

RESOLUTION OF THE HISTORIC PRESERVATION BOARD OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER HPB 2009-06
THE COTTAGE: NEWTON PARK PROPERTY

A RESOLUTION OF THE HISTORIC PRESERVATION BOARD OF FORT MYERS BEACH, FLORIDA:

WHEREAS, the Local Planning Agency of the Town of Fort Myers Beach, Florida, serves as the historic preservation board for the Town of Fort Myers Beach ("HPB") pursuant to Chapter 22, Article II, Division 2, Section 22-71 and Chapter 30, Section 30-56(b) of the Land Development Code ("LDC") of the Town of Fort Myers Beach; and

WHEREAS, the HPB is vested with the power, authority and jurisdiction to designate, regulate and administer historical, cultural, archaeological, and architectural resources in the Town, pursuant to LDC Section 22-71; and

WHEREAS, the HPB has the power and duty to designate eligible historic resources; evaluate the significance and eligibility of historic resources for designation pursuant to Chapter 22 of the LDC; approve, deny or approve with conditions applications for special certificates of appropriateness applicable to historic resources designated pursuant to Chapter 22; and to record and maintain records of the actions and decisions of the HPB, pursuant to Section 22-74 of the LDC; and

WHEREAS, Section 22-103(a)(1) of the LDC requires the HPB to issue a special certificate of appropriateness prior to initiation of any work involving alteration, demolition, relocation, reconstruction, excavation or new construction which will result in a change to the original appearance of a designated historic resource; and

WHEREAS, Section 22-103(a)(3) of the LDC states that a special certificate of appropriateness may also be issued to reverse or modify the directors decision regarding an application for a regular certificate or appropriateness; and

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 in 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) for either (i) demolition of the Cottage or (ii) relocation of the Cottage; and

WHEREAS, a public hearing on the SCA was legally advertised and held before the Historic Preservation Board of the Town of Fort Myers Beach, Florida on March 10, 2009, as set forth in Exhibit B, which is hereby incorporated by reference; and

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

NOW, THEREFORE BE IT RESOLVED BY THE HISTORIC PRESERVATION BOARD OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:

The HPB hereby **SUSPENDS ACTION ON APPLICANT'S APPLICATION FOR A SPECIAL CERTIFICATE OF APPROPRIATENESS FOR RELOCATION OF THE SUBJECT PROPERTY** for a period not to exceed 35 days, pursuant to LDC Section 22-103(d), in order to seek technical advice from outside sources or to meet further with the applicant to revise or modify the application. The applicant is specifically requested to provide further information to address the relocation criteria set forth in LDC Section 22-105(1) through (6).

The HPB **DOES NOT APPROVE**, and therefore **REFUSES TO GRANT the issuance of a special certificate of appropriateness for demolition** of the subject property. Pursuant to the requirements of LDC Section 22-104(c), the HPB's refusal to grant the aforesaid special certificate of appropriateness for demolition is evidenced by the following written order detailing the public interest which is sought to be preserved:

1. The structure is in excess of one hundred years old; and
2. The structure has design features which represent historic significance to the Town as set forth in the Findings of Fact and Conclusions of Law, below, and otherwise, and should be preserved; and
3. The structure represents a significant point in history and various unique historical events, and
4. Other elements of public interest, as set forth in the Renker Eich Parks Architectural Report (hereafter "the REP Report") which is included as part of the documents presented for hearing purposes and/or HPB Resolution FMBHD, 2004-02 which designated the structure as historic, except to the extent that they have or might have been rescinded or superceded subsequent thereto.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based upon the presentations by Applicant, staff, and other interested parties at the hearing, and review of the application and the standards for issuance of a special certificate of approval, the HPB makes the following findings and conclusions:

1. The HPB finds that the building or structure **IS** of such interest or quality that it would reasonably meet at least one of the national, state, or local criteria for additional designation as a historic or architectural landmark, pursuant to the requirements of LDC Section 22-104(d).

The HPB cites the provisions of HPB Resolution FMBHD 2004-02 and the REP Report as factual support for this finding.

2. The HPB finds that the building or structure **IS** of such design, craftsmanship, or material that it could be reproduced only with great difficulty or expense, pursuant to the requirements of LDC Section 22-104(d).

Design of a new building on the site or elsewhere would be required to meet all applicable codes, which would make its reproduction difficult and/or expensive. The HPB cites the provisions of HPB Resolution FMBHD 2004-02 and the REP Report as further factual support for this finding.

3. The HPB finds that the building or structure **IS** one of the last remaining examples of its kind in the neighborhood, the town, the county, or the region, pursuant to the requirements of LDC Section 22-104(d).

