



www.PalmettoPointAssociation.com

WELCOME TO PALMETTO POINT

Community Guide



WE'RE HERE TO HELP

We've compiled a variety of documents and contacts we think will be of interest and assistance to new members of the Palmetto Point community.

This guide works to serve as a resource for new homeowners who have questions about how our community works or have home specific issues that we may have simple and fast answers for, such as:

- Association Documents & Vendors
- Area Information

01

WELCOME!

Palmetto Point welcome note & resident introduction.

02

ASSOCIATION & BOARD OF DIRECTORS

Helpful information regarding our Association & list of your current Board of Directors with contact information.

03

VENDORS & DOCUMENT LIST

Community vendors for utilities & services as well as protocols, procedures & guidelines for building improvements.

04

AREA INFORMATION: DINING & LOCAL BUSINESSES

South Fort Myers dining & area business recommendations from your neighbors.

05

GOLF & BOATING IN S. FORT MYERS

Get outside with our helpful tips and nearby options for all things outdoors!

06

NOTES & APPENDIX OF DOCUMENTS

Palmetto Point Association official documents for reference.

SECTION ONE



WELCOME HOME!

On behalf of the Palmetto Point Association Board of Directors and the other homeowners of Palmetto Point, we welcome you to our community. Over the coming months we look forward to meeting you, whether it be walking down the streets, on the water or at one of our favorite local spots!



@PalmettoPointFM

Follow us on Facebook! Our neighborhood Facebook page offers an additional meeting place for residents in our community



www.PalmettoPointAssociation.com

What Our Residents Are Saying ?



“

Palmetto Point is an ideal place to call home. We are very fortunate to be surrounded by friendly faces and an abundance of nature in such a conveniently located community!

Steve Hatfield

**NEW RESIDENT
2020**

SECTION TWO

PALMETTO POINT

ASSOCIATION INFO & BOARD OF DIRECTORS



B.O.D REQUIREMENTS

Each Director must be a residential Lot owner or primary occupant or the spouse of a residential Lot owner or primary occupant and a member of the Association. We are always accepting new members to our Board of Directors! Contact the current Secretary to inquire!



MEETINGS

Our Board of Directors meets as determined by the President. No set schedule. Our annual meeting is held in the first quarter of each year; date determined by the board & announced by email via member roster.



COMMITTEES

The Architectural Review Committee is our only standing committee. See ARC guidelines in appendix.



ASSOCIATION DUES

Homeowners Association dues are currently \$250 per year and can be paid on-line under the [‘DUES’](#) tab of our website.

Palmetto Point

CURRENT OFFICERS

Our Palmetto Point Association was founded in 1979. We are a corporation not for profit organized under the laws of Florida as a community association for the purpose of operating a residential community. Membership in the association is voluntary as are Board positions.

President

Beverley Simmons
BerverlycsSmmons@gmail.com

Vice President

Gerald A Buchheit
GABuchheit@gmail.com

Treasurer

John Ingraham
JIngraham172@gmail.com

Director

Traci Daley
Tracidaley@me.com

Secretary

Catherine Coval
CCoalGO@gmail.com

SECTION THREE

COMMUNITY VENDORS



POWER SUPPLY

Start, Stop, or Move Electric Service with Florida Power & Light. Online account management & bill pay makes it convenient with everything in one spot. Plus, an on-line app!

[FPL.com](https://www.fpl.com) | (800)-226-5885



WASTE MANAGEMENT

Once-per-week collection of household garbage, recyclables and yard waste. Garbage collection is on Thursdays, yard waste and recycling pick-up is on Monday's. Hauler is Waste Management.

[LeeGov.com](https://www.lee.gov) | (239) 533-8000



SEWER & WATER

Residential utilities of sewer and water are maintained by Lee County Government & can be set-up & managed on-line, by phone or via their mobile app.

[LeeGov.com](https://www.lee.gov) | (239) 533-8845



CABLE, INTERNET & PHONE

Xfinity is the leading cable, internet & phone provider in our community. Easy service transfer & self-setup makes for a smooth transition for new residents.

[Xfinity.com](https://www.xfinity.com) | (855) 870-1311

Building & Improvements PROTOCOLS, PROCEDURES & GUIDELINES



EXTERIOR LANDSCAPING

To help maintain the quality of our neighborhood, the A.R.C evaluates the plans for all exterior landscaping to protect our scenic environment and maintain the value of our homes.



REPAIRS & REMODELING

Repairs & remodeling such as painting, decks, fences, trees and bushes, replacement roofs, etc. must be submitted for review prior to project start.



COLOR PALLETS

The purpose of a thoughtful color selection is to create harmony within the community. Muted earth tones, white, and grays are the recommendation. Bright or dark colors/hues are not being approved by the ARC at this time.



VARIANCES

The Board must authorize variances from compliance with any architectural provisions when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations.



DEED RESTRICTIONS

Restrictions ranging from lot use, building requirements and parking to 'For Sale' signs are listed in the 'Deed of Restrictions' document attached in the appendix section and must be adhered to by all owners.





