

RESOLUTION NO. 235

A RESOLUTION OF THE TOWN OF SEWALL'S POINT,
FLORIDA AUTHORIZING AND APPROVING A SPECIAL
EXCEPTION PROVIDING FOR THE MAINTENANCE AND USE OF
BAY TREE LODGE BY THE KIPLINGER WASHINGTON
EDITORS, INC., AS A MULTI-FAMILY VACATION RETREAT.

WHEREAS, the Town Commission of the Town of Sewall's Point has authority under the Code of Ordinances of the Town of Sewall's Point, Appendix B - Zoning, Section XIII.E., to grant special exceptions for uses not otherwise appropriate generally throughout a particular zoning district, and

WHEREAS, THE KIPLINGER WASHINGTON EDITORS, INC., the owner of the property within the Town known as Bay Tree Lodge, more particularly described on the attached Exhibit "A," has applied for a special exception specifically permitting the continued use of the Bay Tree Lodge property as a multi-family vacation retreat for the staff of THE KIPLINGER WASHINGTON EDITORS, INC., and their families and guests, and further permitting maintenance, repair, replacement, reconstruction and relocation of buildings and structures necessary for such use, without thereby increasing the occupational density or deviating from the scope of the owner's previous use of the Bay Tree Lodge property; and

WHEREAS, notice of the public hearing to consider the application for the special exception was duly posted, published and mailed in accordance with ordinance and law; and

WHEREAS, the Town Commission has reviewed the application for the special exception by THE KIPLINGER WASHINGTON EDITORS, INC., and has held the public hearing at which the applicant and all interested members of the public were afforded an opportunity to appear and be heard, and has made the following findings of fact based upon its review and deliberation:

A. THE KIPLINGER WASHINGTON EDITORS, INC., has maintained the use for which the special exception is sought on the Bay Tree Lodge property continuously since 1952, which is before the incorporation of the Town of Sewall's Point; and

B. The size of the tract comprising the Bay Tree Lodge property is of sufficient size that the continued usage

of the property as a multi-family vacation retreat by the owner within the same scope as historically employed will result in an occupational density and usage intrusion on adjacent property much less than that which would exist if the Bay Tree Lodge property were subdivided in accordance with the subdivision regulations of the Town; and

C. The use for which the special exception is sought has at all times been maintained by THE KIPLINGER WASHINGTON EDITORS, INC., in a manner that is compatible with and beneficial to the Town, and the owner intends to continue its usage in the same manner in the future; and

D. Granting the special exception will not adversely affect the public health, the public interest, safety, comfort, good order, appearance, convenience, morals, or the general welfare; and

E. Granting the special exception will not be detrimental to neighboring property and improvements and is compatible and in harmony with the uses provided for in the zoning district.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SEWALL'S POINT that:

1. THE KIPLINGER WASHINGTON EDITORS, INC., is hereby granted a special exception to maintain and operate a multi-family vacation retreat on the property known as Bay Tree Lodge, more specifically described in the attached Exhibit "A," and to maintain, repair, reconstruct, replace and relocate from time to time the buildings and structures employed in connection with the use under this special exception, subject to the following conditions:

(a) There shall never be maintained more than eight (8) single-family dwellings, consisting of five (5) guest cottages or residences, one (1) caretaker's residence and one (1) main residence, one (1) boat house, and auxillary buildings; and

(b) There shall never be maintained more than two (2) tennis court and one (1) swimming pool; and

(c) There shall never be maintained more than one

(1) boat house and one (1) fishing pier, and mooring or docking at the pier shall be limited to vessels owned or being used by the guests or employees of the owner; and

(d) There shall always be maintained a building set-back line of not less than twenty-five (25) feet between any building on the Bay Tree Lodge property and the property line of any adjacent property, and of not less than thirty-five (35) feet between the building line of any building on the Bay Tree Lodge property and the right-of-way line of any public street, and of not less than forty (40) feet between the building lines of any two (2) cottages or residences on the Bay Tree Lodge property; and

(e) The Bay Tree Lodge property shall not be subdivided or reduced in size by conveyance to an area less than five (5) acres; and

(f) Except as expressly provided in this resolution, any new construction, reconstruction, replacement or relocation of buildings or structures on the Bay Tree Lodge property shall be conducted in all respects so as to comply with the zoning, building and regulatory ordinances of the Town of Sewall's Point.

