



February 27, 2018

**Town of Cave Creek**  
**Planning Commission Response to Memorandum Dated January 17, 2018**

The Planning Department received a Memorandum on January 18, 2018, signed by 19 individuals who provided former volunteer service to the Town in various capacities. The Memorandum was forwarded to the Planning Agency (Planning Commission) on the same date.

First, we recognize, honor, respect and appreciate the volunteer service to the Town of Cave Creek by the Memorandum signatories.

Second, we thank you for the Memorandum dated, January 17, 2018, and the opportunity to respond to the seven (7) specific comments made with respect to the 2018 Draft General Plan.

The Memorandum was briefly discussed by the Commission at the January 18, 2018, 1<sup>st</sup> Public Hearing on the subject of your Memorandum, the 2018 General Plan Draft #1. The Commission decided to table discussion until the 2<sup>nd</sup> Public Hearing on the 2018 General Plan, February 15, 2018, to give the Planning Commissioners adequate time to read and consider the comments presented in the Memorandum. (See Planning Commission Public Hearing Minutes, January 18, 2018, Lines 687-691 & 712-727.)

On, February 15, 2018, during the 2<sup>nd</sup> Public Hearing on the 2018 General Plan, the Commission discussed and developed the following written response to the list of the seven (7) proposed policy changes from the Current General Plan (2005) to the proposed 2018 General Plan language stated in the Memorandum. The Commission's response developed during the 2<sup>nd</sup> Public Hearing is a matter of public record and is reflected in the Minutes of the Hearing.

## COMMENT #1

The Memorandum states that the 2018 General Plan Language states: **"Designates that all trails through the town are public, even those on private land."**

**Commission Response: This Claim is incorrect as evidenced by the following excerpts from the 2018 Draft**

Trails are addressed in the 2018 General Plan Circulation Element and Trails Map, Appendix B-3. Trail Planning Considerations, 1<sup>st</sup> Bullet Point:

- **"The Town recognizes only those trails located within public parks and lands, public rights-of-way and dedicated trail easements."** (Emphasis added)

Trail Planning Considerations, 2<sup>nd</sup> Bullet Point:

- **"Wildcat trails are not an official part of the Town's trail system."** (Emphasis supplied)

Trail Planning Considerations, 3rd Bullet Point:

- **"Existing and proposed trail locations as shown on the Trails Map (Appendix B-4) are for general location purposes only. Detailed survey plans are created at the time of trail construction only."** (Emphasis supplied.)

Trail Planning Considerations, 6<sup>th</sup> Bullet Point:

- **"Planned trails are not authorized for public use until they are dedicated."** (Emphasis supplied.)

Trail Planning Considerations, 8th Bullet Point:

- **"All new public trails on private property shall be processed in accordance with procedures approved by the Town Council."** (This Bullet Point was added 10/10/17) (Emphasis supplied.)

## GOALS, OBJECTIVES AND POLICIES

3. Goal, A. Objective, 10) Policy/Action: **"Encourage developers and landowners to authorize trails as a part of development."** (Emphasis supplied.)

After considering public input, it is the intent of the Planning Commission that the 2018 General Plan convey the citizens' desires that only the trails that have been dedicated by landowners are the official public trails of the Town of Cave Creek.

Further, that the Proposed Trails shown on the Trails Map, Appendix B-3, are for planning purposes only and will only be designated official public trails by the voluntary dedication of a trail easement by the affected land owners processed in accordance with procedures approved by the Town Council.

**COMMENT #2**

The Memorandum states that the 2018 General Plan proposes: “26’ high bridges, as proposed by Maricopa County, span washes on School House and Spur Cross Roads.”

**Commission Response:** The 2018 GP makes no mention of 26’ high bridges spanning any washes.

Wash crossings are addressed in the 2018 General Plan Circulation Element.

Planning Considerations, 8<sup>th</sup> Bullet Point:

***“Review the need for alternative forms of wash crossings for School House and /or Spur Cross Roads to address periodic flooding. The need to provide emergency service access and safe evacuation routes drive this issue. The area served by this/these wash crossings affects approximately nine (9) square miles of Cave Creek’s land mass and could potentially affect up to 1,000 Cave Creek households.”*** (Note: Paragraphs 2, 3 & 4 of the 8<sup>th</sup> Bullet Point were removed from the 2018 General Plan at the, February 15, 2018, 2<sup>nd</sup> Public Hearing on the 2018 General Plan.) (Emphasis added.)

