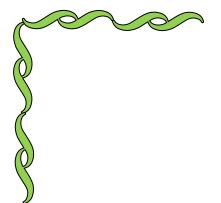


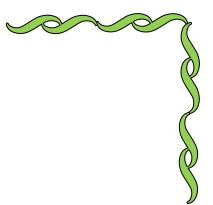


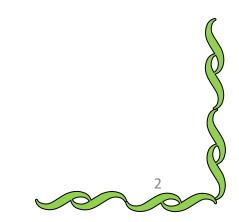
September 14, 2023 Presented to HOA2 Board of Directors



## **Agenda Topics**

- The Common Area Task Force
- Common Area Level 5
- Responses to key questions
- Address and Provide Research
- Recommendations for...
  - Level 5 Work Procedures
  - Common Area Work
  - Long Term Success
  - HOA2 Staff





# Common Area Task Force and Policy Timeline

- The task force first met on January 30, 2019
- The group worked for 15 months and presented recommendations to the board in March of 2020.
- The policy was first approved in January of 2021.
- The policy was modified and again approved in May of 2021.
- Resident input was sought prior to both board approvals.

# A Bit of Background on the Common Area Task Force

#### The Common Area Maintenance Task Force Charge

- Recommend a Policy
- Allow for Homeowner requests
- Review and suggest ways to reduce future maintenance costs
- Develop cost estimates and maps
- Make recommendations for on-going administration of the policy
- Recommend whether a standing committee should be created

The 2019 Task Force included 9 residents and 2 board members.



# **To Complete the Charge** The Common Area Task Force...

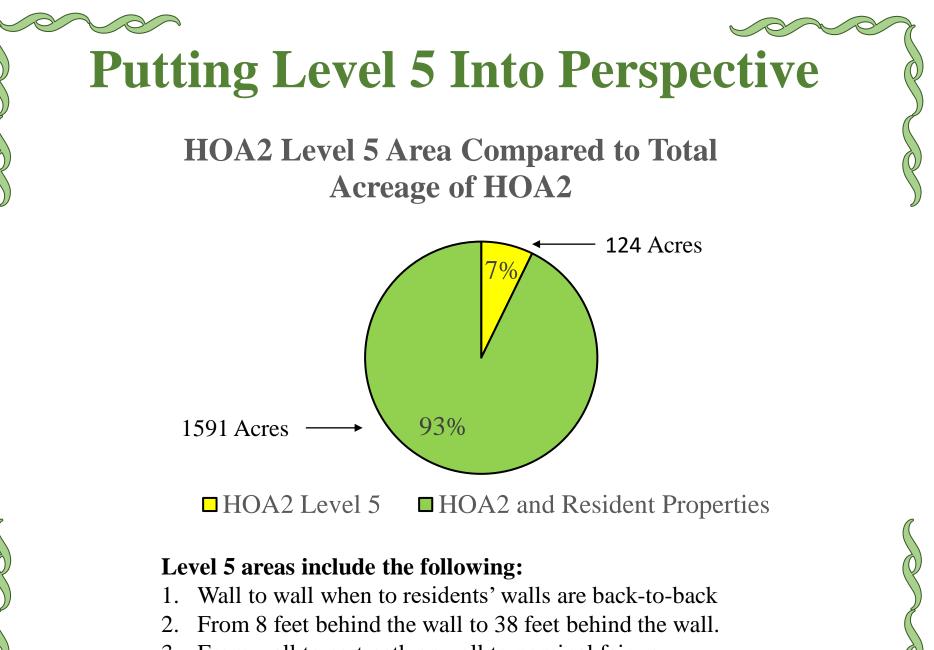
- Conducted research on all aspects of the charge
- Spoke with other Communities to learn of practices
- Consulted multiple resources and individuals knowledgeable in areas contained within the scope of the charge. Sources included, but are not limited to Scottsdale fire marshals, Northern Arizona University botanist, University of Arizona personnel, Arizona Fish and Wildlife...
- Took and reviewed hundreds of photos
- Walked miles of the common area to view current status
- Researched and made equipment and long-range planning recommendations
- Recommended volunteer programs to support the work of the Common Area Maintenance Staff





- Annually inspects areas for dead plants, trees, and trash
- Remove trash, debris, dead/diseased vegetation, saplings
- Trims plants, trees, and bushes.
- Sprays/removes noxious and invasive vegetation
- Removes/chips debris
- Removes packrat nests

Common Area Maintenance Policy APVD 2021-05-19.pdf



3. From wall to cart path or wall to nominal fairway





# Key questions from residents and research information for the HOA2 Staff

#### **Key Questions**

- 1. To what extent is the common area to remain in a natural state or is the association required to control growth?
- 2. Could the work result in the removal of protected plants or impact protected animals?
- 3. Are there any permit requirements from Pinal County or the state?