SECTION FOUR

WHERE YOU LIVE DINING



DATE NIGHT

Blanc, (239) 887-3139
Deep Lagoon Seafood, (239) 689-5474
Golden Rind Cheese Shop, (239) 313-6001
Azure, (239) 288-4296
Tera Nostra, (239) 590-8147



BREAKFAST

Crave, 239-466-4663
Marko's Diner, (239) 204-9172
Dunkin' Donuts, (239) 437-0071
McGregor Cafe, (239) 936-1771
First Watch Cafe, (239) 437-0020



LIVE MUSIC

Roadhouse Cafe, (239) 415-4375
Lighthouse Restaurant, (239) 489-0770



FAMILY FRIENDLY

Lazy Flamingo, (239) 476-9000
Citrola's, (239) 334-6336
Takote Authentic Mexican, (239) 437-1471
Ron Dao's, (239) (239) 481-1882



CATERING

Grazing Haus, (239) 788-4656
Pop's BBQ, (239) 823-0485
Artichoke & Co., (239) 263-6979

Resident Recommendations AREA BUSINESSES

1.

LANDSCAPING

- Ortiz Lawn Care,
- Venacio Espanol Landscaping - (239) 989-4213
- Viva Landscape Designs - (239) 339-7865
- R.S Walsh Landscaping, (239) 437-0881
- A Full Spectrum Irrigation, (239) 318-0996

2.

PAINTING, REPAIRS & DESIGN

- Perfect Painters, (239) 410-0922
- Lee Drywall, (239) 939-9779
- More Design, (720) 934-6048
- Chiquis Squeaky Cleaning, (239) 313-3880
- Pool Cleaning Company

3.

EVENTS

- Bubbly Bee Mobile Tap, (602) 690-9969
- Eleep's Catering, Private Chef Stan, (239) 271-4252
- Angelina Melody Phtography, (239) 849-1461
- Balloons by Gayle, (239) 209-4098
- AJ's Florist, (239) 489-4844

4.

BOATING SERVICES

- Business 1 (fuel delivery)
- Business 2 (detailing)
- Business 3
- Business 4
- Business 5



BOATING & GOLF IN S. FT. MYERS

GOLF

Get outside! The Iona & South Fort Myers area is great for a variety of golf courses and country clubs. Below are just a few of available options to get you started:

Gulf Harbor Yacht & Country Club
Fort Myers Country Club
The Shell Point Golf Club
Kelly Greens Golf & Country Club

OUR WATERS

Our prestigious, Southwest Florida waterfront community is distinct for direct gulf access living with some of the widest, deepest canals and basins in the area. Comprised of 137 homes surrounded by natural preserves and the Caloosahatchee River, residents frequently experience tarpon, dolphin and manatees cruising the waterways. Enjoy easy access to local beaches, golf, restaurants, theater, trails and the islands of Sanibel, Captiva, and Pine Island as well as the Gulf of Mexico.

Life in Palmetto Point is a connection to the beauty and enjoyment of waterfront living.

LOCAL MARINAS

MarineMax at Deep Lagoon

- N 26° 32.309' / W 081° 55.273'
- Mile Marker 72
- (239) 481-8200
- 8AM-6PM

Gulf Harbor Marina

- N 26° 32.140' / W 081° 56.280'
- Mile Marker 73
- (239) 437-0881
- 8AM-4:30PM

Additional Fuel Sale Locations:

Ft. Myers Yacht Basin, Tarpon Point Marina, Cape Coral Yacht Club, Sanibel Marina & Rum Runners

WATERFRONT RESTAURANTS

Deep Lagoon Seafood & Oyster Bar

- N 26° 32.309' / W 081° 55.273'

Cabbage Key

- N 26-32.162, W 82-1320.635

Rum Runners

- N 26-32.73, W 82-00.46

Lighthouse Restaurant

- N 26-29.25, W 81-59.36

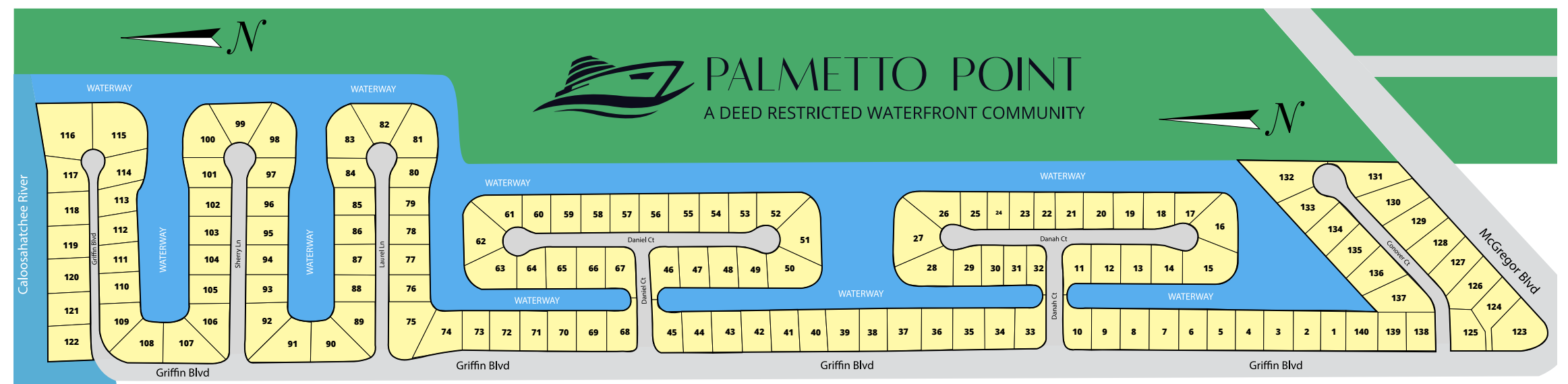
Gramma Dots

- N 26 27 0, W 82 1 50

Useppa Restaurants & Tarpon Bar

- Mile Markers 64 & 6

If Viewing Online, Click [Here](#) for a Full List of Lee County Waterfront Dining Options Accessible by Boat