After considering public input, it is the intent of the Planning Commission that the issue of alternative forms of wash crossings for School House and Spur Cross Roads be ***reviewed and evaluated*** on the basis of the health, safety and welfare for a significant portion of Cave Creek residents. No alternative forms or methods of wash crossings have been considered or evaluated by the Planning Commission. Maricopa County has played no part in the Commission’s decision to include this planning consideration in the 2018 General Plan. Maricopa County did not include any comments regarding alternative forms of wash crossings for any of Cave Creek’s washes in their comments submitted as a Referral Agency for the 2018 General Plan.

**COMMENT #3**

The Memorandum states that the 2018 GP Draft Language: “**Recommends above-ground multi-tiered (or multi-level) concrete parking structures in the town core.**” The 2005 General Plan states, “Underground Parking is recommended for future parking needs”.

**Commission Response:**

Parking is addressed in the 2018 General Plan Circulation Element.

GOALS, OBJECTIVES AND POLICIES

1. Goal:

**“Provide for parking facilities within the Town of Cave Creek which are safe and minimize the visual impact upon the community.”** (Emphasis added.)

1. A. Objective:

**“Encourage below-ground parking and consider multi-level parking facilities.”** (Note: This Objective was amended at the, February 15, 2018, 2<sup>nd</sup> Public Hearing for the 2018 General Plan.) (Emphasis added.)

After considering public input, it is the intent of the Planning Commission that parking facilities, including parking structures, be safe and have minimal visual impact. The wording of the Objective was amended for the purpose of supporting the citizens’ preference for unobtrusive parking facilities, but still allow consideration of appropriate above-ground parking facilities that are not aesthetically offensive and that are compatible to the character of the town.

**COMMENT #4**

The Memorandum states that the 2018 General Plan states: **“There is no limitation on the maximum number of units that can be built in High Density Residential zoning”**. The concern raised by the COMMENT is that the 2005 General Plan allowed a maximum of 8 units per acre and the 2018 General Plan language would seemingly allow an unlimited number of units per acre.

**Commission Response:**

Density is addressed in the 2018 General Plan Land Use Element.

GENERAL PLAN LAND USE CATEGORIES

RESIDENTIAL AREAS

High Density Residential

Density Range: **“Density of any given parcel is directly dependent upon the topography, geography, size and shape of the subject parcel along with associated development regulations within the Town of Cave Creek Zoning Ordinance.”**

Note: On December 22, 2011 the Town Council, upon recommendation of the Planning Commission, adopted revisions to the Zoning Ordinance. Among those revisions was the consolidation of four multiple residence zones (MR-8, MR-14, MR-21 & MR-43) into one MR (Multiple Residence) Zone.

The reasoning for the consolidation of zones was that the other regulations of the zoning ordinance, such as landscaping, disturbance, parking, height and retention would necessarily limit the number of units that could be developed.

After considering public input, it is the intent of the Planning Commission to recognize that **the current ordinances and guidelines are intended to produce projects that are compatible with the character of the Town.** The Commission believes that any stated maximum number of units allowed creates the expectation for development that they are entitled to the maximum. The current General Plan (2005) provides for a density range for High Density Residential of up to a maximum of 8 dwelling units per acre. The Planning Commission's position is that placing a maximum number of units per acre is misleading and creates a false expectation.

#### COMMENT #5

The Memorandum states that the 2018 GP states: **"Major Amendments to the General Plan are rezonings involving more than ten acres of land."** The Memorandum claims that, "historically any change to zoning one acre or more are considered to be Major Plan amendments." First, the 2005 and 2018 General Plans are concerned with Land Use changes, not zoning changes which are governed by the Zoning Ordinance. Historically, the 2005 General Plan began with a Major Plan Amendment acreage threshold of 1 acre. The Major Amendment threshold was raised in 2009 to 20 acres. Five years later in 2014 the Major Amendment threshold was lowered to zero acres. So historically the acreage threshold has been all over the map, so to speak. The Planning Commission has chosen an arbitrary spot in the middle by suggesting a 10 acre Major Plan amendment threshold. It should be noted that none of the above acreages complies with the definition of a Major Plan Amendment under the governing Arizona Revised Statutes (ARS). **ARS 9-461.06, H. states, "For purposes of this subsection, "major amendment" means a *substantial alternation* of the municipality's land use mixture or balance as established in the municipality's existing general plan land use element."** (Emphasis supplied.)