The age of this structure exceeds one hundred (100) years. Secondly, the historic coquina fireplace within the Cottage is unusual. Thirdly, the relocation of this structure to Estero Island via barge is representative of significant historical events within the Island. The HPB cites the provisions of HPB Resolution FMBHD 2004-02 and the REP Report as further factual support for this finding.

4. The HPB finds that the building or structure **DOES NOT** contribute significantly to the historic character of a designated historic district, pursuant to the requirements of LDC Section 22-104(d).

No historic districts have been designated within the Town of Fort Myers Beach.

5. The HPB finds that retention of the building or structure **WOULD** promote the general welfare of the town by providing an opportunity for the study of local history or prehistory, architecture, and design, or by developing an understanding of the importance and value of a particular culture and heritage, pursuant to the requirements of LDC Section 22-104(d).

Proper documentation of the structure's characteristics could provide an opportunity for the study of local history and architecture and promote understanding of the importance and value of the Town's heritage. The HPB cites the provisions of HPB Resolution FMBHD 2004-02 and the REP Report as further factual support for this finding.

6. The HPB finds that there **ARE** definite plans for reuse of the property if the proposed demolition is carried out, pursuant to the requirements of LDC Section 22-104(d). However, the HPB is not satisfied that removal of this structure is necessary to achieve the goals of re-use of this property and also cannot at this time determine the effect of those plans on the character of the surrounding due to insufficient information.

The property is planned to be reused as a community park, which could contain the Cottage as an element of this use.

7. The HPB finds that demolition of the designated building or structure **HAS NOT** been ordered by the appropriate agency due to unsafe conditions, pursuant to the requirements of LDC Section 22-104(d).

There has been no order of demolition of the subject property for any reason.

8. The HPB finds that the criteria for issuance of a certificate of appropriateness (regular or special) pursuant to the requirements of LDC Section 22-101(b) **HAVE NOT** been met by this application for demolition, to the extent that such criteria may apply

9. There **ARE** definite plans for reuse of the property and no building permit or development order has been applied for the property, pursuant to the requirements of LDC Section 22-101(e).

A building permit or development order for new construction has not been applied for. However, the plans for reuse of the property do not require new construction on this site and therefore a building permit and/or development order may not be required.

The foregoing Resolution was adopted upon a motion by HPB Member Yerkes and seconded by HPB Member Weimer. Upon being put to a vote, the result was as follows:

Evie Barnes absent

Rochelle Kay aye

Alan Mandel aye

Joanne Shamp aye

Bill Van Duzer aye

Dennis Weimer aye

Joe Yerkes aye

DULY PASSED AND ADOPTED THIS 10th day of March, 2009.

HPB of the Town of Fort Myers Beach

By: 

Joanne Shamp, HPB Chair

Approved as to legal sufficiency:

By: 

Anne Dalton, Esquire
LPA/HPB Attorney

ATTEST:

By: 

Michelle D. Mayher, Town Clerk

HPB2009-06
Exhibit A

Lots 3 and 4, Block H, HYDE PARK SUBDIVISION, as recorded in Plat Book 7, Page 20, Public Records of Lee County, Florida.

EXHIBIT (61)

NEWS-PRESS

Published every morning - Daily and Sunday

Fort Myers, Florida

Affidavit of Publication

TOWN OF FORT MYERS BEACH

FEB 24 2009

RECEIVED BY

STATE OF FLORIDA
COUNTY OF LEE

Before the undersigned authority, personally appeared

Kathy Allebach

who on oath says that he/she is the

Legal Assistant of the News-Press, a daily newspaper, published at Fort Myers, in Lee County, Florida; that the attached copy of advertisement, being a

Notice of Public Hearing

In the matter of

Hearing on March 10, 2009

In the court was published in said newspaper in the issues of

February 19, 2009

Affiant further says that the said News-Press is a paper of general circulation daily in Lee, Charlotte, Collier, Glades and Hendry Counties and published at Fort Myers, in said Lee County, Florida and that said newspaper has heretofore been continuously published in said Lee County, Florida, each day, and has been entered as a second class mail matter at the post office in Fort Myers in said Lee County, Florida, for a period of year next preceding the first publication of the attached copy of advertisement; and affiant further says that he/she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Kathy Allebach

Sworn to and subscribed before me this

19th day of February 2009 by

Kathy Allebach

personally known to me or who has produced

as identification, and who did or did not take an oath.