www.PalmettoPointAssociation.com

APPENDIX
OF DOCUMENTS

www.PalmettoPointAssociation.com

01	Building & Landscaping Permits A.R.C application for construction, repair or updating of any kind.	02	A.R.C Protocol Procedures Palmetto Point Association architectural review committee protocol & procedures.
03	By-Laws Amended and restated bylaws of Palmetto Point Association, Inc.	04	Articles of Incorporation- Amended and restated Articles of Incorporation of Palmetto Point Association, Inc.
05	Deed of Restrictions Amended & restated declaration of covenants, conditions and restrictions of Palmetto Point Association, Inc.	06	Guiding Principles for Variances Guided Principles for approving a variance with visual exhibits.

**Building and Landscaping Permit
Palmetto Point Association
6758 Griffin Blvd.
Fort Myers, FL 33908**



Name _____ Lot # _____
Address _____ Phone _____
Email Address _____

Contractor

Name _____ Phone _____
Address _____ License# _____

Architect

Name _____ Phone _____
Address _____ License# _____

Type of construction, repair or updating:

☐ new home ☐ addition ☐ swimming pool ☐ Pool cage ☐ new roof
☐ seawall/Boat lift/Piers & Posts ☐ landscaping ☐ Exterior Painting
☐ Driveway ☐ Exterior walks & stairs ☐ Fences
☐ Terraces/Patios/Walls ☐ Changes to Property lines/setbacks.

Plans submitted and comply with Deed of Restrictions

☐ yes ☐ no (please explain) _____

Owner's signature _____ Date _____

Approved by:

Palmetto Point Association Board

Date _____

Owner – Original copy Palmetto Point Association - copy

Palmetto Point Association Deed of Restrictions Architectural Review Committee Protocol and Procedures

The fiduciary duty of directors extends to their application of rules. The enforcement of these rules must be strict and consistent because the rules are there to protect the quality of life of the member residences and/or their property values. If there is a violation, on behalf of all the members, the board must follow the prescribed procedure expressly made in the governing documents to encourage compliance, whether through voluntary compliance by the violating homeowner or the more extreme option of bringing legal action against the homeowner. In addition, the interpretation of the rules by the directors must be reasonable and uniform. It is impossible to draft rules so that there is absolutely no scenario where the text will be seen as ambiguous. In cases where the rules are subject to interpretation, the directors have adopted a consistent process of consideration, in writing, that all members can consult. The final and definitive answer will come from the Association's attorney when necessary to settle a dispute. The Palmetto Point Deed of Restrictions, Revised 16 April, 2008 has been in force since that time. The Palmetto Point Association (PPA) Declaration of Covenants, Conditions and Restrictions provide for an Architectural Review Committee. The following protocol and procedure document directs the activities of that committee as the Board may dictate in accordance with the by-laws and Deeds of Restriction.

The Board of Directors shall establish a separate Architectural Review Committee ("ARC") for the purpose of reviewing and approving plans and specifications.

Committee Members: The Board of Directors shall appoint a PPA member to serve as Chairman and that individual shall be responsible for the actions of the committee. The Chair shall have at least one or more members that may be a Board member, but not a Broad of Director, or an owner in the community that is current in their paid dues and has a construction, development or otherwise appropriate experience or background as deemed by the Board. The term of the

Chair and or committee members is not set or limited but determined by the Board.

The committee shall be made up of a least five (5) and no more than seven (7) persons. All members of the ARC serve at the pleasure of the Board. The ARC is authorized to and shall establish specifications, procedures and guidelines regarding exterior features of structures including but not limited to location, size, type, appearance, color, style, material and other components for use in considering and approving plans. The ARC shall approve or disapprove all plans within thirty (30) days of receipt of a complete application. If the ARC fails to act within thirty (30) days, the application shall be deemed approved. Any decision of the ARC may be appealed to the Board of Directors within twenty (20) calendar days of the issuance of the written ARC decision. In order to be valid an appeal must be in writing (e-mail is not allowed) and physically received by an officer of the Association within the twenty (20) day period. Upon receipt of an appeal, the Board shall convene a Board meeting, within twenty (20) days. At the Board meeting the appellant shall have a reasonable opportunity to present his or her case to the Board and the ARC shall be afforded a reasonable opportunity to present a rebuttal. After the presentations of each party the Board shall vote to uphold, overrule, or modify the ARC decision. The decision of the Board shall be final. Neither the ARC nor the Board nor any member thereof, shall be liable to the Association or any Owner or any other person or entity for any loss, damage, or injury arising out of or in any way connected with the performance or nonperformance of the ARC's duties hereunder, unless due to the willful misconduct or bad faith of a member, and only that member shall be liable therefore. The ARC shall review and approve or disapprove all plans submitted to it for any proposed improvements, alteration, or addition solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to the immediate vicinity and to the Subdivision. The ARC shall take into consideration the aesthetic aspects of the architectural designs, placement or buildings, landscaping, color schemes, exterior finishes and materials and similar features, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes.

