



# MEMORANDUM

Monroe County Planning & Environmental Resources Department  
We strive to be caring, professional and fair

To: Monroe County Board of County Commissioners

Through: Christine Hurley, Assistant County Administrator

From: Emily Schemper, Senior Director of Planning & Environmental Resources

Date: January 2, 2019 – Revised March 19, 2019

Subject: *A public hearing to consider the approval of a resolution renouncing and disclaiming any right of the County and the public in and to a portion of the right-of-way of Laurel Avenue, in Maloney's Subdivision of Stock Island (PBI-55), Monroe County, Florida (File #2010-130)*

BOCC Meeting: ~~January 23, 2019~~ February 20, 2019 (set public hearing)  
~~February 20, 2019~~ April 17, 2019 (public hearing)

Revised information noted in red.

## REQUEST:

Wrecker's Cay Apartments at Stock Island, LLC and Murray Marine Sales and Service, Inc., (the Applicants) have requested an abandonment of a portion of Laurel Avenue in Maloney's Subdivision of Stock Island, according to the Plat thereof as recorded in Plat Book 1, Page 55, of the Public Records of Monroe County, Florida, bounded on the north by all of block 23; bounded on the west by second street; bounded on the south by all of block 32; and bounded on the east by adjacent bay bottom and a parcel of land adjacent to government lot 2, section 35, township 67 south, range 25 east.

This request was originally proposed by the previous owners, Water's Edge Colony, Inc. in November of 2010. A revised application and revised easements were submitted by the current owner on December 28, 2018.

The Applicants have made the request as part of a proposal to redevelop the surrounding area as affordable housing. The Applicants own the parcels to the north, south and east of the portion of Laurel Avenue requested for abandonment. Currently, Laurel Avenue serves as an access road which terminates at the east end of the parcel owned by Wrecker's Cay.

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Figure 1-Proposed Right of Way Abandonment location.

REVIEW OF APPLICATION:

The requested Right of Way Abandonment is established within the Maloney's Subdivision of Stock Island, PB 1-55. The plat was recorded on October 21, 1911.

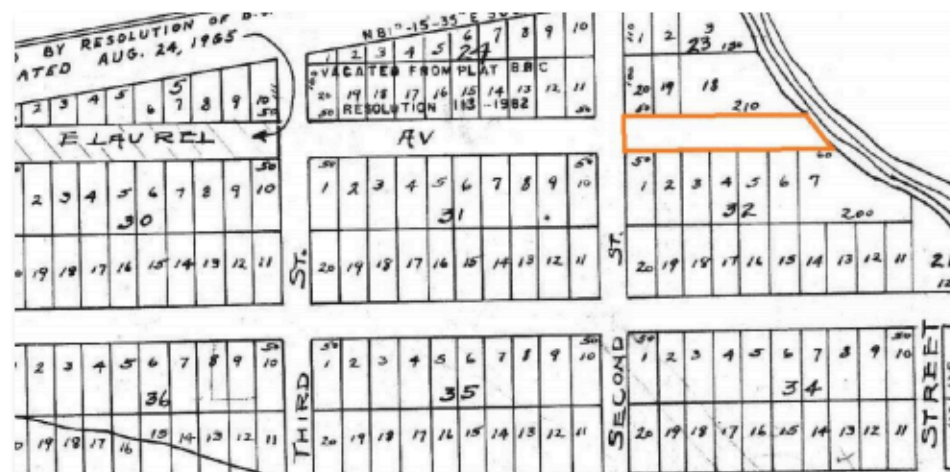


Figure 2-Excerpt of Maloney's Subdivision of Stock Island Plat

The proposed abandonment portion is described as follows:  
*A portion of the Laurel Avenue PUBLIC Right of Way PUBLIC Right of Way, bounded on the north by all of block 23; bounded on the west by second street; bounded on the south by all of*

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block 32; and bounded on the east by adjacent bay bottom and a parcel of land adjacent to government lot 2, section 35, township 67 south, range 25 east, Maloney's Subdivision of Stock Island, according to the map or plat thereof, as recorded in Plat Book 1, Page 55, of the Public Records of Monroe County, Florida and being more particularly described as follows:

