

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 09-35

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA:

WHEREAS, the Town of Fort Myers Beach ("applicant") is the owner of the structure called the Cottage on the Newton Park Property, with a physical address of 4610 Estero Boulevard, Fort Myers Beach, Lee County, Florida 33931 and a STRAP Number of 29-46-24-W3-0080H.0030 and with a legal description as set forth on Exhibit A, which is hereby incorporated by reference (the "subject property"); and

WHEREAS, the Town Historic Preservation Board designated the Cottage as an historic resource on March 16, 2004 in HPB Resolution FMBHD 2004-02, pursuant to LDC Chapter 22, Article II, Division 3; and

WHEREAS, the Town Department of Community Development received an application in November, 2008, from the owner's representative for a special certificate of appropriateness (SCA #1) requesting demolition of the Cottage or other relief and a public hearing on SCA #1 was legally advertised and held before the HPB on March 10, 2009; and

WHEREAS, at such hearing, the HPB gave full and complete consideration to the application for a special certificate of appropriateness for demolition of the structure on the subject property, recommendations of staff, the documents in the file, and the testimony of all interested persons and did not approve, and therefore refused to grant, the issuance of a special certificate of appropriateness for demolition of the subject property, as set forth in detail in HPB Resolution 2009-06; and

WHEREAS, the Town Department of Community Development received an application in June, 2009, from the owner's representative for a special certificate of appropriateness (SCA#2) for demolition of the Cottage; and

WHEREAS, a public hearing on SCA#2 was legally advertised and held before the Historic Preservation Board of the Town of Fort Myers Beach, Florida on July 14, 2009; and

WHEREAS, at such hearing, the HPB gave full and complete consideration to the application for a special certificate of appropriateness for demolition of the structure on the subject property, recommendations of staff, the documents in the file, and the testimony of all interested persons; and

WHEREAS, the HPB approved the issuance of a special certificate of appropriateness for demolition of the Cottage, with four (4) conditions as set forth with specificity in HPB Resolution 2009-14, which is attached hereto as Exhibit B and hereby incorporated by reference (the "HPB Resolution"); and

WHEREAS, applicant has submitted all documentation required by the Florida Department of State, Division of Historical Resources (DHR) and the Florida

Communities Trust (FCT) with regard to the subject matter of this Town Resolution and both the DHR and the FCT have approved the demolition contemplated by the HPB Resolution, as set forth in their documents which are attached hereto as Exhibit C and hereby incorporated by reference, thereby fulfilling the requirements of the first and second conditions of the HPB Resolution; and

WHEREAS, the Town Council acknowledges that the Demolition Order set forth in this Resolution does not abrogate any provision of any agreement affecting the subject property, and only authorizes the proposed demolition to the extent that demolition of a designated historic resource is regulated by LDC Chapter 22, thereby fulfilling the requirements of the third condition of the HPB Resolution; and

WHEREAS, Section 22-104(a) of the Town Land Development Code states that demolition of a designated historic resource may only occur pursuant to an order of a governmental body or board or an order of a court of competent jurisdiction and pursuant to approval of an application by the owner for a special certificate of appropriateness for demolition; and

WHEREAS, the Town Council, sitting as the appropriate governmental body and having considered HPB Resolution 2009-14 approving the application of the owner for a special certificate of appropriateness for demolition as required by Section 22-104(a) of the Town Land Development Code, the HPB minutes, and all documents in the file, and the input of all interested persons, has entered into the following determination, thereby fulfilling the requirements of the fourth condition of the HPB Resolution.

NOW, THEREFORE BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

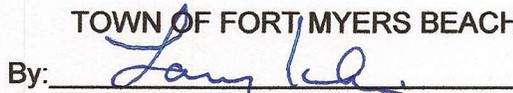
The Town Council **APPROVES** and therefore **ORDERS** the demolition of the structure known as the Cottage on the subject property, pursuant to the requirements of HPB Resolution 2009-14, and directs staff to issue the necessary demolition permit in accordance with the requirements of Florida law and Town ordinance.

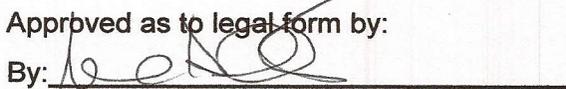
UPON MOTION BY BOB RAYMOND AND SECOND BY JO LIST, THE ABOVE RESOLUTION WAS DULY PASSED AND ADOPTED ON THIS 16TH DAY OF NOVEMBER, 2009.

Larry Kiker, Mayor AYE
Tom Babcock, Councilmember AYE
Bob Raymond, Councilmember AYE

Herb Acken, Vice Mayor NAY
Jo List, Councilmember AYE

ATTEST
By: 
Michelle Mayher, Town Clerk

TOWN OF FORT MYERS BEACH
By: 
Larry Kiker, Mayor

Approved as to legal form by:
By: 
Anne Dalton, Town Attorney