All buildings erected, constructed or remodeled in PALMETTO POINT shall conform in area, setback and height limitations as follows: Note: all non-conforming structures in existence on the day this Declaration is recorded, **(Which was April 16, 2008)**, in the Public Records of Lee County, Florida shall be allowed to remain ("grandfathered") until such time as the structure is more than 50% destroyed (as determined by the Board of Directors in its sole discretion), at which time the structure shall only be rebuilt in conformance with all of the provisions of this Declaration including but not limited to the requirements in this paragraph. The foregoing notwithstanding, any home on the South side of Conover Court that may become more than 50% destroyed shall be allowed to rebuild on its original footprint without regard to the following setbacks.

Minimum square footage of living area – 2000'

Setback requirements for the house and garage proper:

Front – 25'

Sides – 12'6"

Rear and Canal – 25'

These set-backs are to be measured from the foundation block or foundation wall of the house and garage proper. A maximum of a 3' roof overhang will be permitted to extend into the front and side Lot line set-back areas. Any cantilevered construction must be within the set-back lines. All elevated construction, with the exception of the roof overhang (as stipulated heretofore), must be within the set-back lines.

Set-back requirements for an open pool, enclosed pool cage, and pool deck are:

Canal or back – 20'

Sides – 12'6"

All stairs, retaining walls and landscape walls must be within the setbacks and approved by the ARC or Board.

These set-backs are to be measured from the closest point of the accessory structure or slab to the Lot line or inside edge of the seawall cap.

Building Height. No structure shall exceed two stories in height with a maximum of thirty five feet (35'). The height of a structure shall mean the

vertical distance to the highest point of the roof surface of a flat roof or Bermuda roof, to the deck line of a mansard roof, and to the mean height level between eaves and ridge of gable, hip and gambrel roofs. Where minimum floor elevations in flood prone areas have been established by law, the height shall be measured from such required minimum floor elevations.

The first floor shall be no higher than 12' NGVD above sea level.

The space above the second floor ceiling of a home cannot be used for any purpose other than inactive storage or mechanical equipment (mechanical equipment is that equipment which is actually a part of the home and required for the operation of the home) and can be accessed only by a retractable folding stairway or an access panel. A plywood or plank floor may be installed in the attic to accommodate storage or mechanical equipment, but the total area of this attic flooring cannot exceed an area equal to 15% of the inside living space (air conditioned).

The driveways within the property cannot exceed a slope of 1/4" per foot, and the elevation of the garage slab cannot be higher than 1" above the driveway at the point where the driveway meets the garage slab.

In general, homes on both sides of a common property line shall slope their property to the common property line, and then so graded that the runoff will go to the canal or the street.

Where two or more Lots are acquired and used as a single building site, the side Lot lines shall refer only to the lines bordering on the adjoining owner.

Prior to the commencement of any construction, the property owner shall apply for and secure a permit from the Palmetto Point Association, Inc. The property owner shall secure applications for a building permit from the Association, and shall submit such form in duplicate along with two complete sets of WORKING DRAWINGS. If the drawings comply with the provisions of the Deed of Restrictions, the Board of Directors of the Association shall return one set of the drawings marked "Approved by the Palmetto Point Association" along with one copy of the Application, duly signed and giving authorization to proceed with construction in accordance with the approved plans. The owner understands that if he deviates from the approved plans without first securing written approval from the

Association, the permit is automatically rescinded and all work on the site must cease until the revision is either approved by the Association, or the work reverts back to that as shown on the approved drawings.

The Association Permit must be prominently displayed in the same fashion as the Municipal Permit is displayed.

The square footage of proposed buildings and structures or additions and enlargements thereto shall be measured from the outside of the exterior walls of the living area of the building or structure, at each floor level. Living area does not include garages, roofed screen porches and the like.

No garage shall be erected which is separated from the main building. Each home shall include, as a minimum, one attached two (2) car enclosed garage. Carports are prohibited.

In summary concerning the Construction and/or Renovations Compliance with Deeds of Restriction:

The Committee shall:

1. Provide guidance to owners, contractors, realtors and other party's seeking information for any such project within the existing and applicable Deed of Restriction (DOR).
2. Review any and all plans as required by applicable DOR's prior to the commencement of any construction or renovation project within the DOR.
3. Seek to be as prompt as possible and work to minimize any delays in response to an owner seeking to commence a project. Formal approvals and communication must be via Board archived webmail.
4. Communicate any and all requests for approval of any project to the other members of the committee as promptly as possible. The chair shall oversee any discussion and ensure all members are communicated with. The chair shall be responsible for providing the owner/contractor or other interested party with the committee's decision including requests for further information and/or consultation with the committee.

The following Guiding Principles will be used as necessary when reviewing plans.

**Palmetto Point Association Board of Directors Guiding Principles' on Approving
a Variance**

**Amended Deed of Restrictions, Renamed Declaration of Covenants, Conditions
and Restrictions for Palmetto Point and Palmetto Point Unit 2, hereinafter
"Declaration". Recorded April 16, 2008**

The Declaration provides for the Board to authorize variances from compliance with any architectural provisions when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations require such variance from compliance.