**Commission Response: This statement is partially correct.**

Major and Minor Amendments are addressed in the 2018 General Plan Land Use Element:

#### MAJOR AND MINOR GENERAL PLAN AMENDMENT CONSIDERATIONS

**"Desert Rural designation is not eligible for Minor Amendments.** A Minor General Plan amendment is related to less than ten acres. Any other land amendment is considered to be Major."

After considering public input, it is the intent of the Planning Commission that any application for the amendment of any of the four (4) Desert Rural (DR) Land Use Categories (DR-43, DR-70, DR-89, DR-190), as depicted on the General Plan Land Use Map, Appendix B-1, either to a greater or lesser density or intensity, comply with the requirements of a Major Amendment. In other words, the acreage threshold for a Minor Amendment does not apply to DR – **every change to DR requires a Major Amendment.**

All rezoning applications for the other 2018 General Plan Land Use Categories will be governed by the application of the less than 10 acre threshold defining a Minor vs a Major Amendment. In other words, except any DR rezoning, a request for rezoning less than 10 acres is a Minor Amendment; 10 acres and over requires a Major Amendment.

All rezonings must comply with the General Plan Land Use Map. If a rezoning application does not comply with the General Plan Land Use Map, in other words, requesting to go from one General Plan Land Use Category to another (example: requesting to rezone property in a Commercial Land Use Category to a Medium Density Residential Land Use, the rezoning effort becomes a two-step process. The first Step is an application for a Major or Minor General Plan Amendment, depending on the less than 10 acre threshold (again, the exception being any change to DR which is always a Major Amendment), to bring the Land Use into compliance with the General Plan Land Use Category (in the example to change the Commercial Land Use to a Medium Density Residential Land Use). If the Amendment application is approved by the Town Council, the 2<sup>nd</sup> step requires an application for the zoning change.

Note: The applicant may request to process the proposed General Plan amendment and rezoning request concurrently.

#### **COMMENT #6**

The Memorandum states that the 2018 General Plan states: **“Promote the high profile, high traffic areas of the Historic Town Core for the primary tourist specialty market.”**

**Commission Response:** The 2005 GP Language is: “Encourage low-rise, low-intensity retail, lodging, office, civic/cultural, neighborhood retail and neighborhood service uses that will complement a primary tourist specialty market in the Historic Town Core.” The Commission interprets the concern expressed in the Memorandum as the elimination of “low-rise, low-intensity”.

This COMMENT is addressed in 2018 General Plan Growth Element.

#### GOALS, OBJECTIVES AND POLICIES

1. Goal, B. Objective, 3) Policy/Action: “Promote the high traffic areas of the Historic Town Core along Cave Creek Road for the primary tourist and entertainment specialty market.” **(Note: This Policy/Action statement was amended at the, February 15, 2018, General Plan 2<sup>nd</sup> Public Hearing.)**

1. Goal, B. Objective, 4) Policy/Action: “In the areas in the Historic Town Core adjacent to the High-traffic areas foster office, civic/cultural and neighborhood retail and service uses.” **(Note: This Policy/Action statement was amended at the, February 15, 2018, General Plan 2<sup>nd</sup> Public Hearing.)**

After considering public input, it is the intent of the Planning Commission that the frontage along Cave Creek Road in the Historic Town Core primarily serve the higher activity entertainment and tourist trade. The areas behind the frontage would be encouraged for use by commercial, cultural and civic activity primarily to serve the resident community for goods, services and resident activities. This secondary area could serve the combined interests of the entertainment/tourist/resident trade in providing lower key activities such as artists’ studios and galleries, the Cave Creek Museum, Desert Foothills Library and

other cultural pursuits. This arrangement of commercial, cultural and civic activities has the added advantage of providing a buffer between the higher energy entertainment/tourist activities and adjacent residential areas.

