



**Friends of Carefree**, the September council meeting was held a week early due to the Mayor's planned travel. As you probably recall, potential zoning changes for currently undeveloped parcels in Carefree have been an often discussed topic of late. More on North and East side developments will be forthcoming soon. This Council meeting had one major topic on the agenda that being a discussion and possible action to approve the Conditional Use Permit (CUP) and the associated Development Agreement II for the Easy Street South parcel within the town core. That parcel had been owned and held by Ed Lewis the past 11 years. The developer plans 134 luxury residential rental apartments on the site.

**September Town Council Meeting, August 29, 2017 at 5:00PM** –Aside from 15 Consent Agenda items the Agenda was short. An Executive Session was also scheduled at 4:30, prior to the regular Council meeting. You can view or download the full agenda for either meeting from the town website [here](http://carefree.org/AgendaCenter/Town-Council-4). <http://carefree.org/AgendaCenter/Town-Council-4> Before proceeding I need to advise/remind the reader that any material within brackets [...] and *italicized* are my comments and/or observations and I make no claim that the material is 'news', though the material may contain factual and relevant information.

**Items 1 - 15 Consent Agenda:** These items were all related to routine town business (meeting minutes, bills, financial reports, event permits, etc.). Various Council members, or staff, requested that certain items be held for discussion. The remaining 7 items were approved without discussion by a 7-0 vote. In reference to item 5, the Mayor thanked that staff for the financial results in the fiscal year just ended June 30<sup>th</sup>. Per the financial sheet, the "Net with Capital Expenses" was \$593,990. *[That financial sheet also shows Total revenue for the year versus the prior year was down 11.7%, Total Expenses were down 5.6%, and All Capital Projects were down 86.7%]*. Item 5 was approved 7-0. Per Councilman Van Allen's request, Items 6 & 7 were approved 7-0 on condition that the bicycle event sponsors provide uniformed security, approved by MCSO, to facilitate safe passage through our more highly traveled intersections. Items 9,10, and 11 were approved 7-0 after discussions relating to the street closure of Sunshine Way during the scheduled Thunderbird Art Festivals in November, January, and March. Council members Farrar and Van Allen have mentioned this situation numerous times. Items 12 & 13 related to the areas to be used during the Pumpkin Festival in October for the Beer Garden, approved 7-0 after discussion. All Consent Agenda items were eventually approved 7-0.

**Item 16, Call to the Public:** Warren Lindale, the owner of Easy Street Boutique and resident on Hum Road, addressed the Council. He said that while most town event decisions have been positive, the changes to the Concert in the Park series of events were not. His business loses a substantial amount of money during each concert, effectively no earnings on Concert dates and the town gains no sales tax. With the recent change of concert hours for the upcoming season the situation is just as bad, if not worse. He said the concerts used to be held in May but he was notified that this coming season they will be held during February, March, and April, which are prime sales months. Most business owners tell him they close on concert days. He suggested that instead of the new 2 to 4PM schedule, the town should adopt a 3 to 5PM schedule so that concert goers might consider having dinner in town at the more reasonable 5 o'clock hour instead of heading home at 4PM. Since the entertainers are paid \$2,000 to perform they are essentially employees and it's a job. Mr.

Lindale also suggested that Carefree consider providing (vetted) amateurs and youth organizations an opportunity to perform in the amphitheater. He thanked Councilman Van Allen for speaking with him and suggesting that he attend the Council meeting to make his feelings known.

John Traynor spoke next. I mentioned that in a few minutes the Council would take up the matter of a new Development Agreement for the Easy Street South parcel (near the Post Office and just below the Lutheran Retreat). I went on to say that I believed the Council is diligent and I was assured by at least one council member *[actually more than one]* that they would keep an open mind and listen to all sides before reaching a decision on such an important matter. Their decision could allow a large structure [rental unit complex], in a prominent location within the town core. It would probably be easier to build than to remove it after the fact. *[I spoke further on this matter during the discussion of the project, Item 18 on the agenda.]*

**Item 17, Current Events:** Town Administrator Neiss provided an update on the 33 Easy Street renovation for the future Council Chambers. It was good news, bad news. There was no asbestos found, but the waste line is only 3" when code for public buildings requires 4" lines. It must be replaced with the cost being covered by the 10% contingency fee the Council approved in addition to the \$366,000 renovation contract.