The granting of a variance may be subject to special conditions imposed by the Board and shall not create a precedence requiring the Board to grant variances in the future for the same Lot Owner or other Lot Owners.

There are one hundred and forty Lots in Palmetto Point. Three of these Lots had been combined with another Lot, which results in having one hundred and thirty-seven Lots available to build a residence upon. Of these lots, ten are not on water, leaving one hundred and twenty-seven lots with dock space. Of these docks, there are eight on the end of a canal near a culvert and one at the end of the only T shaped canal. There are 20 Lots which are on the end of cul- de- sac that are pie shaped, with the frontage much less than the rear of the Lot. There are fourteen lots on corners Lots on Griffin that are reverse pie shaped. The remaining eighty-four Lots are basically rectangle in shape and should not qualify for a Variance.

Guiding Principle Number One: Side Set Backs

No variances will ever be issued for the require distance of twelve and a half feet

(12 ½'), for all side set-backs.

Guiding Principle Number Two: Building Height

No variances will ever be issued that exceeds the maximum height of thirty-five feet (35').

Guiding Principle Number Three: Front and Rear Set-backs for Pie Shape Lots

On pie shaped Lots a Variance of normally not more than three feet can be granted to recognize the fact that the shape of the Lot can cause the home to be moved forward or back from the street to comply with the side set-back of twelve and a half feet. It can also adversely affect the pool area set-backs.

Guiding Principle Number Four: End of Canal and T Shape Canal Lots - Docks

Due to the fact that the seawall is parallel to the canal only for the first fifty feet of the owners Lot, versus the normal one hundred feet, it is necessary to provide the Lot Owner a Variance to accommodate the curve at the end of the canal. The Variance allows the dock to be built to within five feet of the property line. This would create a ten foot wide space between the adjacent docks at the canal ends. This is room enough for an eight foot barge to provide any needed culvert maintenance at the end of the canal.

Guiding Principle Number Five: Items Concerned When Approving All Docks

1. The dock and boat must not interfere with the neighbor's navigation of the canal.
2. The dock and boat must allow the neighbors a clear view of the canal.
3. Docks perpendicular to the seawall would only be considered at the very end of the Griffin Ave – Sherry Lane and Sherry Lane – Laurel Lane canals.

Guiding Principle Number Six: Construction and Repair of Seawalls

Seawalls can be constructed using concrete or vinyl. The new seawall will be no more the 12" higher than the old seawall. When possible a five foot return will be constructed on the property line on each end of the new seawall.

Guiding Principle Number Seven: Driveway Slope

Due to a legal change in the additional required flood height on new construction sites, the $\frac{1}{4}$ " per foot slope requirement is waived for all new construction of driveways.

It is the intent of the Board to treat all Lot Owners fairly and to provide Variances that will protect every owner's ability to enjoy this boating community to the maximum.

NOTE: SUBSTANTIAL AMENDMENTS OF ENTIRE BYLAWS FOR PRESENT TEXT SEE EXISTING BYLAWS

**AMENDED AND RESTATED BYLAWS
OF
PALMETTO POINT ASSOCIATION, INC.**

1. GENERAL. These are Bylaws of Palmetto Point Association, Inc., hereinafter the “Association”, a corporation not for profit organized under the laws of Florida as a community association for the purpose of operating a residential community. All prior Bylaws, if any, are hereby revoked and superseded in their entirety. Although membership in the Association is voluntary and therefore the Association does not meet the definition of a “Homeowners Association” found in Chapter 720 Florida Statutes (the Homeowners Association Act), the Association shall operate according to the procedures contained in Chapter 720, as amended. The definitions found in Exhibit “B” to the Declaration of Covenants, Conditions and Restrictions shall apply to the terms contained herein.

1.1 Principal Office. The principal office of the Association shall be at 6685 Daniel Ct, Fort Myers, FL 33908.

1.2 Seal. The seal of the Association shall be inscribed with the name of the Association, the year of its organization, and the words “Florida” and “corporation not for profit”. The seal may be used by causing it, or a facsimile of it, to be impressed, affixed, reproduced or otherwise placed upon any document or writing of the corporation where a seal may be required.

2. MEMBERS. The eligible members of the Association are the record owners of legal title to the Lots. In the case of a Lot subject to an agreement for deed, the purchaser in possession shall be deemed the owner of the residential Lot solely for purposes of determining use rights. Membership in the Association is voluntary.

2.1 Change of Membership. A change of membership shall become effective after all the following events have occurred.

(A) Recording in the Public Records of a Deed or other instrument evidencing legal title to the Lot in the member.

(B) Delivery to the Association of a copy of the recorded deed or other instrument evidencing title.

(C) Designation, in writing, of a primary occupant, which is required when title to a Lot is held in the name of two (2) or more persons who are not husband and wife, or by a trustee or a corporation or other entity which is not a natural person.