**COMMENT #7**

The Memorandum states that the 2018 General Plan language is: **“Protect from development areas that connect existing and planned open space. These areas could include washes.”** The COMMENT is that the 2018 Draft language does not provide the protection that is in the 2005 General Plan language: “Discourage development in flood plains, floodways, and jurisdictional corridors.”

**Commission Response:**

The COMMENT is addressed in the 2018 General Plan Open Space, Land Use and Environmental Elements:

2018 General Plan Open Space Element

GOALS, OBJECTIVES AND POLICIES

1. Goal, B. Objective, 3) Policy/Action **“Place as “highest priority for protection from development” areas that connect existing and planned open space areas identified in this Plan or other documents acknowledged in the Plan. These areas could include washes, mountains/hills and vegetation in the planning area.”** (Emphasis supplied.)

2018 General Plan Land Use Element

GOALS, OBJECTIVES AND POLICIES

3. Goal, B. Objective, 3) Policy/Action: **“Collaborate with the Maricopa County Flood District to monitor development near erosion hazard zones along Cave Creek and its tributaries.”** (Emphasis supplied.)
4. Goal, B. Objective, 4) Policy/Action: **“Protect all officially recognized floodway zones.”**(Emphasis supplied.)

2018 General Plan Environmental Planning Element

GOALS, OBJECTIVES AND POLICIES

1. Goal, B. Objective: “**Limit disturbance of stream courses** and design trails to minimize impacts to riparian habitats as well as wildlife habitat and movement corridors.” (Emphasis added)
3. Goal, A. Objective, “**Limit development densities** in areas surrounding or adjacent to large natural open space areas such as Cave Creek Regional Park, the Tonto National Forest, Spur Cross Ranch Conservation Area and **significant stream courses.**” (Emphasis added)
4. Goal. A. Objective, 2) Policy/Action: “**Defer to Maricopa County Flood Control District Regulations any proposed developments adjacent to flood plains and floodways.**” \* (Emphasis added)

It is the intent of the Planning Commission that the wording addressing development and disturbance in flood plains, floodways, jurisdictional corridors, streams and washes in the 2018 General Plan is equal to or stronger than the wording in the current General Plan (2005). The 2018 General Plan recognizes the other jurisdictions and governmental agencies that govern these matters and that the Town of Cave Creek collaborates and participates with these entities.

\*Any changes proposed to a wash that has been designated as a jurisdictional waterway of the U.S.A. would require review by the Flood Control District of Maricopa County (FCDMC) and in some instances the U.S. Corps of Engineers (COE). It is possible that a Flood Plain Use Permit would be required by the FCDMC and/or a Section 404 Permit from the COE.

Note: The Open Space Element of the 2018 General Plan was provided by the Town of Cave Creek Open Space Committee.



**Conclusion**

We hope the Commission's response to the COMMENTS expressed in the Memorandum have been helpful and satisfactory. The Planning Commission has used an open process to develop the proposed 2018 General Plan and has worked diligently to reflect the citizens' desires. The Plan is intended to represent the citizens' vision and values for the development of the Town during the next 10 years.

At the 2<sup>nd</sup> 2018 General Plan Public Hearing, February 15, 2018, the Planning Commission voted to recommend approval of the 2018 General Plan. The Plan now moves on to the Town Council. The Town Council can accept the recommended 2018 General Plan, reject it, modify it, write their own Plan or continue on with the current 2005 General Plan. If the Council does anything other than continue on with the 2005 General Plan, that decision will be reflected on the 2018 ballot measure for ratification by the electors.

With respect, the Planning Commission asks for your earnest consideration and support of the 2018 General Plan and that you use your influence, as leaders in Cave Creek, to encourage others to consider and support it, also. The Commission remains available to answer any questions you may have on the 2018 General Plan.

With Respect,

For The Planning Commission

  
Bob Voris, Chairman

Cc: Town Council  
Planning Commission  
Board of Adjustment  
C. Dyrek, Town Manager  
I. Cordwell, Planning Director

**This letter was sent via email where email addresses were available; otherwise to addresses on file.**