



## Legislation Text

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**File #:** ID 17-0226, **Version:** 1

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Resolution Approving a Type 4 Modification for Brookhaven Toddler Day School Located at 3235 Horsepen Creek Road

Department: Water Resources  
Council District: 3

Public Hearing: N/A  
Advertising Date/By: N/A

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### **PURPOSE:**

The regulations for Tier 4 within the Watershed Critical Area limits the amount of built upon area in a project to be 40% of the site area. The developer of 3235 Horsepen Creek Road (Brookhaven Toddler Day School) has requested to be allowed to install more built upon area than is permitted.

### **BACKGROUND:**

Request: This request is for a Type 4 Modification to Section 30-12-3.11 (C), Measurement in High Density Option, and Table 12-7 of the Land Development Ordinance to allow the amount of built upon area installed in this project to exceed that allowed. The watershed plan for this site depicts a proposed built upon area of 48.36% or 0.606 Acres. Using the percentage limits established in the LDO, 40% or 0.501 acres of this project could be built upon area.

Issues: City Council is to consider the three possible grounds for a modification, as listed below, in granting the applicant's request which are as follows: Grounds #1 is "Equal or Better Performance" which is a finding that the alternate standards portrayed on the plan will perform equal to or better than the regulations in furtherance of the purposes of the Ordinance; Grounds #2 is "Physical Constraints" which is a finding that the size, topography, or existing development of the property or of the adjoining areas prevents conformance with the Ordinance; and Grounds #3 is "Other Constraints" which is a finding that a federal, state, or local law or regulation prevents conformance with the Ordinance.

TRC Action: As part of the watershed plan approval, the applicant has applied for the Type 4 Modification. The application submitted states that the proposed development will be treating existing built upon area that is currently untreated. The proposed development will provide treatment for the total proposed 0.606 acres of built upon area. The applicant requests to exceed the maximum built upon area by 0.105 acres of built upon area. After reviewing the request, the Technical Review Committee felt that under Equal or Better Performance Grounds the additional proposed 0.105 acres of built upon area is less than 0.15 acres of built upon area that is currently existing and not treated. Therefore, the water quality measures contained in the applicant's proposal will achieve water quality that is equal to the intent of the Watershed Critical Area regulations.

### **BUDGET IMPACT:**

There will be no impact on current or future City Budgets.

**RECOMMENDATION / ACTION REQUESTED:**

The Technical Review Committee recommended this modification to the Planning Board and to City Council. The Planning Board recommended this modification at its March meeting on a vote of 7-0.

Accordingly, it is recommended that on April 18, 2017, the City Council consider the applicant's modification request to install more built upon area than is permitted.