2.2 Members Voting Interests. The members of the Association are entitled to one (1) vote for each residential Lot owned by them. The total number of possible votes (the Member Voting Interests) of the Association is the total number of residential lots in Palmetto Point. The vote of a residential Lot is not divisible. The right to vote may be suspended for non-payment of regular annual assessments that are

delinquent in excess of 90 days. If a residential Lot is owned by one (1) natural person, the right to vote shall be established by the record title to the residential Lot. If a residential Lot is owned jointly by two (2) or more natural persons, that residential Lot's vote may be cast by any one (1) of the record owners. If two (2) or more owners of a residential Lot do not agree among themselves how their one (1) vote shall be cast on any issue, that vote shall not be counted for any purpose. If the owner of a residential Lot is other than a natural person, the vote of that residential Lot shall be cast by the residential Lot's primary occupant. All votes must be cast by an Owner or primary occupant.

2.3 Approval or Disapproval of Matters. Whenever the decision or approval of a residential Lot owner is required upon any matter, whether or not the subject of an Association meeting, the decision or other response may be expressed by any person authorized to cast the vote of the residential Lot at an Association meeting, as stated in Section 2.2 above, unless the joinder of all record owners is specifically required.

2.4 Change of Membership. A change of membership in the Association shall be established by the new member's membership becoming effective as provided for in Section 2.1 above. At that time the membership of the prior owner shall be terminated automatically.

2.5 Termination of Membership. The termination of membership in the Association does not relieve or release any former member from liability or obligation incurred under or in any way connected with the Association during the period of his membership, nor does it impair any rights or remedies the Association may have against any former owner or member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto.

3. MEMBERS' MEETINGS; VOTING.

3.1 Annual Meeting. There shall be an annual meeting of the members in each calendar year. The annual meeting shall be held in Lee County, Florida, each year in the first calendar quarter at a date, time and place designated by the Board of Directors, for the purpose of electing Directors and transacting any other business duly authorized to be transacted by the members. Lot owners that are not members of the Association may attend the annual meeting as guests of the Chairperson of the meeting but shall not be entitled to vote on matters which the Members are asked to vote on or to speak unless recognized by the Chairperson of the meeting. Non-members Owners shall be entitled to vote on matters at the meeting for which a Lot Owner vote (as opposed to a member vote) is required if any. Guests shall immediately leave the meeting if their guest privileges have been revoked by the Chairperson.

3.2 Special Members' Meetings. Special members' meetings must be held whenever called by the President or by a majority of the Directors, and any also be called by members having at least ten percent (10%) of the voting interests. The business at any special meeting shall be limited to the items specified in the notice of meeting. Non-members may attend as guests as provided in Section 3.1 above.

3.3 Notice Meetings: Waiver of Notice. Notices of all members' meetings must state the date, time and place of the meeting. Notice of special meetings must include a description of the purpose or purposes for which the meeting is called. The notice must be mailed to each member at the member's address as it appears on the books of the Association, or may be furnished by personal delivery or electronic transmission. The members are responsible for providing the Association with any change of address. The notice must be mailed, transmitted or delivered at least fourteen (14) days prior to the date of the meeting. A member may also waive notice of any meeting at any time by written waiver.

3.4 Quorum. A quorum at members' meeting shall be attained by the presence, either in person or by proxy, of persons entitled to cast at least twenty-five percent (25%) of the votes of the entire membership.

3.5 Vote Required. The acts approved by a majority of the votes cast by eligible voters at a meeting of the members at which a quorum has been attained shall be binding upon all residential Lot owners for all purposes, except where a different number of votes is expressly required by law or by any provision of the governing documents.

3.6 Proxy Voting. Members may cast their votes at a meeting in person or by proxy. A proxy shall be valid only for the specific meeting for which originally given and any lawful adjournment of that meeting. No proxy shall be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at the pleasure of the person executing it. To be valid, a proxy must be in writing, dated, signed by the person authorized to cast the vote for the residential Lot, specify the date, time and place of the meeting for which it is given, and the original must be delivered to the Secretary by the appointed time of the meeting or adjournment thereof. No proxy shall be valid if it names more than one (1) person as the holder of the proxy, but the holder shall have the right, if the proxy so provides, to substitute another person to hold the proxy. Holders of proxies must be members.

3.7 Adjourned Meetings. Any duly called meeting of the members may be adjourned to be reconvened at a later time by vote of the majority of the voting interests present, regardless of whether a quorum has been attained. When a meeting is so adjourned it shall not be necessary to give further notice of the time and place of its continuance if such are announced at the meeting being adjourned. Any business which might have been conducted at the meeting as originally scheduled may instead be conducted when the meeting is reconvened, but only if a quorum is present.

3.8 Order of Business. The order of business at members' meetings shall be substantially as follows:

- (A) Call of the roll or determination of quorum
- (B) Reading or disposal of minutes of last members' meeting
- (C) Reports of Officers
- (D) Reports of Committees
- (E) Election of Directors (annual meeting only)
- (F) Unfinished Business
- (G) New Business
- (H) Adjournment

3.9 Minutes. Minutes of all meeting of the members and of the Board of Directors shall be kept in a businesslike manner, available for inspection by members or their authorized representatives at all reasonable times. Minutes must be reduced to written form within thirty (30) days after the meeting.

3.10 Parliamentary Rules. Roberts' Rules of Order (latest edition) shall guide the conduct of the Association meetings when not in conflict with the law, with the Declaration, or with the Articles or

Bylaws. The presiding officer may appoint a Parliamentarian whose decision on questions of parliamentary procedure shall be final. Any question or point of order not raised at the meeting to which it relates shall be deemed waived.

