets# were not mapped. Where such #development# contains fewer than 20 #dwelling units# accessed by #private roads#, such #bulk# waivers may be granted by the Board only where the #development# is fully compliant with the regulations for #private roads# set forth in Article 2 Chapter 6. However, for #developments# with at least 20 #dwelling units# accessed by #private roads#, or for #developments# of fewer than 20 #dwelling units# accessed by #private roads# for which a modification or waiver of the requirements for #private roads# set forth in Article 2 Chapter 6 pursuant to Section 26-26 is necessary, such #bulk# waivers shall be permitted only by authorization of the City Planning Commission pursuant to Section 26-27 (Waiver of Bulk Regulations for Developments with Unimproved Streets).

\* \* \*

Article X: Special Purpose Districts

Chapter 7  
Special South Richmond Development District

\* \* \*

107-02  
General Provisions

\* \* \*

For such certification, the applicant shall submit to the City Planning Commission a site plan and drawings depicting the proposed #buildings# and location of off-street parking facilities, curb cuts and pedestrian walkways. For #residential uses# within aArea K, the #bulk# and parking regulations of R3-2 Districts shall apply.

\* \* \*

107-322  
Tree requirements

\* \* \*

(b) Sidewalk trees

All #developments# and #site alterations# in the Special District shall preserve existing trees or provide and maintain trees of three-inch caliper or more at the time of planting along the entire length of the #street# frontage of the #zoning lot#. The trees shall be located between the #front lot line# and the curb line, and 20 feet on center or one tree per 20 feet of frontage. On private #streets# streets, trees shall be planted between the curb and a line parallel to, and 10 feet from, the curb, and 20 feet on center or one tree per 20 feet of frontage. These trees shall be planted in accordance with the requirements of the Department of Transportation and the Department of Parks and Recreation.

\* \* \*

107-45  
Required Open Space for Residences

Any required #open space# on a #zoning lot# which includes #designated open space# is subject to the special regulations set forth in Section 107-22 (Designated Open Space).

For #residential developments# which include #designated open space#, not more than 50 percent of the required #open space# not within the #designated open space# may be occupied by driveways, private #streets# streets, open #accessory# parking spaces or open #accessory# off-street loading berths, except that a greater percentage may be so occupied if authorized by the City Planning Commission in accordance with the provisions of Section 107-661 (Modification of Permitted Obstructions).

\* \* \*

107-661  
Modification of permitted obstructions

For #residential developments# on #zoning lots# partly within #designated open space#, the City Planning Commission, on application, may modify the requirements of Section 107-45 (Required Open Spaces for Residences) to permit more than 50 percent of the required #open space#, not within the #designated open space#, to be occupied by driveways, private #streets# streets, open #accessory# off-street parking spaces or open #accessory# off-street loading berths, if the Commission finds that such facilities are so arranged and landscaped as to afford an acceptable standard of amenity for the #development# or #enlargement# and its surroundings.

\* \* \*

Article XI - Special Purpose Districts

Chapter 9  
Special Hillside Preservation District

119-01  
Definitions

\* \* \*

Private road

A "private road" is a right-of-way, other than a #street#, that provides vehicular access from a #street# to any #accessory# parking space located within a #development# containing five or more #dwelling units#. Such #development# shall contain #residential buildings# or building segments developed after December 7, 1999, that are located wholly beyond 50 feet of a #street line# or #street setback line#. An individual driveway serving no more than four parking spaces shall not be considered a #private road#.

\* \* \*

119-214  
Tier II requirements for driveways and private roads

The provisions set forth in this Section and Section 119-213 (Grading controls) shall apply to driveways and to #private roads# that provide access to #buildings developed# after December 11, 1999. The provisions for #private roads# set forth in Article 2 Chapter 6 shall not apply. In addition to the requirements in Section 119-213 (Grading controls), all driveways and #private roads# shall comply with the following:

\* \* \*

Adopted.

Office of the City Clerk, }  
The City of New York, } ss.:

I hereby certify that the foregoing is a true copy of a Resolution passed by The Council of The City of New York on February 6, 2002, file in this office.

City Clerk, Clerk of Council

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