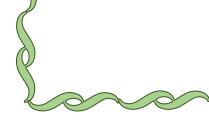
#### **Additional Information:**

- 1. 404 washes
- 2. Riparian areas and Ephemeral Areas
- 3. Map Adjustments
- 4. Endangered Species
- 5. Identify Noxious and Invasive as well as species to remain

8

Question 1: To what extent is the common area to remain in a natural state or is the association required to control growth?







According to Arizona statute, the HOA is responsible for maintaining common areas. <u>https://www.pdsazcom</u>

In Arizona an HOA has the ability to regulate common areas.

https://ipropertymanagement.com/laws/arizona-hoa-rules-regulations

According to Saddlebrooke HOA2 CC&Rs, "The Board shall use a reasonably high standards of care in providing for the repair, management, and maintenance of the Common Areas and other properties maintained by the Association, but the board shall be the sole judge of the maintenance of all such areas." Question 1: To what extent is the common area to remain in a natural state or is the association required to control growth?

According to the HOA2 policy, the HOA is "To define how the Common Area of the Saddlebrooke Homeowners' Association 2 will be maintained, the scope of that maintenance across the varied landscape conditions and the processes necessary to carry out the maintenance"

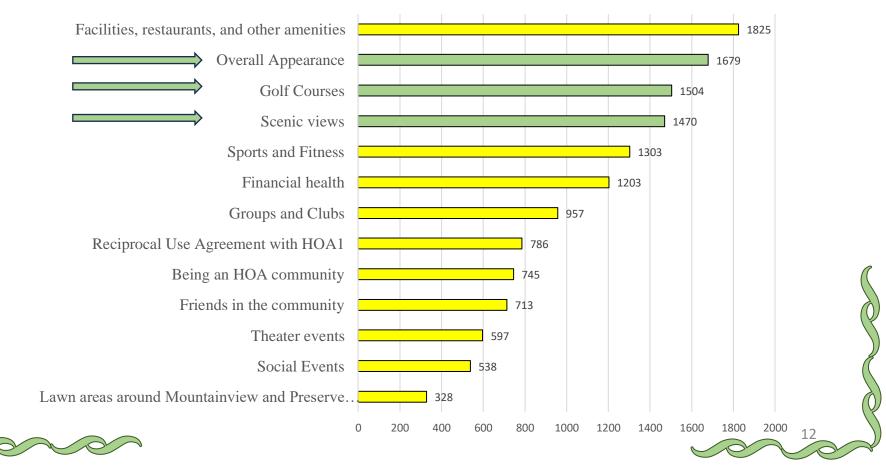
"The goal is that the Common Area be maintained for safety, sustainability, and appearance using treatments specific to each class of area and/or vegetation and balanced by financial considerations."

Note: The Common Area is owned by the HOA, not residents.

# Question 1: To what extent is the common area to remain in a natural state or is the association required to control growth?

# According to the HOA2 Strategic Planning Survey, results from 2015...





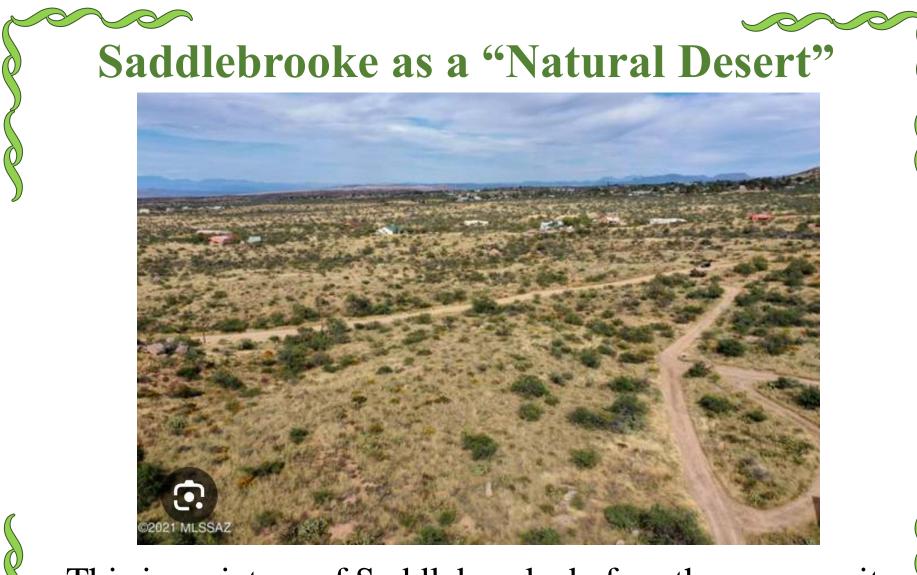
Additional Question: To what extent is the common area to remain in a natural state or is the association required to control growth?

Can we learn from the Maui wildfires? According to Jennifer Balch, a fire scientist and director of the Environmental Data Science Innovation and Inclusion Lab in Colorado, provides a warning.