**North Portion:**

Commencing at the: Northwest corner of Block 32, "All Lots 1, 2, 3, 5, 6, Section 35; Lot 2, Section 36; Lot 3, Section 26; Lot 2, Section 34; Stock Island, Township 67 South, Range 25 East" recorded in Plat Book 1, at Page 55, of Monroe County Official Records, thence North along the Northerly projection of the West line of Block 32 for a distance of 60.00 feet to the Southwest corner of Block 23 of said plat, said point of beginning; thence East along the South line of said Block 23 for a distance of 310.00 feet to a point on the platted shoreline and right of way terminus as shown on said plat; thence along said shoreline in a Southeasterly direction for a distance of 35.05 feet more or less to a point on the centerline of Laurel Avenue; thence West along said centerline of Laurel Avenue for a distance of 335.00 feet back to the Northerly projection of the west line of said Block 32; thence North along said Northerly projection for a distance of 30.00 feet back to the Point of Beginning. Said lands containing 9,675 square feet more or less.

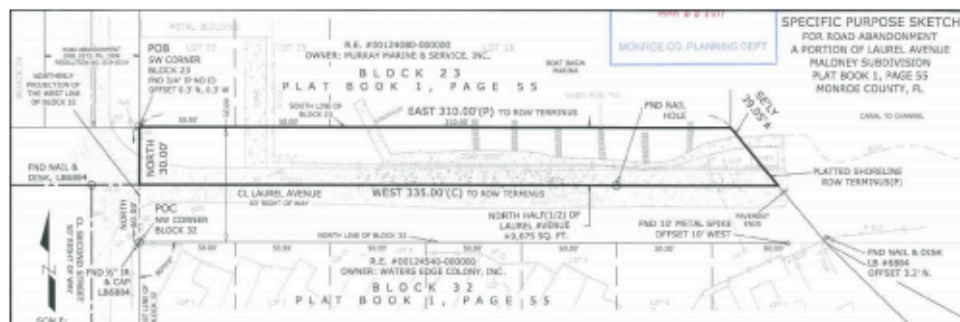


Figure 3-Excerpt of boundary Survey (north portion)

**South Portion:**

Begin at the Northwest corner of Block 32, "All Lots 1, 2, 3, 5, 6, Section 35; Lot 2, Section 36; Lot 3, Section 26; Lot 2, Section 34; Stock Island, Township 67 South, Range 25 East" recorded in Plat Book 1, at Page 55, of Monroe County Official Records, thence North along the Northerly projection of the West line of Block 32 for a distance of 30.00 feet to a point on the centerline of Laurel Avenue; thence East along said centerline of Laurel Avenue for a distance of 335.00 feet to a point on the platted shoreline of said plat; thence along said shoreline in a Southeasterly direction for a distance of 35.05 feet more or less to a point on the North line of Block 32, said point also being 360.00 feet East of the Point of Beginning; thence West along said North line of Block 32 for a distance of 360.00 feet back to the Point of Beginning. Said lands containing 10,425 square feet, more or less.



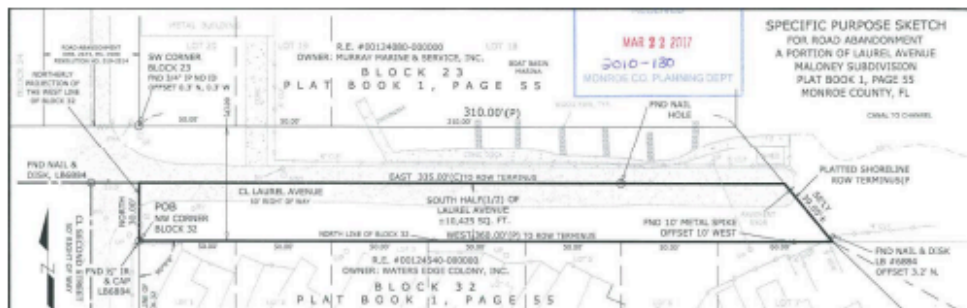


Figure 4-Excerpt of boundary Survey (south portion)

The applicants, Wrecker's Cay apartments at Stock Island, LLC and Murray Marine Sales and Service, Inc., own the parcels to the north, south and east which surround the portion of Laurel Avenue requested for abandonment. The Applicants have submitted a road abandonment petition in order to redevelop the surrounding area as affordable housing.