2. It is the intent of this resolution to provide a special exception so that THE KIPLINGER WASHINGTON EDITORS, INC., may continue to use the Bay Tree Lodge property in the same manner and to the same extent as has been previously done, and the Town Commission reserves the right to impose additional conditions to the special exception in the future if the property is sought to be used in a different manner than has been previously done.

3. The granting of the special exception set forth in this resolution is made solely to the present owner of the Bay Tree Lodge property, THE KIPLINGER WASHINGTON EDITORS, INC., and it shall not extend or be transferrable to any successors or assigns of the owner.

4. This resolution may be recorded by THE KIPLINGER WASHINGTON EDITORS, INC., in the public records of Martin County, Florida, at its sole expense.

PASSED AND ADOPTED this 14th day of November, 1984.

ATTEST:

Joan Barrow
JOAN BARROW, Town Clerk

John C. Guenther
JOHN C. GUENTHER, Mayor -
Commissioner

Approved as to form and
correctness:

M. Lanning Fox
M. LANNING FOX, Town
Attorney

G. C. Strubell
GILBERT C. STRUBELL, Vice-Mayor -
Commissioner

Robert R. Aune
ROBERT R. AUNE, Commissioner

Clifford B. Drake
CLIFFORD B. DRAKE, Commissioner

Helena B. Towl
HELENA B. TOWL, Commissioner

(7) All that part of the following described real property lying West of Sewalls Point Road, to-wit:

The South five (5) acres, more or less, of the North forty (40) acres, more or less, of Lot One (commonly known as Sewalls Point) of the Miles or Hanson Grant, according to map of Commissioners Subdivision of said Grant filed December 30, 1901, and recorded in Plat Book B, Page 59, Public Records of Dade County, Florida; which plat is also of record in Plat Book 1, page 11, public records of Palm Beach County, Florida; that this tract (the South 5 acres more or less) is bounded on the South by the North line of a tract of land deeded January 13, 1909 to Benjamin Douglas, Jr. recorded in the Public Records of Dade County, Florida in Deed Book 43, Page 2; bounded on the East by the Indian River; bounded on the North by a line parallel to the South line, the distance between the aforesaid South line and the North line, measured along the county road which traverses said land on the Easterly portion thereof is 158.4'; and bounded on the West by the St. Lucie River, together with all riparian rights thereunto belonging or in anywise appertaining.

(GRIFITH)

Also:

Parcel 1.

Beginning at a point on the west bank of Indian River, 19 chains and 5 links from the north line of the Hanson Grant, and within the boundaries of said Grant, and being a part of Lot 1 as allotted by decree of the Circuit Court of U. S. Fifth Judicial Circuit Southern District of Florida, running thence south 66 degrees west, 19 chains and 50 links to the St. Lucie River, thence Southeasterly along the margin of said river to a point 2 chains and 60 links from the line last run; thence north 66 degrees east 19 chains to Indian River; thence northwesterly along the margin of said river to the point of beginning, containing 5 acres of land more or less.

Excepting and reserving therefrom 30 feet right of way for county road. Being the same premises which were conveyed by Henry E. Sewall et al to Benjamin Douglass, Jr., by deed dated March 2, 1907, recorded March 4, 1907 in Deed Book C, page 336. Also all that certain piece or parcel of land situate, lying and being in Martin County, Florida, bounded and described as follows:

Beginning at a point on the west bank of the Indian River 16 chains and 51 links from the north line of the Hanson Grant, and within the boundaries of said Grant, and being a part of Lot 1 as allotted by decree of the Circuit Court of U. S. Fifth Judicial Circuit Southern District of Florida, running thence 66 degrees west, 19 chains and 90 links to the St. Lucie River; thence southeasterly along the margin of said river, to a point 2 chains and 54 links from the line last run, thence north 66 degrees west, 19 chains and 50 links to the Indian River; thence northwesterly along the margin of said river to the point of beginning and containing 5 acres, more or less.

Excepting and reserving therefrom 30 ft right of way for County Road.