Notary Public

Print Name

My commission Expires

Janet E. Cobb
JANET E. COBB
Commission DD 828784
Expires November 19, 2012
Bonded Thru Troy Falm Insurance 880-285-7010

RECEIVED
FEB 23 2009

COMMUNITY DEVELOPMENT

Notice of Public Hearing
Notice is hereby given that the Historic Preservation Board of the Town of Fort Myers Beach will hold public hearings at 10:30 AM on March 10, 2009 regarding the cases listed below. These hearings will take place in the council chambers at Fort Myers Beach Town Hall, 2523 Estero Boulevard, Fort Myers Beach, Florida, 33931. At these hearings the Historic Preservation Board will decide to approve, deny, or approve with conditions the proposed designation. If any person should choose to appeal a decision made at these public hearings, such person would need a record of the proceedings, and for that purpose may need to ensure that a verbatim record of the proceedings is made, which record indicates the testimony and evidence upon which the appeal is to be based. Copies of the staff report and designation report are available at Fort Myers Beach Town Hall. Call 239-765-0202 for more information. Town Hall is open between the hours of 8:30 AM and 4:30 PM. Reasonable accommodations will be made in accordance with the Americans with Disabilities Act. If you are in need of reasonable accommodation, contact the clerk's office at 239-765-0202.
Case Number: FMBHDD2008-0007 (Individual structure)
Case Name: Historic Designation of "Seven Seas" Structure
Applicant: Town of Fort Myers Beach
Request: Designate as a historic resource the structure known as "Seven Seas" at the Newton Park property (Lots 1, 2, and 6, Block H, Hyde Park Subdivision, as recorded in Plat Book 7, Page 28, Public Records of Lee County, Florida)
Location: 4458 Estero Boulevard (South from the Sky Bridge on Estero Boulevard, past the Baptist church and St. Peters Lutheran Church. Newton Park is on the left (Gulf of Mexico) side of the road across the street from the Ocean Harbor Condominium.
Staff Report: Inquire at Fort Myers Beach Town Hall, 239-765-0202, 2523 Estero Boulevard, Fort Myers Beach, FL 33931.
Case Number: FMBCOA2009-0002
Case Name: "The Cottage" special certificate of appropriateness
Applicant: Town of Fort Myers Beach
Request: Special certificate of appropriateness under LDC Chapter 22, Article II, Division 3 to allow either (1) demolition of the structure known as "the Cottage", or (2)

EXHIBIT (B 2)

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

Frank Shockey, Director DCD
2523 Eastern Boulevard
Fort Myers Beach, FL 33931 TOWN OF
FORT MYERS BEACH

RECEIVED BY



UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

Frank Shockey, Director DCD
2523 Eastern Boulevard
Fort Myers Beach, FL 33931 TOWN OF
FORT MYERS BEACH

RECEIVED BY

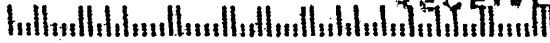


EXHIBIT (B-3)

6526 6609 2000 029T 5007	U.S. Postal Service CERTIFIED MAIL RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)		SECTION ON DELIVERY	
	For delivery information visit our website at www.usps.com		<input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
	OFFICIAL USE		Printed Name) <i>Bastian</i>	C. Date of Delivery 5-19-09
	Postage \$.42	Is address different from item 1? <input type="checkbox"/> Yes Is delivery address below: <input type="checkbox"/> No	
	Certified Fee	2.70	RECEIVED BY POST OFFICE FORT MYERS BEACH TOWN OF	
	Return Receipt Fee (Endorsement Required)	2.20		
	Restricted Delivery Fee (Endorsement Required)	(blank)		
	Total Postage & Fees	\$ 5.32	<input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> C.O.D.	
	Sent To <i>Scott Jankie, Town Manager</i>		Delivery? (Extra Fee) <input type="checkbox"/> Yes	
	Street, Apt. No., or PO Box No. <i>2523 Estero Boulevard</i>		7 9259	
City, State, ZIP+4 <i>Fort Myers Beach FL 33931</i>		102595-02-M-1540		

2422 6609 2000 029T 5007	U.S. Postal Service CERTIFIED MAIL RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)		SECTION ON DELIVERY	
	For delivery information visit our website at www.usps.com		<input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
	OFFICIAL USE		Printed Name) <i>Bastian</i>	C. Date of Delivery 2-19-09
	Postage \$.42	Is address different from item 1? <input type="checkbox"/> Yes Is delivery address below: <input type="checkbox"/> No	
	Certified Fee	2.70	RECEIVED BY POST OFFICE FORT MYERS BEACH TOWN OF	
	Return Receipt Fee (Endorsement Required)	2.20		
	Restricted Delivery Fee (Endorsement Required)	(blank)		
	Total Postage & Fees	\$ 5.32	<input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> C.O.D.	
	Sent To <i>Scott Jankie, Town Manager</i>		Delivery? (Extra Fee) <input type="checkbox"/> Yes	
	Street, Apt. No., or PO Box No. <i>2523 Estero Boulevard</i>		9242	
City, State, ZIP+4 <i>Fort Myers Beach FL 33931</i>		102595-02-M-1540		