

**ORIGINAL**

OPEN MEETING AGENDA ITEM



0000094763

**BEFORE THE ARIZONA CORPORATION COMMISSION**

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2009 MAR 20 P 3:39

ARIZONA CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission  
**DOCKETED**

MAR 29 2009

**EXCEPTION**

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF ) DOCKET NO. W-01157A-05-0706  
WEST END WATER COMPANY FOR )  
EXTENSION OF EXISTING CERTIFICATE ) EXCEPTION OF THE  
OF CONVENIENCE AND NECESSITY ) CITY OF SURPRISE  
)  
)  
)  
)

The City of Surprise (the "City" or "City of Surprise") files this exception to the March 11, 2009 Recommended Opinion and Order ("Order") asking that the extension granted by the Order be reduced from the proposed twenty-two months to nine months. This revision would allow the Commission to, in nine months, review the case and take into consideration any new developments or facts material to the application and the City's intervention.

**Overview**

The City owns the City of Surprise Water Service Department, which provides water services to City residences and businesses within the City of Surprise and in areas that the City expects to annex in the near term. The City of Surprise is also the MAG 208 designated sewer services provider for the City and its surrounding areas.

In September of 2005, when West End Water Company (“West End”), filed an application to extend its Certificate of Convenience and Necessity (“CC&N”), the City of Surprise intervened in that proceeding and opposed the application. The property West End sought to capture was less than a mile from the current City of Surprise boundary and within the City of Surprise General Planning Area. The City wished to provide integrated water and sewer services to the property in question. After a contested hearing on the CC&N extension application, the Commission conditionally approved West End’s application, allowing West End to serve the area, which included a yet-to-be developed residential subdivision known as Walden Ranch.<sup>1</sup> See Decision No. 69672 (June 28, 2007).

In Decision No. 69672, the Commission gave West End until December 31, 2007 to file certain compliance items. West End subsequently received two separate extensions of time to satisfy these compliance items. Now, West End is asking for yet a third extension, this time for an additional two years, pushing the deadline for filing the remaining compliance item to December 31, 2010 – three and a half years from the date West End conditionally received its CC&N extension. The City takes exception to granting West End a third, nearly two year, extension. The City believes that, at most, a nine-month extension, to December 31, 2009, is appropriate.

**Exception**

West End’s application to extend its CC&N, filed on September 5, 2005, contemplated that at least 150 residential customers located in the CC&N extension area would be receiving water in 2007, and that this demand would steadily increase to

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<sup>1</sup> By way of background, there are currently no homes or water users in the proposed extension area.

at least 443 residential customers by 2010. At the subsequent September 22, 2006 Administrative Hearing and the June 28, 2007 Open Meeting, West End continued to assert that a present need for water services existed. However, this need has been very slow to materialize. West End and the current developers for the CC&N extension area did not enter into a Main Extension Agreement until December 2008. While the City does not doubt West End's desire to partner with a developer and expand its assets, the Commission's original decision on this extension request did not contemplate a five to seven year delay in compliance with the order. The City's competing interest in providing integrated water and sewer services to residents in the Surprise General Planning Area grows stronger as time passes. Changes in the City's boundaries, as well as the growth of the City's Water Services Department, caution against granting West End a two year extension.

The City's is continuing to grow and annex new land. The City limits are presently less than one mile from the boundary of West End's CC&N extension area. In February 2009, the developers of the property adjacent to the east boundary of Walden Ranch approached the City to discuss annexation. See March 17, 2009 letter from City Senior Planner Janice A. See, attached hereto as Exhibit A. Ms. See estimates that this neighboring property could be annexed into the City by the end of 2009, making the City's limits contiguous with the West End CC&N extension area. Annexation of the West End CC&N area is more likely once the property is contiguous to the City boundary.

Should the Commission grant a two year extension now to West End, this may unintentionally harm the public interest by unnecessarily placing constraints on the

City's ability to manage water services to an area within its own city limits. Such a decision could also limit the current developer's ability to fairly assess the option of working with the City to provide integrated water and sewer services.

**Conclusion**

The City of Surprise requests that the Commission amend the recommended order to grant, at most, a nine month extension, thereby adjusting the date for Commission review of the viability of the extension to December 31, 2009.

Dated this 20th day of March, 2009.

OSBORN MALEDON, P.A.

By Joan S. Burke  
Joan S. Burke  
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Attorneys for the City of Surprise

Original and thirteen (13) copies of the foregoing were filed this 20<sup>th</sup> day of March, 2009, with:

Docket Control  
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Phoenix, Arizona 85007

Copies of the foregoing mailed this 20<sup>th</sup> day of March, 2009, to:

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Planning and Zoning Division**

12425 W. Bell Road, Suite D100

Surprise, Arizona 85374

Ph: 623.222.3133

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March 17, 2009

Danielle D. Janitch  
Osborn Maledorn  
2929 North Central Avenue, 21st Floor  
Phoenix, AZ 85012-2794  
602.640.9000

Re: Surprise Annexation of Walden Ranch

Dear Ms. Janitch,

In regard to your inquiry, the following information is an update on the City's annexation timeline for the Walden Ranch project.