(7) Parcel 2.Bay Tree

Beginning at a stake on the west bank of the Indian River which is South 24° East and 1434.8 feet from the North line of the Miles or Hanson Grant, said point of beginning lying within Lot 1 of the Commissioners' Subdivision of the said Miles or Hanson Grant and known as Sewall's Point; thence South 66° West 1272 feet, more or less, to East shore of the St. Lucie River; thence Southerly along the said East bank of St. Lucie River 358 feet, more or less, to a stake on the South boundary line of tract surveyed, which is 356.4 feet from and perpendicular to the North boundary line of tract surveyed; thence North 66° East 1223.2 feet to a stake on the west bank of Indian River; thence Northerly along said West bank of Indian River 357.3 feet to the point of beginning, containing 10 acres, more or less, reserving a strip 30 feet wide for the right of way of County Road. Said tract being also known, and shown on an unofficial plat, as Lot 6 of the Commissioners' Subdivision of Lot 1 of the Miles or Hanson Grant as recorded in Plat Book B, Page 59, Dade County, Florida, records. Together with all riparian and littoral rights thereunto belonging.

ALSO all the islands or parcels of land located in the Indian River that are East of the property described hereinabove as Parcels 1 and 2, together with all riparian or littoral rights thereunto belonging.

And:

Starting at the point where the center line of Sewall's Point Road intersects a line that is 1734.06 feet southerly of (as measured on a perpendicular distance) and parallel to the North line of the Hanson Grant, run North $62^{\circ}24'$ East, a distance of 759.16 feet to the Southwesterly point of Bay Tree Island for the P. O. B.; thence meandering the shore line of said island, run North $0^{\circ}47'$ East, 127.0 feet; thence North $15^{\circ}23'$ West, 522 feet; thence South $55^{\circ}34'$ East, 203.3 feet; thence South $7^{\circ}26'$ East, 363.4 feet; thence South $15^{\circ}00'$ East, 114.1 feet; thence South $69^{\circ}26'$ West, 119.1 feet, to the Point of Beginning, with the foregoing described island containing 1.8 acres. Lying and being in Township 38 South, Range 42 East, Martin County, State of Florida. Together with all riparian rights thereunto belonging.

Also:

A parcel of submerged land in the Indian River in Township 38 South, Range 42 East, Martin County, Florida, more particularly described as follows:

Bay Tree

(7) Begin at the point where the north line of Lot 5, Subdivision of Lot 1, Miles or Hanson Grant, Plat Book 1, Page 129, Public Records of Palm Beach County, Florida, intersects the line of mean high water on the westerly shoreline of the Indian River; thence run North 55° East along the northeasterly extension of said north line of Lot 5, a distance of 990 feet; thence run South $23^{\circ} 15'$ East a distance of 594.68 feet to the point of intersection with the northeasterly extension of the south line of Lot 5 of said subdivision of Lot 1; thence run South 35° West, along said extension of the south line of Lot 5, 990 feet to a point on the line of mean high water on said shoreline; thence run North $23^{\circ} 15'$ West, along said line of mean high water, 594.68 feet to the point of beginning; excepting from the above described tract of submerged land, the island encompassed by the boundaries thereof, with said island more particularly described in Deed Book 59, on Page 50, Public Records of Martin County, Florida; the above described tract having a net area of 13.97 acres exclusive of the island.

And:

A parcel of submerged land in the Indian River offshore from upland property in the Hanson Grant in Township 33 South, Range 42 East, Town of Swall's Point, Martin County, Florida, being more particularly described as follows:

Begin at the point where the North line of Lot 5 of an unrecorded plat of a Subdivision of Lot 1 of the Commissioners' Subdivision of the Miles or Hanson Grant, according to plat thereof filed 30 December, 1901, recorded in Plat Book B, Page 59, Dade County, Florida, also filed in Plat Book 1, Page 11, Palm Beach County, Florida, Public Records, intersects the line of mean high water on the westerly shore line of the Indian River; thence North $65^{\circ} 00' 00''$ East to the intersection with the Bulkhead Line as established per Ordinance Number 28, Town of Swall's Point, Florida; thence South $09^{\circ} 56' 00''$ East along said Bulkhead Line to the intersection with a line bearing North $65^{\circ} 00' 00''$ East from the intersection of the South Line of Lot 6 of the said Subdivision of Lot 1 of Hanson Grant, and the mean high water line on the westerly shore of the Indian River; thence South $65^{\circ} 00' 00''$ West along the previously described line to the intersection with the mean high water line on said westerly shore of the Indian River; thence meander northerly along the mean high water line of the westerly shore of the Indian River to the Point of Beginning. LESS those submerged lands described in Trustees I.I.F. Deed No. 21076 to Kiplinger Editors, Inc., as recorded in Deed Book 73, Page 559, Public Records of Martin County, Florida; said parcel containing a net area of 0.625 acre, more or less.

