

RESOLUTION OF THE HISTORIC PRESERVATION BOARD OF  
THE TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER HPB 2009-14  
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, 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

WHEREAS, a public hearing on SCA #1 was legally advertised and held before the HPB on March 10, 2009, at which time the HPB 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, 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 **APPROVES** the issuance of a special certificate of appropriateness for demolition of the subject property, subject to the conditions set forth below:

1. The Applicant must submit all documentation required by the Florida Department of State Division of Historical Resources (DHR) per the letter dated September 3, 2008 (**Exhibit B**), and any other documentation that may subsequently be required by DHR to Florida Communities Trust and/or DHR, as may be required by such agencies; and
2. Prior to issuance of a demolition permit, the Applicant must provide evidence from DHR and Florida Communities Trust to Town staff that the requirements set forth in condition #1 above and all other requirements imposed by the State of Florida have been satisfied.
3. This certificate of appropriateness 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.
4. This approval does not constitute the issuance of an order of demolition as provided for in LDC Section 22-104(a). Such order may only be issued by a governmental body or board or a court of competent jurisdiction, at which time the demolition permit may be issued.

#### **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 NOT** of such interest or quality that it would reasonably meet 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 report prepared by a licensed architect and supplied by the applicant suggests that the structure's integrity in the area of architectural significance has been compromised, partly due to its relocation in the 1940s. A letter from the Director of the State of Florida Division of Historic Resources to the Florida Communities Trust, which oversees the compliance with deed restrictions on the property, stated that "because of extensive alterations [...] it is our opinion that this residence is not eligible for listing in the National Register of Historic Places." (See **Exhibit B**). It appears that the building is not of such quality that it would meet national criteria for designation. There is no additional local designation beyond that conferred by this Board in 2004.*

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).

*Similar materials, though not fashionable at present, could be used to construct a new building on the site or elsewhere in compliance with all applicable codes. Design of a new building on the site or elsewhere would be required to meet all applicable codes, but could otherwise be similar.*

3. The HPB finds that the building or structure **IS NOT** 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).

*Many other extant structures were first placed on Estero Island in the 1940s and 1950s. Some of those structures were relocated from their original sites. Actual documentation of building relocation and construction, particularly prior to the 1960s, is rare. The coquina fireplace within the Cottage is unusual, but other extant structures on Estero Island have fireplaces.*

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 prior to demolition, in accordance with the recommended conditions, could provide an opportunity for the study of local history and architecture similar to what would be available if the structure were rehabilitated. Understanding of the importance and value of the Town's heritage will be fostered by the rehabilitation and adaptive reuse of the Seven Seas building.*

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). The effect of those plans on the character of the surrounding area **WOULD BE AS FOLLOWS:**

*The property is planned to be reused as a community park, which will include the grounds surrounding the restored Seven Seas building. Although the Seven Seas building was never present on its respective site at a time when the Cottage was not on its adjacent site, the Newton family did not own the Cottage site until 1972. Other nearby structures, such as the building at 4700 Estero Boulevard that was owned for many years by the Grace family, were present before and during the time the Seven Seas building was occupied by the Newton family and those structures are not required to be preserved for that sole reason, or for any reason.*

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** been met by this application, to the extent that such criteria may apply.

9. The HPB accepts the staff report with attachments as additional findings of fact to support its decision herein.

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

Dennis Weimer aye Rochelle Kay aye  
Alan Mandel aye Joanne Shamp aye  
Bill Van Duzer aye Carleton Ryffel aye

DULY PASSED AND ADOPTED THIS 14<sup>th</sup> day of July, 2009.

HPB of the Town of Fort Myers Beach

By: Joanne K. Shamp  
Joanne Shamp, HPB Chair

Approved as to legal sufficiency:

By: [Signature]  
Anne Dalton, Esquire  
LPA/HPB Attorney

ATTEST:

By: [Signature]  
Michelle D. Mayher, Town Clerk

**FMBDCI2009-0001**

**Exhibit A**

Lots 1, 2, 3, 4, 5, and 6, Block H, HYDE PARK SUBDIVISION, as recorded in Plat Book 7, Page 20, Public Records of Lee County, Florida





FLORIDA DEPARTMENT OF STATE  
**Kurt S. Browning**  
Secretary of State  
DIVISION OF HISTORICAL RESOURCES

September 3, 2008

Mr. Grant Gelhardt  
Florida Communities Trust Program  
2555 Shumard Oak Boulevard  
Tallahassee, Florida 32399-2100

RE: Proposed Demolition of Cottage at Newton Park, Lee County  
DHR Project File No. 2008-5508, Received: August 21, 2008

Dear Mr. Gelhardt:

As requested by Ms. Sara Lettman of your staff, we have reviewed Mr. W. Scott Janke's August 21, 2008 request, on behalf of the Town of East Myers Beach, to demolish the building known as the Cottage on the Newton Beach Park property. The Town's request has been reviewed in accordance with Section 267.06(1)(2), *Florida Statutes*. This review is based on the recommended approaches to rehabilitation set forth in *The Secretary of the Interior's Standards for the Treatment of Historic Properties* (Standards).

In our May 14, 2007 letter regarding the historic properties on the Newton Park property, we indicated that the Cottage, relocated to the property over 60 years ago, is considered to be of historic importance. However, because of extensive alterations, as documented in the *Cultural Resource Enhancement Plan for Newton Beach* prepared by Rinker Fish Parks Architects, it is our opinion that this residence is not eligible for listing in the *National Register of Historic Places*.

While adaptive reuse of the Cottage to provide support facilities for the park is recommended, given the Town's commitment to rehabilitate the Newton Residence (Seven Seas), a property considered to be eligible for the *National Register of Historic Places*, and the limited funding available for treatment of the Cottage, we recommend consideration of mothballing the building for possible future adaptive reuse. If mothballing is determined by the Town to be infeasible, demolition would be acceptable following completion and acceptance of the following documentation by this office: (1) an updated Florida Master Site File form for the building (FL 2008); (2) architectural documentation of the Cottage consistent with the Level 3 standards of the Historic American Building Survey (see [www.heritage.com/heritage/comp/plan/dec/dec.htm#HABS.pdf](http://www.heritage.com/heritage/comp/plan/dec/dec.htm#HABS.pdf)); and (3) a Florida Master Site File form for Seven Seas (currently unrecorded).

Mr. Grant Gelhardt

September 3, 2008

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Also please note that planning documents for the improvement of the park, including the rehabilitation of *Seven Seas*, must be submitted to this office for review prior to initiation of construction. Our review of these documents is authorized by Section 263.06(1)(2) Florida Statutes, and will be guided by the above referenced *Standards*. The Town is encouraged to submit planning documents as early as possible in the planning process (e.g. at the advanced schematic design stage) to allow identification of possible historic preservation concerns and avoidance of costs and project delays associated with plan revisions.

Should you have any questions regarding our review comments, please contact David Ferro, R.A., of my staff at 850-245-6363.

Sincerely,

A handwritten signature in black ink that reads "Frederick P. Gaske". The signature is written in a cursive style with a long horizontal line extending to the right.

Frederick P. Gaske, Director  
Division of Historical Resources