



Legislation Details (With Text)

**File #:** 21-0603  
**Type:** Public Hearing Quasi Judicial    **Status:** Passed  
**In control:** Board of County Commissioners  
**On agenda:** 4/27/2021    **Final action:** 4/27/2021  
**Title:** REQUEST ABANDONMENT OF A PORTION OF UNOPENED RIGHT-OF-WAY CONDITIONED UPON THE CONVEYANCE OF OTHER RIGHT-OF-WAY LYING WITHIN ST. LUCIE INLET FARMS  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. KANNER 5601 - ROW Abandonment - Location Map.pdf, 2. KANNER 5601 - ROW Abandonment - Application.pdf, 3. KANNER 5601 - ROW Abandonment - Resolution.pdf, 4. KANNER 5601 - ROW Abandonment - Exhibit A.pdf, 5. KANNER 5601 - ROW Abandonment - Exhibit B.pdf

Date	Ver.	Action By	Action	Result
4/27/2021	1	Board of County Commissioners	approved	Pass

**PLACEMENT:** Public Hearings - Quasi-Judicial

**TITLE:**

**REQUEST ABANDONMENT OF A PORTION OF UNOPENED RIGHT-OF-WAY CONDITIONED UPON THE CONVEYANCE OF OTHER RIGHT-OF-WAY LYING WITHIN ST. LUCIE INLET FARMS**

**EXECUTIVE SUMMARY:**

This is a request for the Board to consider an application for the abandonment of a portion of right-of-way and a waiver of the required privilege fee in conjunction with the abandonment. The request includes donated right-of-way, in consideration for the privilege fee.

**DEPARTMENT:** Public Works

**PREPARED BY:** **Name:** Thomas Walker, Jr., PSM  
**Title:** County Surveyor

**REQUESTED BY:** KANNER 5601, LLC

**PRESET:**

**PROCEDURES:** Quasi-Judicial

**BACKGROUND/RELATED STRATEGIC GOAL:**

KANNER 5601, LLC, hereinafter called the Petitioner, requests that the Board consider the abandonment of 16,640.77 square feet (Exhibit "A") of unopened right-of-way, lying within St. Lucie Inlet Farms. Said right-of-way being sought for abandonment is not, nor has it ever been an open road. The Petitioner is the owner of portions of Tracts 7 and 8 abutting the subject unopened right-of-

way.

Section 139.2 of the Martin County Code of Ordinances requires a privilege fee for abandonment and vacation of County property and roads; however, the Board may waive the privilege fee required upon a showing of good cause.

As part of the Final Site Plan for Kanner Lake, staff requested the Petitioner set aside an additional 10-feet of right-of-way adjacent to the existing right-of-way lying east of the proposed site plan. This additional right-of-way will enhance the ability to access and maintain the ditch that connects the weir at the north end of the Fern Creek flow through marsh and, ultimately, the South Fork of the St. Lucie River. The Petitioner intends to dedicate the additional right-of-way to Martin County pursuant to the plat of Kanner Lake; however, the Petitioner has requested the Board consider this as good cause for waiving the privilege fee associated with the abandonment.

### **ISSUES:**

The Petitioner has requested that the privilege fee be waived with the conveyance of property for right-of-way as a showing of good cause.

### **LEGAL SUFFICIENCY REVIEW:**

Because this request involves the application of a policy to a specific application and site, it is a quasi-judicial decision. Quasi-judicial proceedings must be conducted with more formality than a legislative proceeding. In quasi-judicial proceedings, parties are entitled - as a matter of due process - to cross-examine witnesses, present evidence, demand that witnesses testify under oath, and demand a decision that is based on a correct application of the law and competent substantial evidence in the record.

### **RECOMMENDED ACTION:**

#### **RECOMMENDATION**

1. Move that the Board receive and file the Agenda Item Summary and all of its attachments for the record as Exhibit 1;
2. Move that the Board adopt the Resolution abandoning a portion of unopened right-of-way, described in Exhibit "A" and lying within St. Lucie Inlet Farms subject with the following conditions precedent:
  - a. conveyance of property described in Exhibit "B" to Martin County; and
  - b. proper publication of a Notice of Adoption of this Resolution;
3. Move that the Board agrees to waive the privilege fee, finding good cause shown by the Petitioner by conveyance of the parcel to Martin County; and
4. Move that the Board authorize the Chair to execute all documents necessary to complete the transaction.

#### **ALTERNATIVE RECOMMENDATIONS**

None

### **FISCAL IMPACT:**

**RECOMMENDATION**

None

**ALTERNATIVE RECOMMENDATIONS**

None

**DOCUMENT(S) REQUIRING ACTION:**

- Budget Transfer / Amendment     Chair Letter     Contract / Agreement  
 Grant / Application     Notice     Ordinance     Resolution  
 Other:

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