(7) Less:

Bay Tree

Sale of land to C. Gale Kiplinger and Jeannette B. Kiplinger, his wife, dated May 6, 1968 and described as:

That part lying east of Sewall's Point Road of the northerly 105 feet of Lot 5 of an unrecorded plat of subdivision of Lot 1 of Commissioners' Subdivision of the Miles or Hanson Grant according to plat thereof filed 30 December 1901, recorded in Plat Book B, Page 59, Dade County, Florida, Public Records, also filed and recorded in Plat Book 1, Page 11, Palm Beach County, Florida, Public Records; said unofficial Lot 5 being the south 10 acres of the north 50 acres of Lot 1 of the Commissioners' Subdivision aforesaid.

Together with all riparian rights appertaining thereto.

And with a tract of submerged land extending 200 feet into the Indian River from the easterly boundary of the tract described above, and lying between eastward extensions of the northerly and southerly boundaries of the tract described above.

Less:

Sale of land to C. Gale Kiplinger and Jeannette B. Kiplinger, his wife, dated February 1, 1971 and described as:

That part lying east of Sewall's Point Road of the northerly 124½ feet less the northerly 105 feet of Lot 5 of an unrecorded plat of subdivision of Lot 1 of Commissioners' Subdivision of the Miles or Hanson Grant according to plat thereof filed 30 December 1901, recorded in Plat Book B, Page 59, Dade County, Florida, Public Records, also filed and recorded in Plat Book 1, Page 11, Palm Beach County, Florida, Public Records; said unofficial Lot 5 being the south 10 acres of the north 50 acres of Lot 1 of the Commissioners' Subdivision aforesaid.

Together with all riparian rights appertaining thereto.

And with a tract of submerged land extending 200 feet into the Indian River from the easterly boundary of the tract described above, and lying between eastward extensions of the northerly and southerly boundaries of the tract described above..

This indenture may also be described as a 19½ foot southerly extension of a 105 foot lot conveyed by and to the same parties as above, as recorded on May 14, 1968 in Plat Book 224, Page 130 of the records of Martin County, Florida.

MARTIN COUNTY, FLORIDA (continued)

(7) Subject to: Bay Tree

Dedication of a portion of land for Road Right-of-Way described in the dedication and shown on the plat crossing the South 160.50 ft. of Lot 4, and Lots 5 & 6 of the Subdivision of Lot 1 of the Miles or Hanson Grant. Legal description of Road Right-of-Way on Sewalls Point, Martin County, Fla. is as follows:

Commence at the centerline intersection of Palm Road and the Un-named Road in Palm Row Subdivision, Sewall's Point, Martin County, Florida, said intersection being 749.29 ft. westerly of the centerline of the Sewall's Point Road as measured along the centerline of Palm Road. Thence run $24^{\circ} 00' 00''$ E along said Un-named Road centerline a distance of 165.50 ft. to the south line of Palm Row Subdivision to a Point of Beginning:

- (1) Thence continue in a southerly direction along the arc of a curve to the right which has a central angle of $140^{\circ} 00' 00''$, a radius of 362.42 ft., for a distance of 88.56 ft. to a point of reverse curvature;
- (2) thence run along the arc of a curve to the left which has a central angle of $38^{\circ} 21' 30''$, a radius of 887.71 ft., for distance of 594.30 ft. to a point of tangency;
- (3) thence proceed on a tangent bearing S $48^{\circ} 21' 31''$ E for a distance of 143.34 ft. to a point of curvature;
- (4) thence run along the arc of a curve to the right which has a central angle of $25^{\circ} 00' 00''$, a radius of 225.53 ft., for a distance of 93.41 ft. to a point of tangency;
- (5) thence proceed on a tangent bearing of S $23^{\circ} 21' 30''$ E for 301.80 ft. to a point of curvature;
- (6) thence run along the arc of a curve to the left which has a central angle of $11^{\circ} 25' 18''$, a radius of 1,000.00 ft., for a distance of 199.35 ft. to a point of tangency;
- (7) thence proceed on a tangent bearing of S $34^{\circ} 46' 48''$ E to the South line of Lot 6. of the Subdivision of of Lot 1 of the Miles or Hanson Grant.

Road Right-of-Way is to be 30 foot wide and equally divided on each side of said centerline and contiguous thereto and all in Subdivision of Lot 1 of the Miles or Hanson Grant.