"Wildfire boils down to three ingredients: a warm and dry climate, fuels to burn and a spark. Wind is an accelerant and has been a player in almost all of the recent wildfire disasters. The same is true in Lahaina, but there are some other overlooked factors at work. The first is grass. Hawaiian ecosystems are not adapted to fire, which means they are vulnerable to wildfires. **Invasive** species, particularly flammable grasses, push out native species."



Our common areas are filled with invasive species some of which are considered highly flammable. The growth is out of control.



This is a picture of Saddlebrooke before the community was built. The area once was a natural desert.

Saddlebrooke AZ Real Estate, Homes.com

Additional Question: To what extent is the common area to remain in a natural state or is the association required to control growth?

### The Common Area is no longer a "natural desert", not a natural state, and does not need to remain as is.

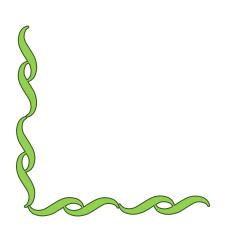


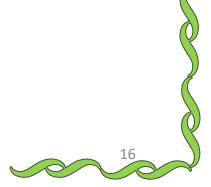
Once the land was disturbed, homes and roads built, irrigation systems installed the area could no longer be considered a natural state. This led to the uncontrolled overgrowth of noxious and invasive vegetation due to lack of maintenance.

Additional Question: To what extent is the common area to remain in a natural state or is the association required to control growth?

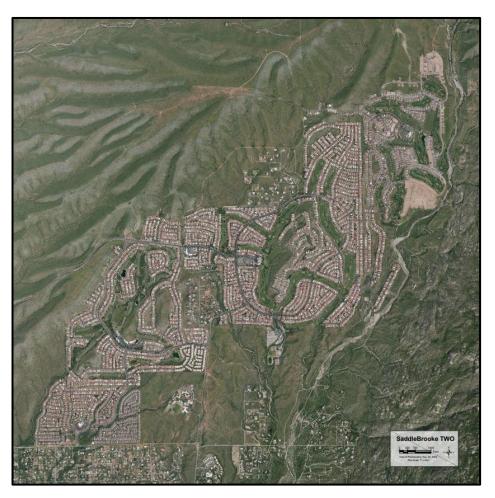
The common area is no longer "a natural state".

The association is responsible for the care of the common area.













#### **Protected Plants and Animals**

- According to the Center for Biological Diversity, there are 24 endangered or threatened species in Pinal County.
- Out of the 24, 16 live in or near water which does not apply to areas in levels 5.
- The US Fish and Wildlife Service state that there are 5 species that could potentially be in Saddlebrooke.
- There are 3 endangered cacti that are found in some areas of Saddlebrooke.

## Wildlife Listed as Endangered or Threatened

Common Name Scientific Name Status County State	Gila chub Gila intermedia Endangered Pinal Arizona	Common Name Scientific Name	Mexican spotted owl Strix occidentalis lucida	Common Name Scientific Name Status County	Monarch butterfly * Danaus plexippus Candidate Pinal	Common Name Scientific Name Status	Yellow-billed Cuckoo * Coccyzus americanus Threatened	Name Scientific Name Status County State	Ocelot Leopardus (=Felis) pardalis Endangered Pinal Arizona
Lives in water		Status County State	Threatened Pinal Arizona			County Pinal State Arizona			

<sup>K</sup>Not impacted by Level 5 work



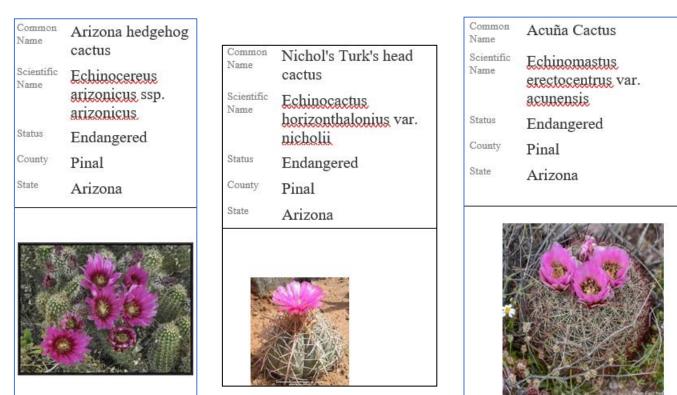


# According to U.S. Fish and Wildlife Service...

# "There are no critical habitats in Saddlebrooke" for the identified endangered and threatened wildlife.

https://ipac.ecosphere.fws.gov/

# Plants Identified as Endangered



#### Resource: Center for Biological Diversity

# **Endangered or Threatened Wildlife**

No.

# **Endangered or Threatened Plant Life –**

- Care needs to be taken to avoid the three endangered cacti. It is probable that the hedgehog cactus could be found in the common area.
- ALL healthy cacti in our Common Areas should be protected in accordance with the HOA2 Common Area Maintenance Policy.