4. **BOARD OF DIRECTORS.** The administration of the affairs of the Association shall be by a Board of Directors. All powers and duties granted to the Association by law, as modified and explained in the Declaration, Articles and Bylaws, shall be exercised by the Board, subject to approval or consent of the residential owners only when such is specifically required.

4.1 **Number and Terms of Office.** The number of Directors which shall constitute the whole Board of Directors shall be three (3). In order to provide for continuity of experience it is the intention of these Bylaws that a system of staggered terms be created. At the next election following the adoption of these amendments the two (2) candidates receiving the greatest number of votes shall be elected to serve a term of two (2) years each and the one (1) candidate receiving the third most number of votes shall be elected to serve a term of one (1) year. Thereafter, the Directors shall be elected for a term of two (2) years each. A Director's term will end at the annual election at which his successor is to be duly elected, unless he sooner resigns or is recalled as provided for in Section 4.5 below. Directors shall be elected by the members as described in Section 4.3 below, or in the case of a vacancy, as provided for in Section 4.4 below.

4.2 **Qualifications.** Each Director must be a residential Lot owner or primary occupant or the spouse of a residential Lot owner or primary occupant and a member of the Association. In the case of a Lot owned by a corporation, any officer is eligible for election to the Board of Directors. If a Lot is owned by a partnership, any partner is eligible to be a Director. If a Lot is held in trust, the trustee, grantor or settler of the trust, or any one of the beneficial owners residing in the Lot is eligible to be elected to the Board of Directors.

4.3 **Nominations and Elections.** Nominations for election to the Board of Directors shall be made in writing at least thirty (30) days in advance of the day of election. Nominations may also be made from the floor at the annual meeting. Election to the Board of Directors shall be by written ballot which may or may not be secret as determined by the Board. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration and these Bylaws. The persons receiving the largest number of votes shall be elected, except that a run-off shall be held to break a tie vote. Cumulative voting is not permitted.

4.4 **Resignation; Vacancies on the Board.** Any Director may resign at any time by giving written notice to the Association, and unless otherwise specified therein, the resignation shall become effective upon receipt. If the office of any Director becomes vacant for any reason, a successor shall be elected at a special meeting of the Board of Directors of the Association. The successor so elected shall fill the remaining unexpired term of the Director being replaced. If for any reason there shall arise circumstances in which no Directors are serving and the entire Board is vacant, the members shall elect successors at a special meeting.

4.5 **Removal of Directors.** Any Director may be removed, with or without cause, by a majority vote of the voting interests, either by a written petition or at a meeting called for that purpose. If a special meeting is called by ten percent (10%) of the voting interests for the purpose of recall, the notice of the meeting must be accompanied by a dated copy of the signature list, stating the purpose of the signatures. The meeting must be held not less than fourteen (14) days nor more than sixty (60) days from the date that notice of the meeting is given. If removal is effected by petition, the vacancy or

vacancies shall be filled as provided for in Section 4.4 above. If removal is effected at a meeting, any vacancies created thereby shall be filled by the members at the same meeting. Any director who is removed from office is not eligible to stand again for election to the Board until the next annual election, and must turn over to the Association within seventy-two (72) hours any and all records and other property of the corporation in his possession. If a Director who is removed does not relinquish his office or turn over records as required, the circuit court in the county where the Association has its principal office may summarily order the Director to relinquish his office and turn over corporate records upon application of any member. In any such action, the prevailing party shall be entitled to recover its attorney fees and costs.

4.6 Organizational Meeting. The organizational meeting of a new Board of Directors shall be held within ten (10) days after the election of new Directors, at such place and time as may be fixed and announced by the Directors at the annual meeting at which they were elected.

4.7 Other Meetings. Meetings of the Board may be held at such time and place in **** County, Florida, as shall be determined from time to time by the President or by a majority of the Directors. Notice of meetings shall be given to each Director, personally or by mail, telephone, or electronic transmission at least forty-eight (48) hours before the meeting.

4.8 Notice to Owners. Meetings of the Board of Directors shall be open to members except for meetings between the Board and its attorney with respect to proposed or pending litigation where the discussion would otherwise be governed by the attorney-client privilege, and notices of all Board meeting, together, shall be posted conspicuously in the community at least forty-eight (48) continuous hours in advance of each Board meeting, except in an emergency. Notice of any Board meeting at which rules affecting the use of a parcel or special assessments are to be considered shall specifically contain a statement that rules or special assessments will be considered and the nature of the rule or assessments and shall be mailed, delivered or electronically transmitted and posted at least fourteen (14) days in advance. Any meeting of the Board at which the Board adopts rules affecting the use of a parcel or is acting in the capacity of the ARC shall also be open to Lot Owners who are not members of the Association.

4.9 Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting, and such waiver is deemed equivalent to the giving of notice. If all Directors are present at a meeting, no notice to Directors shall be required.

4.10 Quorum of Directors. A quorum at a Board meeting shall be attained by the presence in person of a majority of all Directors. Directors may participate in any meeting of the Board, or meeting of an executive or other committee, by means of a conference telephone call or similar communicative arrangement whereby all persons present can hear and speak to all other persons. Participation by such means shall be deemed equivalent to presence in person at a meeting.