Being less than a mile from the city limits, the Walden Ranch project is listed on the city's annexation plan for possible annexation. Any delay in annexation is due to the complexity in trying to assemble property owners willing to annex, from the area between the existing city limits and the project:

In February of 2009, the developers of the adjacent property to the east of Walden Ranch approached the city to discuss annexation. To meet annexation contiguity requirements, the city is working with this developer group to survey and assemble other property owners within the proposed annexation area. Exhibit B shows the parcels that may be included in the annexation. It is estimated that if the annexation is successful, the property more commonly known as Churchill South could be annexed into the city by the end of 2009.

If that annexation occurs, it would make Walden Ranch contiguous with the city of Surprise and ready to begin the annexation process. The annexation of Walden Ranch would likely be done in phases to meet Arizona Revised Statute requirements. With full cooperation from Walden Ranch property owners, the annexation of the property could be completed by the end of 2010.

For your information, I have attached several exhibits. Exhibit A is a vicinity map of the Walden Ranch area. Exhibit B shows the parcels that are being surveyed for annexation.

If you have any further questions, please feel free to contact me at 623.222.3152.

Sincerely,

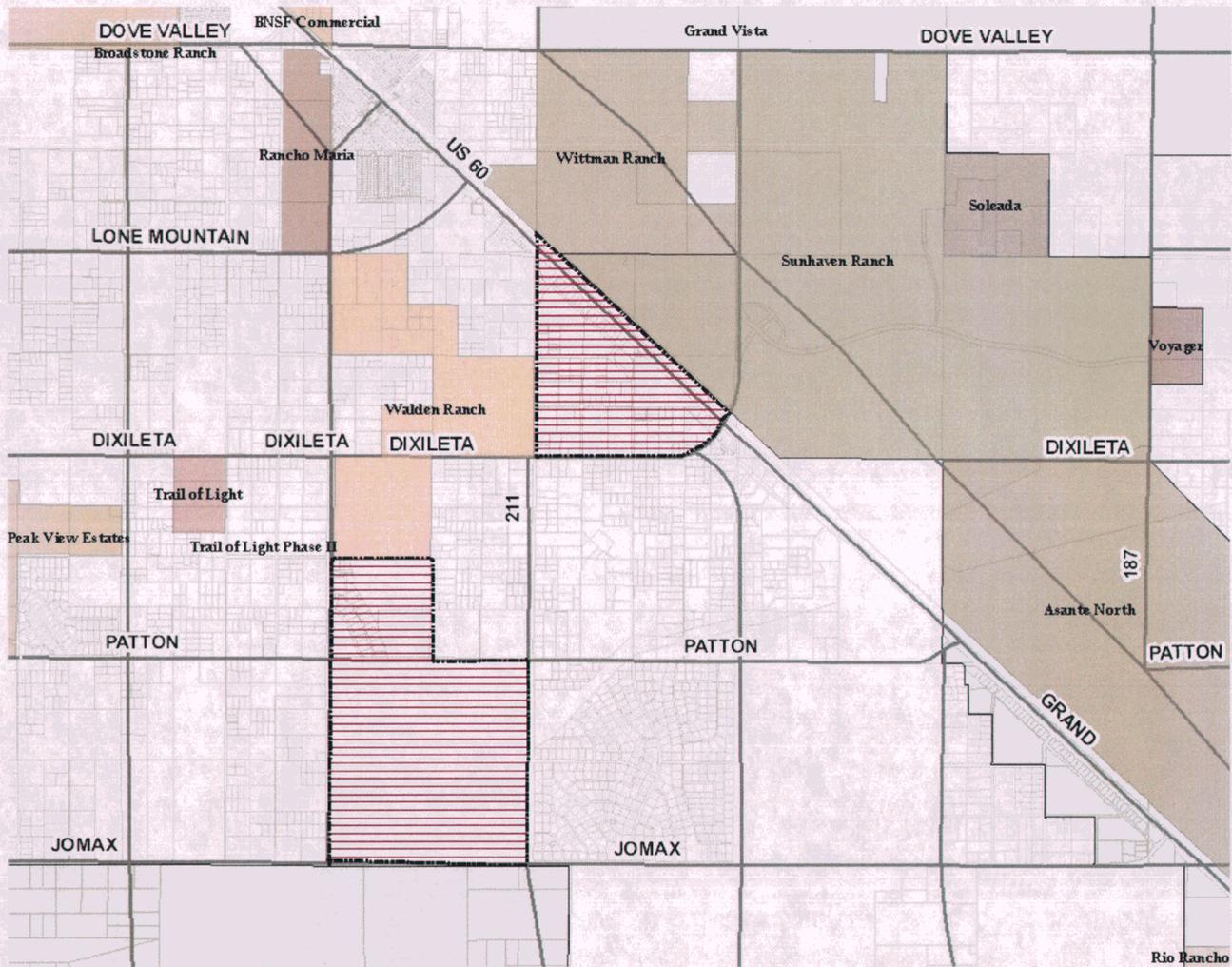
Janice A. See, AICP  
Sr. Planner

cc: Jeff Mihelich, Rich Williams

Walden Ranch Annexation  
March 2009

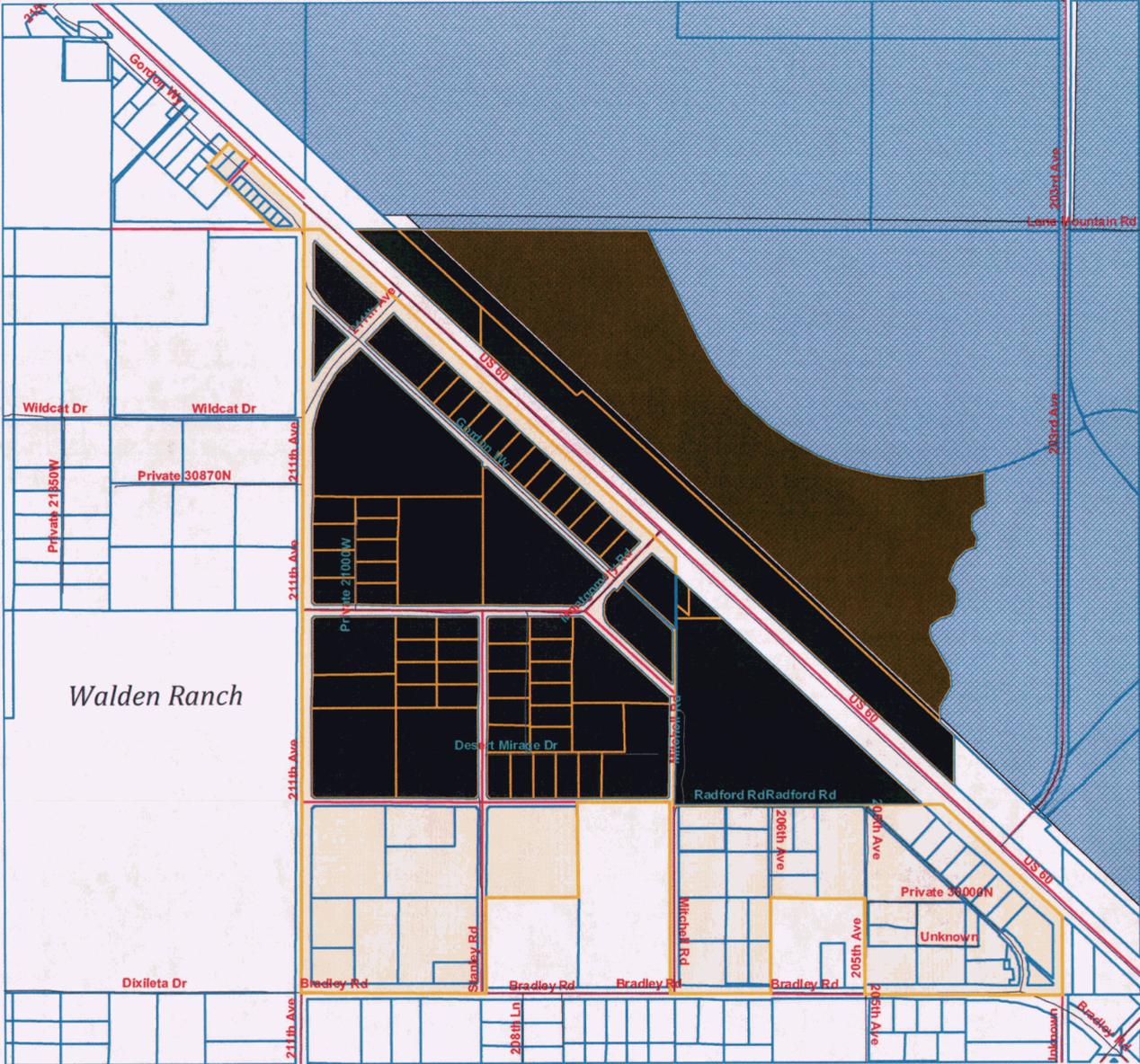
Page 1

## Exhibit A Walden Ranch Annexation Strategy Map



*LEGEND: Red Lines indicate ways to reach Walden Ranch for annexation*

Exhibit B  
Churchill South Annexation Survey Area  
March 2009



LEGEND: Black = Parcels within the Annexation Survey