Source:Native Plants of AZDepartment of Agriculture Administrative Code



#### Answers to Question 3: Are there any permit requirements from Pinal County or the state?









# Answers to Question 3: Are there any permit requirements from Pinal County or the state?

Landowners have the right to destroy or remove plants growing on their land, but 20 to 60 days prior to the destruction of any protected native plants, landowners are required to notify the Arizona Department of Agriculture. The landowner (in this case is HOA2, not the residents) also has the right to sell or give away any plant growing on the land. However, protected native plants growing may not be legally possessed, taken or transported from the growing site without a permit from the Arizona Department of Agriculture.

https://cals.arizona.edu/maricopa/garden/html/plants/native.htm

# Answers to Question 3: Are there any permit requirements from Pinal County or the state?

According to the US Department of Agriculture, in Arizona, the extent of a particular threatened and endangered species critical habitat is determined by the Fish and Wildlife Service. Their website stated that Saddlebrooke has no critical habitats.

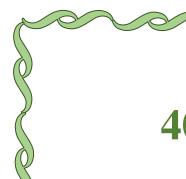
Arizona Environmental Compliance Handbook

#### **Answers to Question 3**: Are there any permit requirements from Pinal County or the state?

Pinal County requires no permits according to Deputy of Public Works in Pinal County, Joe Ortiz. Mr. Ortiz said that no permits were necessary for work within a developed community unless a Pinal County roadway is impacted.



gov/directory



**Riparian Areas** 

### **404 washes and Ephemeral Areas**

### Map Adjustments







# U.S. Clean Water Act (CWA) Including Section 404) Regarding Wetlands

- U.S. Supreme Court (SCOTUS) decided the case of Sackett vs. the USEPA on May 25, 2023
- The decision redefined Section 404 wetlands under the US Clean Water Act (CWA)
- Based upon this decision there are NO CWA and especially Section 404 wetlands within SBHOA 2 property
- To better understand this, it is necessary to take a brief review of that decision.

# US Supreme Court (SCOTUS) Sackett Decision regarding Wetlands under 404 Consideration

To assert jurisdiction over a wetland under the Clean Water Act (CWA) specifically Section 404, a party must establish "first, that the adjacent body of water constitutes . . . 'water[s] of the United States' (i.e., a relatively permanent body of water connected to traditional interstate navigable waters); and second, that the wetland has a continuous surface connection with that water, making it difficult to determine where the 'water' ends and the 'wetland' begins.

# The SCOTUS CWA Decision regarding Wetlands under Section 404 Consideration Further States

To make sense of Congress's choice to define "navigable waters" as "the waters of the United States," the Court concludes that the CWA's use of "waters" encompasses "only those relatively permanent, standing or continuously flowing bodies of water 'forming geographic[al] features' that are described in ordinary parlance as 'streams, oceans, rivers, and lakes.'"

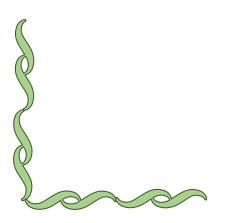


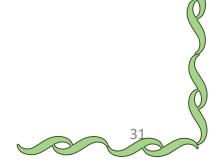


## Other Bodies of Water/Areas of Interest Related to Wetlands

# •Ephemeral washes/streams & ponds

• Riparian areas



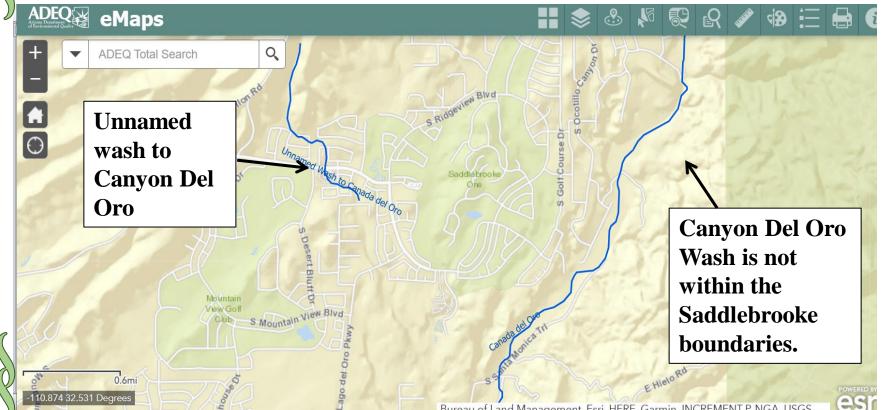


## **AZDEQ Definitions for Ephemeral Washes/Pond Continued**

- Ephemeral Washes are:
  - Are hydrologically connected to perennial and intermittent streams downstream.
  - Rarely carry enough runoff to displace soil; however they may move the litter on top of the soil (Edwin Road).
- Ephemeral washes (are sometimes referred to as Streams) <u>DO</u> <u>NOT have Riparian Areas</u>. (Ref.: <u>The Arizona Riparian Area Act</u> <u>passed in 1992 by the Arizona legislature and amended by Arizona</u> <u>Revised Statute (CARS) 45-101</u>)
- Within SBHOA 2 there is one Ephemeral pond and two Ephemeral washes that were converted to drainage washes/swales by the developer.