The Mayor displayed and then briefly discussed the current schedule of events during the October 20 – 29<sup>th</sup> Pumpkin Festival. You can view a copy of that schedule [here](https://www.carefreesfuturematters.com/s-cpage.html).

<https://www.carefreesfuturematters.com/s-cpage.html>

A more detailed Christmas Festival schedule should be available in the October-November timeframe.

**Item 18, Easy Street South, CUP Development Agreement II:** The Town Administrator provided a brief history, citing ULI recommendations and Baker Study conclusions and then moved on to an overview of the current proposal. The proposal applicants/representatives were introduced and subsequently presented their plans for the parcel, a 6 floor structure to house 2 floors of parking with 2 parking spots per unit, and 4 floors for 134 luxury rental units (1, 2 and 3 bedroom units). One parking level will be below grade and the second partially below grade. There ensued a long series of questions, responses, and discussion predominantly initiated by Councilman Van Allen. He put forward many serious, hardball questions, and then addressed the responses. He had prepared a drawing which was displayed. After Councilman Van Allen explained the diagram no one took exception to it, not even the applicant. You can view it [here](https://www.carefreesfuturematters.com/s-cpage.html). <https://www.carefreesfuturematters.com/s-cpage.html> *[Certain members of staff and even some Council members seemed a bit uncomfortable]*. Major concerns were once again building height, how that height is calculated, and at what location on the sloping parcel the calculation would be made.

*[The building height for commercial structures in Town is limited to 30 feet above grade. The most recent Ed Lewis Easy Street Luxury Condo Development Agreement approved by the Council in 2015 allowed a structure of "up to 42 feet". With every revised Development Agreement for this parcel over 11 years and 4 Mayors, the concessions made by town administrations carry forward to new owners and set a precedent for the neighboring Ed*

*Lewis parcel to the north (next to the Post Office building). And, with each change of ownership the concessions may increase, potentially making the property more attractive and probably more profitable for the next owner, so far with no tangible benefit for Carefree. Since this agreement was eventually approved, let's hope it doesn't turn into a 'Flipping for Dollars' situation.]*

*[In contrast to fairly recent changes in town code for hillside construction, which mandates that building height be measured from the low point of the building site, this agreement uses a high point, the N.E. curb, for that measurement. The result in this case is that the true building height being allowed will be between 6 & 8 feet higher from a typical vantage point at the low point, N.W. curb, on Easy street. The actual wording in the legally binding Development Agreement is as follows:*

*“(c) Height Requirement. The building height shall be measured from the elevation at the Northeast curb (which for purpose of this Agreement Elevation is 2372). The top of parapet shall not exceed elevation 2424.”*

*Assuming one accepts the height calculation as is, the building height would be 52 feet from that high point. However the 6 to 8 foot difference in elevation between the high point and low point on the building site would make the actual building height between 58 and 60 feet fronting on Easy Street. That height is to the top of a 4 foot parapet, not to the top of the 4 higher elevator shaft protrusions above the roof. Although those structures, typically 8' above roof level, would not be visible from the street in front of the building, they would most certainly be visible from the Gardens, from homes on Black Mountain, and probably from the landmark Sun Dial. The bottom line is this is to be a very large town core building that could top out well above 60 feet.]*

Once Council discussion had ended the floor was open to audience speakers.

