



## Legislation Text

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**File #:** 21-299, **Version:** 1

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**TITLE:**

Public Hearing on a Request from Pee Wee Homes to Rezone Property at 106 Hill Street to R-3, Conditional (R-3-CZ)

**PURPOSE:** The purpose of this agenda item is for the Town Council to receive public comment and consider a request to rezone property at 106 Hill Street from R-7.5 to R-3, Conditional, for the purpose of developing an affordable housing project. Rezoning is a legislative decision; the Council must receive public comment before making a decision.

**DEPARTMENT:** Planning & Housing and Community Services

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**INFORMATION:** Pee Wee Homes, a local non-profit organization, has submitted a petition to rezone a single parcel at 106 Hill Street from R-7.5 (residential, 7,500 sq. ft. per dwelling unit) to R-3-CZ (residential, 3,000 sq. ft. per dwelling unit) for the purpose of developing three, size-restricted, required-affordable homes that would be available for rent to individuals earning less than 30-percent of the Area Median Income (AMI). As can be seen in the attached vicinity map, the property is located at the southwest corner of Hill and Broad streets and can be further identified as Orange County PIN #9778-97-5883 (*Attachment C*). The existing R-7.5 zoning would allow one dwelling unit at the site; the requested rezoning would allow three size-restricted, required-affordable units. The subject property is also located in Lloyd-Broad Overlay District, which includes limitations on the height, size and placement of buildings.

The property is currently owned by the Town, and is one of the three town-owned lots identified for possible sale/donation for affordable housing purposes on June 19, 2018 ([Town of Carrboro - File #: 17-218 \(legistar.com\)](https://carrboro.legistar.com/LegislationDetail.aspx?ID=3508037&GUID=A87A3FE4-CEF1-4F97-820E-15272F88CE07&Options=&Search=>) <<https://carrboro.legistar.com/LegislationDetail.aspx?ID=3508037&GUID=A87A3FE4-CEF1-4F97-820E-15272F88CE07&Options=&Search=>>>). Staff followed up with questions relating to the use of the Hill property for affordable housing with the Town Engineer, and it was determined that as long as the finished floor elevation was set above the level at which water topped Broad Street, (an extreme rain event), flooding would not be an issue for the use of the lot. The likelihood of opening the stream was very low, it had not been identified as a stormwater utility interest, or included in the list of projects in the CIP. The Town Council approved, as part of the June 22, 2021 agenda item to set the public hearing, a resolution allowing the Town Manager to sign the petition for rezoning as the property owner, and agreeing to convey the property to Pee Wee Homes contingent upon the approval of the rezoning ([Town of Carrboro - File #: 21-248 \(legistar.com\)](https://carrboro.legistar.com/LegislationDetail.aspx?ID=4989707&GUID=3750F8AC-9233-4805-9368-) <<https://carrboro.legistar.com/LegislationDetail.aspx?ID=4989707&GUID=3750F8AC-9233-4805-9368->>

[BCA7F5F89D60&Options=&Search=>](#)).

Materials submitted by the applicant include the formal petition for change of zoning, a conceptual site plan, and architectural renderings showing the exterior elevations of the homes (*Attachments D & E*). Draft conditions are provided as part of the rezoning ordinance and may be further refined during the public hearing process (*Attachment B*). It is important to note that if the rezoning is approved the conditions, including the conceptual site plan, become binding to the rezoning and subsequent permit. The conditions must be mutually agreed upon by the Town and the applicant and, in accordance with changes associated with the adoption of Chapter 160D, the applicant must sign a copy of a statement listing the conditions.

A piped stream flows diagonally underneath the property and is subject to the stream buffer requirements in Article XVI. The Board of Adjustment granted Pee Wee Homes a variance to allow the buildings to encroach into the stream buffers on June 16, 2021 to some degree. The variance requires that portions of the stream buffer remain undisturbed to provide access to the pipe for future maintenance. As part of the review of the variance application, Pee Wee Homes requested flexibility in certain development requirements including the setbacks, and the parking requirements as permitted in Article XVIII, and possibly the recreational facilities. The land use permit for this project would be a zoning permit which is approved administratively, therefore any request for flexibility would need to be determined as part of the rezoning. An optional condition to reduce/relieve the on-site parking requirement is provided in the draft ordinance as condition #1A. The alternative to providing on-site recreational facilities is a payment in-lieu. Information relating to the cost of the payment in-lieu is provided in the fiscal impact statement.

During the discussion to set the public hearing on June 22<sup>nd</sup>, Council members asked questions relating to potential flooding in the area and the possibility of daylighting the stream. The proposal does not change the flooding conditions and access to the pipe remains fully open. Additional information relating to stormwater is provided in an attached memo from the Town Engineer (*Attachment G*). Council members also asked about the proposal to include a more than ninety-nine year affordability provision as part of the potential deed of sale to Pee Wee Homes. The Town Attorney provided a brief history of the law of privity in contracts and the standard use of ninety nine years as a milestone for perpetuity at the meeting and subsequently sent more detailed information via email. Additional information regarding long-term affordability may be found in the staff report (*Attachment F*).

The applicant held a neighborhood information meeting (NIM) at Baldwin Park on Saturday, August 28, 2021. Information about the meeting was mailed to property owners and residents within 1000 feet of the subject property. Approximately 15-20 neighbors attended for some/all of the meeting. A meeting summary and sign-in sheet is attached (*Attachment H*).

The Town Council must receive public comment before adopting an amendment to the official zoning map to the Carrboro Land Use Ordinance. Planning Board review is also needed, and the Council referred the matter to the Affordable Housing Advisory Commission, the Appearance Commission, the Economic Sustainability Commission, the Environmental Advisory Board, the Stormwater Advisory Board and the Transportation Advisory Board. Section 15-322 describes the role of the Planning Board and other advisory boards in the review of rezonings. The request was considered at the Joint Review Board meeting on September 2<sup>nd</sup>, and subsequently discussed at the ESC's meeting on September 8<sup>th</sup>, the SWAC meeting on September 9<sup>th</sup> and the AHAC special meeting on September 20<sup>th</sup>. Comments are provided (*Attachment K*).

It should be noted that pursuant to the adoption of Session Law 2021-35, the submittal of written comments for this matter will be due 24 hours prior to the noticed time of the meeting start. This is a change from the

requirements at public hearings in the fall 2020/spring 2021, when public comments could be submitted up to 24 hours after a public hearing was closed. Information regarding this change was included in the published notice and mailed notice. Certification of the mailed notice is provided as *(Attachment J)*. Public comments received by staff from residents in the Lloyd-Broad neighborhood is included as *(Attachment L)*.

As noted in the agenda to set the public hearing, the applicants have received a fee waiver for the fees associated with the rezoning, totally \$1,245.10, from the Affordable Housing Special Revenue Fund (AFSRF). Costs are associated with public hearing notice for Town Council and advisory board review for rezoning. Costs associated with the mailed public hearing notice and the mailed flyer for the NIM, approximately \$990, were paid for with funds from the Housing and Community Services budget.

**FISCAL & STAFF IMPACT:** It is anticipated that the applicant may request that the Town provide assistance with the cost of a payment in lieu of providing on-site recreational facilities, a fee of \$6,555.05. (Recreation fee:  $10.39 \times 3 = 31.17$  at \$210.30 per point  $\times 31.17$  points = \$6,555.05) It is also anticipated that the applicant may seek additional funding from the AFSRF in the fall to assist with costs associated with construction.

**RECOMMENDATION:** Staff recommends that the Town Council receive public comment and consider the resolution of consistency *(Attachment A)* and the draft ordinance for the rezoning *(Attachment B)*.