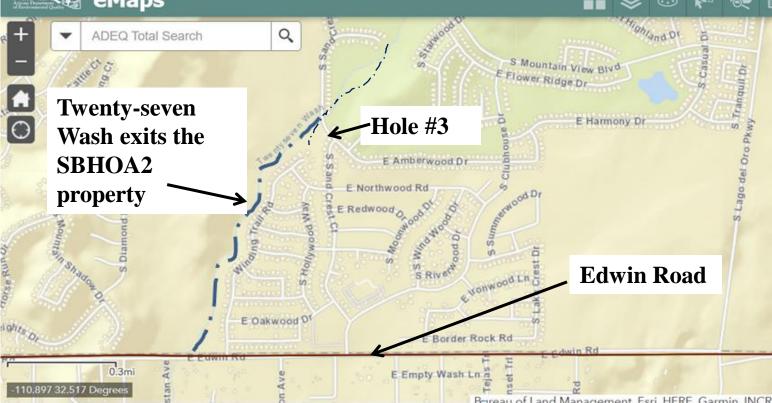
Bureau of Land Management, Esri, HERF, Garmin, INCREMENT P. NGA, USGS

# Ephemeral Washes/Area within SBHOA2-Continued



Pond and Designated the Designated Twenty-seven Wash From the Ephemeral pond between Holes 10 and 11 on the Mountainview Golf Course, an Ephemeral wash (AZDEQ designated: "Twenty-seven Wash") runs to the southwest and is passes thru a culvert under Sand Crest Rd.





It exits Saddlebrooke HOA2 property SW of Sand Crest Rd. & north of Edwin Road. It does continue south across Edwin Rd. during heavy rains





# **Ephemeral Washes**

The Audubon Society of Arizona has recently written, in part, the following regarding the SCOTUS vs EPA Clean Water Act decision:

"The recently-finalized Navigable Waters Protection Rule (the "new rule") reduces the number of waters in Arizona that will receive water quality protection through the federal Clean Water Act. The new rule defines "waters of the United States" under the Clean Water Act; ephemeral washes/streams are categorically excluded from "waters of the United States" and, as a consequence, ARE EXCUDED from Federal water quality protection."

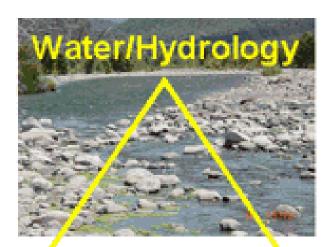
### **Riparian Areas**

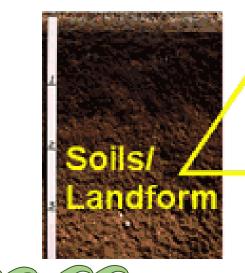
- There are <u>numerous</u> definitions for Riparian Areas.
- The term riparian area is relatively young. It has been used during the last 30-35 years.
- The scientific community has not yet determined a universally accepted definition.
- The definitions may serve various purposes, some definitions are very simplistic, others are very scientific, while others are regulatory.

### **Riparian Areas Continued**

- <u>Background: In general that are three characteristics</u> of riparian areas: they
  - Reflect the influence of additional moisture compared to the adjacent, drier uplands.
  - <u>Are the transition zones between aquatic (water-based) systems and terrestrial (land-based) systems.</u>
  - Usually have characteristics of both.
- These characteristics make it a habitat for a larger number of species of plants and animals.











### **Riparian Areas Continued**

The differences in vegetation, landform, and geology have led to a wide variety of terms used to denote riparian areas. These include riparian buffer zones, cottonwood floodplains, alluvial floodplains, floodplain forests, bosque woodlands, cienegas, and meadows.

## **Riparian Areas Continued**

- The <u>Arizona Riparian Area Act</u> was passed in 1992 which defined Riparian Areas
- It was further refined by the AZ Council of 1994: which states in part the following: "The term "riparian" is defined as vegetation, <u>habitats, or</u> <u>ecosystems that are associated with bodies of water</u> (streams or lakes) or are dependent on the existence of perennial, intermittent or surface water drainage.

#### The Amended Arizona Revised Statute (CARS) 45-101 Defines Riparian Areas As

A Riparian area is a Geographically Delineated Area with distinct resource values characterized by:

- Deep rooted plant species that depend on having roots in the water table or:
- It is a capillary zone and that occurs within or adjacent to a natural perennial or intermittent stream channel
- It is within or adjacent to a lake, pond or marsh bed maintained primarily by natural water sources.