This petition has been reviewed by County staff and written recommendations were received from the following private utilities and County departments:

- Keys Energy Service, letter dated September 23, 2009, easements required
  - Grant of easement from Murray Marine sales & Service, Inc. – NOT SIGNED - legal describes south portion of ROW.
    - **Revised and signed easement received February 15, 2019**
  - Grant of easement from Wrecker's Cay Apartments at Stock Island, LLC. SIGNED BY WRECKER'S CAY ONLY, DECEMBER 14, 2018.
    - **No action required**
- AT & T, letter dated September 17, 2009, easement required.
  - Grant of easement from Murray Marine Sales & Service, Inc and Water's Edge Colony, Inc., dated February 17, 2010.
  - Updated easement(s) not submitted.
    - **Revised and signed easement from Murray Marine received February 15, 2019.**
    - **Revised and signed easement from Wreckers Cay received February 25, 2019.**
- Comcast, letter dated September 9, 2009.
  - No objections.
- Florida Keys Aqueduct Authority, letter dated September 28, 2009.
  - Grant of easement from Murray Marine sales & Service, Inc. – NOT SIGNED - exhibit A legal, appears to describe north and south portions.
    - **Revised and signed easement from Murray Marine received February 15, 2019.**
  - Grant of easement from Wrecker's Cay Apartments at Stock Island, LLC. SIGNED BY WRECKER'S DECEMBER 14, FCAA DECEMBER 27, 2018. Legal describes south portion.
    - **No action required.**

- 1       ○ KW Resort Utilities Corp., letter dated February 23, 2010, easements required.
- 2           ▪ Grant of easement from Wrecker's Cay Apartments at Stock Island, LLC.
- 3           SIGNED BY WRECKER'S DECEMBER 14, KW Resort Utilities Corp.
- 4           DECEMBER 26, 2018.
- 5           • **No action required.**
- 6           ▪ No easement submitted from Murray Marine to KWRU.
- 7           • **Easement from Murray Marine received February 15, 2019.**
- 8       ○ Monroe County Fire Marshal, letters February 11, 2011 and April 11, 2016
- 9           ▪ Fire department access and water supply were noted as a concern.
- 10          ▪ On April 11, 2016, an updated letter was received from the Fire Marshal
- 11          additionally requiring an easement.
- 12          ▪ NO EASEMENT(S) SUBMITTED.
- 13           • **Easement from Murray Marine received March 18, 2019.**
- 14           • **Easement from Wreckers Cay received March 18, 2019**
- 15       ○ Monroe County Sheriff's Office, dated October 25, 2010.
- 16           ▪ No objection with the condition that no fence or gate of any kind shall ever
- 17           be constructed.
- 18       ○ Monroe County Engineering Department dated December 13, 2010.
- 19           ▪ Restricted access to land which extends beyond Laurel Avenue to the
- 20           water and the ownership of said land was stated as a concern. Per a letter
- 21           dated June 6, 2014 from the Florida Department of Environmental
- 22           Protection (DEP), it was determined they do not own the land east of
- 23           Laurel Avenue. In addition, a letter dated December 9, 2014 from Stones
- 24           & Cardenas determined Monroe County or the State do not own the land
- 25           east of Laurel Avenue and therefore does not restrict access. Wrecker's
- 26           Cay Apartments at Stock Island, LLC holds the quit claim deed for said
- 27           land.
- 28           ▪ On May 26, 2016, an email from the Engineering Department indicated a
- 29           drainage structure on Laurel Avenue and would and require an easement.
- 30           NO EASEMENT(S) SUBMITTED
- 31           • **Easement from Murray Marine received February 15, 2019.**
- 32           • **Easement from Wreckers Cay received March 18, 2019**

33  
34 Monroe County Code Section 19-1 - Abandonment of rights-of-way states:

- 35
- 36       (b) No dedicated and accepted right-of-way in the county shall be abandoned where:
- 37           (1) the right-of-way terminates on a body of open water; or
- 38               • **The platted right-of-way does not terminate on a body of open**
- 39               **water.**
- 40           (2) the right-of-way provides access to the public to land on open water; or
- 41               • **The platted right-of-way does not provide access to the public to**
- 42               **land on open water.**
- 43           (3) the abandonment would preclude a way for the public to maintain access to the
- 44           water.
- 45               • **The abandonment would not preclude a way for the public to**
- 46               **maintain access to water.** Per a letter dated June 6, 2014 from the

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Florida Department of Environmental Protection (DEP), it was determined they do not own the land east of Laurel Avenue. In addition, a letter dated December 9, 2014 from Stones & Cardenas determined Monroe County or the State do not own the land east of Laurel Avenue and therefore does not restrict access. Wrecker's Cay Apartments at Stock Island, LLC holds the quit claim deed for said land.