I addressed the Council again, saying we had been here before and the objections previously were to building height. This time is no different; this is to be a very Tall building. There were many points I could raise but the most disturbing thing I had come to learn at this meeting is that the parcel has not yet been sold. It is still owned by Ed Lewis. Councilman Farrar said he doesn't know any developer that would close on a property before receiving approval. I responded that I have been to several developer meetings lately, including the one for Stagecreek. During the meetings I always ask why any buyer would invest many millions without a reasonably firm assurance from the administration that they would get approvals. I then read from the staff cover letter on the Agreement, an "Information Summary" which stated that, "The current owner of the southern property previously owned by Butte Properties (Ed Lewis) has been working with a local development team to build luxury residential rentals rather than condominiums." The Mayor said something to the effect, what is that, I don't know what it is, who wrote it? I said it was written by staff, and when pressed further I then located the sign-off line and read, "**Summary prepared by: Gary Neiss, Town Administrator** and it was so initialed. Mr. Neiss tried to interrupt me, but I told him I didn't want to hear from him. People can say anything they want, make up excuses, but written public documents are a different matter. *[At best it was a clumsy mistake, at worst it was deliberately misleading.]*

In my conclusion I mentioned that I understood the next development phases would be handled only by the Development Review Board and town staff. However, if the Agreement is approved tonight it is final. The Council would turn over the agreement essentially as a

big box for which the Review Board only has the authority to provide the wrapping – they cannot make any changes inside the box [meaning changes to the Development Agreement. I confirmed that with P&Z Commissioner, and Review Board member, Ms. Hitchon at the end of the meeting].

*[Anyone who suspected I was annoyed (it was obvious) could not possibly imagine how much more annoyed I was when I returned to my seat and discovered that the Resolution (2017-03) itself, a legal Town document (prepared by or reviewed by the Town Attorney) for the Mayor's signature, also contained the statement, "WHEREAS, William Cleverly, Mt. Whitney Ventures LLC, (the "Owner") owns certain real property (the "property") located within the interior of the Carefree Town Center as legally described within the Agreement and has authorized Carefree Luxury Residences, LLC, an Arizona limited liability company to present and receive approval of the Easy Street South CUP Development Agreement 11"]*

*[I realize this will be an economic decision, but is it a good one? Carefree has no assurance that this proposal will come to fruition, there is no assurance that 134 "luxury rental units" will in fact rent (at \$2,500 - \$3,500+) and as a result, there is no assurance of ongoing rental sales tax income for the town. I, like everyone else in Carefree, want to see Carefree return to economic prosperity. I'd also like to see the character of the town core and surrounding semi-rural communities survive the continuing assault on our zoning protections by means of fuzzy zoning gimmicks like RUPD overlays. More than 30 years ago Carefree's Founding Fathers had to incorporate Carefree as the only means to stop Scottsdale's rapid annexation plans and to slam the door on Scottsdale's community development density. Their vision and plan worked, until recently. Today, the reality is that there is no penalty, for anyone, if this project does not go forward or if it does not succeed. That's not how a successful business operates.]*

Speaking next, Mr. Lindale said he heard the terms condo and apartment used and wanted to know what we are doing here. The answer was luxury rentals. He then asked why, if they needed 4 more feet in height, they couldn't go down instead of up. This answer this time was that it was financially unfeasible.

There were no other speakers. With discussion and public comment concluded, the Mayor spoke at some length, asking Council members to approve the Agreement.

*[Prior to the vote, and during the protracted discussion, more than one Council member used the word 'trust'. Because the Council will not have an opportunity to modify the agreement after the developer submits more detailed plans and elevations, trust and perhaps prayer are now their only options. It's probably just the cynic in me but "We'll just have to trust" seems a little naïve and hollow after 11 years of failed proposals.]*

The Council went on to approve 6 – 1, Councilman Van Allen dissenting.

**Item 19, Adjournment:** The public meeting ended at approximately 7:07PM.

In general, you can reach all Council members by email; [Council@Carefree.org](mailto:Council@Carefree.org) and Mayor Les Peterson at [Mayor@Carefree.org](mailto:Mayor@Carefree.org)

Respectfully submitted by John Traynor

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