#### The Amended Arizona Revised Statute (CARS) 45-101 Further Defines Riparian Areas As

- In short, riparian areas have certain common points:
  - adjacent to a body of water
  - have no clearly defined boundaries
  - <u>transition zones between aquatic and terrestrial</u> <u>environments</u>
  - linear in nature
  - <u>They're different from the surrounding uplands</u> because their soils and vegetation are shaped by the presence of water.

### **CARS 45-101 Riparian Areas Continued**

- Put more simply, riparian areas are the green ribbons of trees, shrubs and grasses growing along watercourses. For example, the <u>cottonwood groves</u> where we like to picnic along sandy riverbeds, and stream edges with tadpoles and dragonflies are among the riparian feature we enjoy.
- <u>Also at the present time, there remains NO</u> <u>State regulations to protect and maintain</u> <u>riparian areas</u>

### **CARS 45-101 Riparian Areas Continued**

<u>Riparian Areas DO NOT include</u> areas in or adjacent to:

- Ephemeral stream channels (Of which two have been so identified by the AZ Dept. of Environmental Quality (AZDEQ) within SBHOA 2 as previous slides have shown.)
- <u>Man-made water transportation: S</u>wales etc. (<u>there</u> <u>are many</u> in SBHOA2), distribution system, offstream storage and collection systems.

### The following <u>are NOT</u> Riparian Areas within SBHOA2

- Areas that have thicker vegetation (Green Areas) within SBHOA2 because:
  - Runoff from the streets, open areas, or Golf Course watering any of which may accumulate to form small pools or dampening of the surrounding soil or flows into *man-made drainage systems*
  - Of the accumulation (ponding) within <u>drainage</u> <u>swales</u> that are improperly graded and/or maintained.
  - The areas are identified as Ephemeral washes by AZDEQ.

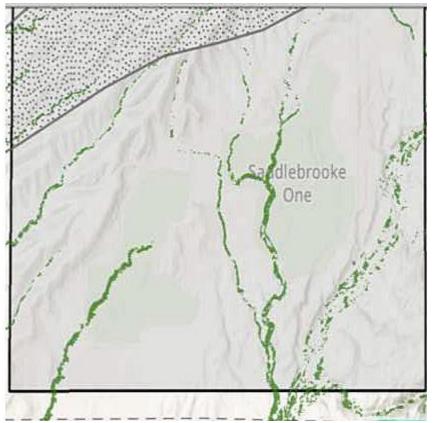
### The Fish & Game Review Tool Report Dtd: 6/23/2023

- The person preparing the report designated the <u>EPHEMERAL</u> <u>WASH</u> named "Twenty-seven Wash" as a <u>riparian area</u> with three (3) disclaimers:
- Disclaimer 1:
  - This is a preliminary environmental screening tool.
- Disclaimer 2:
  - It is not a substitute for the potential knowledge gained by having a biologist conduct a field survey of the project area. This review is also not intended to replace environmental consultation (including federal consultation under the Endangered Species Act), land use permitting, or the Departments review of site-specific projects.



- <u>Disclaimer 3:</u> Location Accuracy Disclaimer: Project locations are assumed to be both precise and accurate for the purposes of environmental review. The creator/owner of the Project Review Report is solely responsible for the project location and thus the correctness of the Project Review Report content.
- <u>See the following maps:</u>

#### Fish & Game Reference Map Approx. Date: 1995



SBHOA2 does not exist on this map-Inaccurate for Report

#### AZDEQ map Dated: 2023



The buildout of SBHOA2 in the vicinity of Twenty-seven Wash is complete.

## Map Information

- As can be seen on the maps, the map version used by Fish & Game predated:
  - SBHOA2
  - The permitted work done by the Developer, Robson, to develop SBHOA2 by:
    - Massively changing the geographical relief of the area to build houses, golf courses and other facilities.
    - Developing new drainage patterns to include the modification of the ephemeral washes to be improve and convey additional natural, street and golf course runoff.

## SUMMARY

Within SBHOA2 there are:

- NO Wetlands subject to protection/permitting under Section 404 of the Clean Water Act.
- NO riparian areas within SBHOA2 based upon the Arizona Riparian Area Act passed in 1992 by the Arizona legislature subsequently amended as Arizona Revised Statute (CARS) 45-101)
- One (1) Ephemeral pond Two (2) Ephemeral washes as designated by AZDEQ and <u>are not protected</u> under Section 404 of the Clean Water Act.
- The washes now also are used as primary conveyances for the SBHOA2 street drainage and the Twenty-seven wash also accepts MVCC golf course runoff.

#### Noxious and Invasive Species and Vegetation to Control









- Endangered species were addressed in response to question 2.
- In short, the common area is not a critical habitat for endangered or protected wildlife.
- Since all healthy cactus are to remain, the protected cacti will automatically be saved.