- (b) In all other cases of abandonment, no right-of-way shall be abandoned unless there is an agreement to do so by all affected property owners. For purposes of this subsection, an affected property owner is the owner of property which, if the right-of-way is abandoned, will:

- (1) Have access that is currently used by that property owner eliminated;
  - **The requested abandonment is for a portion of right-of-way that bisects the Applicants' properties. This portion of the street terminates at and only gives access to the Applicants' properties.**
- (2) Have the only platted access eliminated;
  - **The requested abandonment is for a portion of the right-of-way of Laurel Avenue that is not used for access by other properties.**
- (3) Have the paved area adjacent to that property increased for turn-around purposes; or
  - **There is not a requirement for a T-turnaround given the location of the right of way abandonment**
- (4) Be increased in size.
  - **Only the properties of the Applicants will increase in size; there is no objection to this increase.**

- (d) All right of way abandonments shall comply with the County Code and Standard Engineering requirements for road, turn-around and fire-rescue access. If required for safety purposes, as determined by either Fire Marshal or County Engineer, a dedicated turn-around area shall be shown on the submitted survey and shall be agreed to in writing and constructed with payment by the property owner(s) requesting abandonment.

- **A letter from the Fire Marshal dated February 11, 2011 expressed concerns of Fire department access and water supply. On April 11, 2016, an updated letter was received from the Fire Marshal additionally requiring an easement.**

○ **Easements received as noted previously.**

- **A letter from Engineering Services, dated December 13, 2010 states:**

1. The survey indicates that the area adjacent to just east of the right of way proposed to be abandoned is submerged property; however, the aerials of the area show that it is not. It is not clear who owns this portion of property (it is not shown on the plat 1-55) but abandoning the right of way leading to it will eliminate access to it.

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2. The northern boundary of the right of way proposed to be abandoned is adjacent to and including water and water access. County Codes prohibit abandoning a right of way that terminates at the water; does this portion of the code apply to right of way that is adjacent to the water?

Per a letter dated June 6, 2014 from the Florida Department of Environmental Protection (DEP), it was determined they do not own the land east of Laurel Avenue. In addition, a letter dated December 9, 2014 from Stones & Cardenas determined Monroe County or the State do not own the land east of Laurel Avenue and therefore does not restrict access. Wrecker's Cay Apartments at Stock Island, LLC holds the quit claim deed for said land.

- On May 26, 2016, an email from the Engineering Department indicated a drainage structure on Laurel Avenue and would and require an easement.
  - Easements received as noted previously.
- Engineering has not requested a turnaround.

(c) A right of way may be abandoned only at the terminal portion of the road and in its full width unless one of the following applies;

1. An adjacent lot owner has on the platted right-of-way or within a setback a substantial structure which predates the Special Session Law 59-1578 pertaining to maps, plats, and right-of-way. The term "substantial structure" specifically does not include wood or metal fences, sheds or tiki huts or other items not listed which are accessory structures; or
2. The abandonment is requested by a County department or governmental agency for a public use; for purposes of this subsection public use is a public facility and/or public/private utility; or
3. The right of way area is unusual in size or shape and after abandonment the remaining right of way width will be the same on both sides of the abandonment as shown in Example 1.

- The requested abandonment is for the terminal portion of Laurel Avenue.

The requested abandonment of a portion of the right-of-way of Laurel Avenue, in Maloney's Subdivision of Stock Island (PB1-55), meets the criteria cited above and is suitable for abandonment, provided the Applicants submit all necessary, signed easements prior to agenda item submission for the February hearing.

#### RECOMMENDATION:

Staff recommends approval of the requested abandonment, CONTINGENT ON the Applicants submitting all necessary, signed easements.

Staff recommends approval of the requested abandonment.

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