### Expert Opinions on Noxious and Invasive Species: Arizona Organizations and Agencies:

Over 100 photographs of vegetation in HOA2 Common Area Identified by:

- Pinal County Extension Office and Agents (Rick Gibson and Anne Lesenne)
- Native Plant Society John Scheuring PHD, Agronomy, Chuck LeFavre -Botanist
- Two tours of HOA2 Common Areas by Native Plant Society to identify locations of native plants/trees and invasive and noxious vegetation
- Extensive Web Research for eradication and maintenance control
- Conversations with U of A Professor, Department of Natural Resources, Larry Howery, author of Invasive and Noxious Plants of Arizona



### Identify Noxious and Invasive to Control There are Only 8!!!

#### Noxious plants must be eliminated by Arizona law.

(Agriculture.az.gov – Noxious weeds).

#### **BUFFEL GRASS** – HOA2 Priority

State of Arizona Noxious Weed list; extreme fire hazard.

Expensive to control once established. Spot spray in spring and fall.







#### Keep it simple – "8 Weeds to Control"

FIRE HAZARD GRASSES -- Fire Hazards due to aggressive nature.



Red Brome – on Pima County control list, ADOT list.
Extremely aggressive.
Behind HOA2 common walls and in common area natural space.



**London Rocket** – opportunist. Fire hazard.

- •Highly invasive
- •Location at pond area, near Mountainview golf shop





#### **Russian Thistle**

(Tumbleweed) – restricted noxious list in Arizona /invasive in Pinal. MountainView Boulevard Slopes at entrance example of aggressive nature.



Lehman's Love Grass – ADOT list, Pima County List, Invasive non-native list – U of A.

Does not burn easily – cattle forage, destroys native plants, identified as one of the major threats to the Sonoran Desert; very difficult to eradicate

### Identify Noxious and Invasive to Control

#### **Desert Broom**

- •Rampant throughout HOA2;
- •Native but difficult to control.
- •Control methods cut at base and paint stem with glyphosate – otherwise it will take over in all areas.
- •Identified by Scottsdale Fire Department as native to eliminate by Scottsdale Ordinance #4045
- •Burns hot like petroleum



### Identify Noxious and Invasive to Control



#### Tamarisk (Salt cedar)

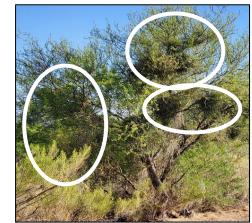
- •Banned by Scottsdale Fire Department; Saguaro National Forest.
- •Destroys chemistry of desert soil – very deep roots – not on AZ noxious list due to the endangered Southwestern Willow Flycatcher



#### Creosote

- Native but invasive in disturbed areas and will take over and kill plants (County Extension Agent, Pinal County.
- Judgement call for homeowners and CAM Staff.
  - 59

## **Other Plants of Concern**



#### Mistletoe

- Large group of plants that are parasitic on aboveground parts of woody trees and shrubs.
- Attaches to a host tree or shrub Extracts water and nutrients from the host plant.
- Control option is pruning it out
- If it is not pruned, it can spread killing the tree.

Source - University of Wisconsin- Madison Department of Horticulture





#### Mexican Palo Verde

- Grows up to 30 feet tall
- hybrid, reseeds itself easily and seedlings can become a problem
- Listed as an invasive tree in AZ by the National Park Service

## **Other Plant of Concern**

- **The Honey Mesquite**
- Seed pods are food source for desert wildlife (Deer, Havalina, rabbits, coyotes)
- . One of three native mesquites in Arizona (Velvet, Honey and Screwbean)
- . Grows as shrub or tree depending on water, soil and maintenance
- . Not on the invasive list for Pinal or Pima County
- . HOWEVER the significant, opportunistic regrowth in mowed areas must be controlled or other native vegetation will be impacted!



Honey Mesquite Regrowth on Mountainview Hole 1



Honey Mesquite Tree



### Noxious and Invasive Species In Summary

- The invasives currently cover a large part of the common areas.
- Noxious and invasive species should be eliminated to protect plants.
- Invasive native plants need to be controlled or will destroy cacti
- There will be a need for managed spot spraying and regular maintenance of the area to protect native plants.
- Care must be taken to protect cacti while destroying invasive species.



Hedgehog Cactus in Level 5 at Preserve Hole 14



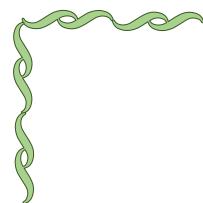


Creosote killing Prickly Pear

#### Russian Thistle smothering Prickly Pear







#### Recommendations







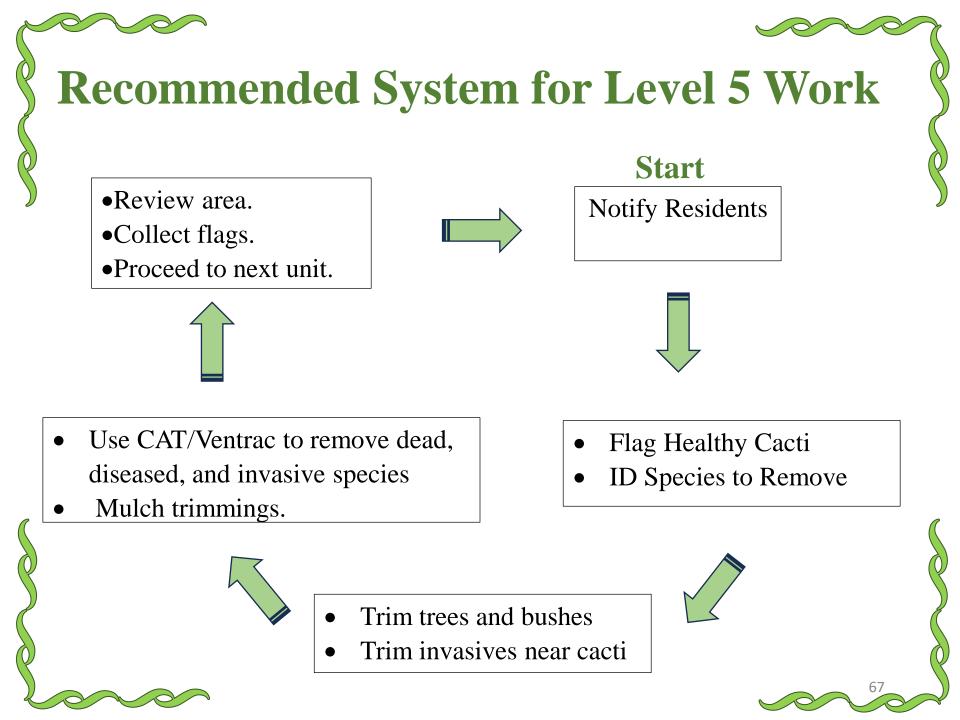
#### **Recommendations** Work Process for Level 5 Slide 1

- 1. Residents be notified prior to the start of level 5 work in their unit through the Monday Message and the Unit Representatives.
- 2. A trained supervisor review each area prior to beginning work to flag healthy cacti, identify dead and diseased species to be removed, identify trees and bushes to be trimmed, and clarify trees and noxious and invasive species to remove.
- 3. Crews manually trim identified trees and bushes, as well as trim around cacti as necessary to remove invasive growth.



#### **Recommendations** Work Process for Level 5 Slide 2

- 5. Crews remove noxious and invasive plants in area. Retain all healthy cacti. Remove large debris or mulch to size comparable to purchased mulch. Use the CAT Forestry Mulcher as much as possible for the sake of efficiency.
- 6. Crews be cross-trained so there is the ability to work on levels simultaneously rather than at separate times.
- 7. Clear expectations be set for the crew so they are aware of what maintenance should look like in level 5 areas.
- 8. A trained supervisor review area after work is complete. Remove flags.



# Recommendations for Immediate Work

- The endangered and threatened plants list be reviewed with staff.
- The noxious and invasive weeds list be reviewed with staff.
- Both of the above be identified within the common area. If necessary, contact someone familiar with the cacti and invasive species in the levels so they can train the crew to identify both.
- The common area crew be trained to recognize weeds to eliminate and proper way to treat (spray, paint, etc.)
- Staff continue to be hired and trained so that there is a full common area crew.

# **Recommendations for Immediate Work**

Slide 2

It is recommended that...

• The common area crew tour level 5 common areas and replant the fishhook barrels that have fallen or are falling.



- A method of marking cacti too small to see from CAT Forester Mulcher be established.
- Trees and bushes that are to remain in level 5 be trimmed.
- Invasive plants that have surrounded healthy cacti be trimmed.
- Maps identifying buffelgrass locations be updated.

## **Recommendations for Long-term Success**

- The common area staff and spray techs be trained on noxious/invasive weeds to be eradicated using the "Research Guide" created by the Common Area Task Force and hired consultants.
- A "spot-spraying" approach for licensed spray techs be adopted to address fire hazards as well as noxious and invasive weeds HOA2 common area.
- The Arizona "Firewise" standards be followed. (Homeowner's Firewise Guide for Arizona)
- The CAT Forestry Mulcher and the Ventrac both be used to care for the common area as appropriate for the terrain.
- Additional equipment needs be identified.
- The Ventrac manufacturer be contacted, and a request be made of the manufacturer to provide training for common area crew over various types of terrain.



#### **Recommendations for the HOA2 General Manager**

- The work in level 5 be resumed.
- Continue to research new and existing invasive species and monitor plant growth in level 5 areas.
- The HOA2 Board create a Common Area Committee of residents as an advisory group to the Board and staff.
- Work within the common areas be expanded to full implementation to include all levels of the Common Area Maintenance Policy including level 6.