4.11 Vote Required. The acts approved by a majority of those Directors present and voting at a meeting at which a quorum has been attained shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is required by the governing documents or by applicable statutes. A Director who is present at a meeting of the Board is deemed to have voted in favor of every action taken, unless he voted against such action or abstained from voting because of an asserted conflict of interest. The vote or abstention of each Director present on each issue voted upon shall be recorded in the minutes of each meeting. Directors may not vote by proxy or secret ballot at Board meetings, except that secret ballots may be used in the election or removal of officers.

4.12 Adjourned Meetings. A majority of the Directors present at any meeting of the Board of Directors, regardless of whether a quorum exists, may adjourn the meeting to be reconvened at a specified later time. When the meeting is reconvened, provided a quorum is present, any business that might have been transacted at the meeting originally called may be transacted.

4.13 The Presiding Officer. The President of the Association, or in his absence, the Vice-President, is the presiding officer at all meetings of the Board. If neither officer is present, the presiding officer shall be selected by majority vote of the Directors present.

4.14 Directors' Fees and Reimbursement of Expenses. Neither Directors nor officers shall receive compensation for their services as such. Directors and officers may be reimbursed for all actual and proper out-of-pocket expenses related to the proper discharge of their respective duties.

4.15 Committees. The Board of Directors may appoint from time to time such standing or temporary committees, including a search committee, as the Board may deem necessary and convenient for the efficient and effective operation of the Association. Any such committee shall have the powers and duties assigned to it in the resolution creating the committee. Only committees assigned with the power to make final decisions regarding the expenditure of association funds or committees vested with the power to approve or disapprove architectural decisions with respect to specific parcel of residential property owned by a member of the community are required to hold meetings that are open to members and notice and hold their meetings with the same formalities as required for Board meetings. Committees vested with the power to approve or disapprove architectural decisions with respect to a specified parcel of residential property owned by a member of the community may not vote by proxy or secret ballot.

4.16 Emergency Powers. In the event of any "emergency" as defined in Section 4.16 (G) below, the Board of Directors may exercise the emergency powers described in this Section, and any other emergency powers authorized by Sections 617.0207, and 616.0303, Florida Statutes, as amended from time to time.

(A) The Board may name as assistant officers, persons who are not Directors, which assistant officers shall have the same authority as the executive officers to whom they are assistant during the period of the emergency, to accommodate the incapacity of any officer of the Association.

(B) The Board may relocate the principal office or designate alternative principal offices or authorize the officers to do so.

(C) During any emergency the Board may hold meetings with notice given only to those Directors with whom it is practicable to communicate, and the notice may be given in any practicable manner, including publication or radio. The Director or Directors in attendance at such a meeting shall constitute a quorum.

(D) Corporate action taken in good faith during what is reasonably believed to be an emergency under this Section to further the ordinary affairs of the Association shall bind the Association, and shall have the rebuttal presumption of being reasonable and necessary.

(E) Any officer, director, or employee of the Association acting with a reasonable belief that his actions are lawful in accordance with these emergency Bylaws shall incur no liability for doing so, except in the case of willful misconduct.

(F) These emergency Bylaws shall supersede any inconsistent or contrary provisions of the Bylaws during the period of the emergency.

(G) An "emergency" exists for purposes of this Section during the time when a quorum of the Board cannot readily be assembled because of the occurrence or imminent occurrence of a catastrophic event, such as a hurricane, act of war, civil unrest or terrorism, or other similar event. An "emergency" also exists during the period of time that civil authorities have declared that a state of emergency exists in, or have ordered the evacuation of, the area in which ***** is located, or have declared that area a "disaster area". A determination by any two (2) Directors, or by the President, that an emergency exists shall have presumptive validity.

5. OFFICERS.

5.1 Officers and Elections. The executive officers of the Association shall be a President and a Vice-President, who must be Directors, a Treasurer and a Secretary, all of whom shall be elected annually by a majority vote of the Board of Directors. Any officer may be removed with or without cause at any meeting by vote of a majority of the Directors. Any officer so removed shall return all books, records and property of the association to the Association within seventy-two (72) hours of their removal. Any person except the President may hold two (2) or more offices. The board may, from time to time, appoint such other officers, and designate their powers and duties, as the Board shall find to be required to manage the affairs of the association. If the Board so determines, there may be more than one (1) Vice-President.

5.2 President. The President shall be the chief executive officer of the Association; shall preside at all meetings of the members and Directors; shall be *ex-officio* a member of all standing committees; shall have general and active management of the business of the Association; and shall see that all orders and resolutions of the Board are carried into effect. The President shall execute bonds, mortgages and other contracts and documents requiring the seal of the Association, except where such are permitted by law to be otherwise signed and executed, and the power to execute is delegated by the Board of Directors to some other officer or agent of the Association.

5.3 Vice-President. The Vice-Presidents, in the order of their seniority shall, in the absence or disability of the President, perform the duties and exercise the powers of the President; and they shall perform such other duties as the Board of Directors shall assign.

5.4 Secretary. The Secretary shall attend meetings of the Board of Directors and all meetings of the members and shall cause all votes and the minutes of all proceedings to be recorded in a book or books to be kept for the purpose, and shall perform like duties for standing committees when required. The Secretary shall give, or cause to be given, proper notice of all meetings of the members, and of the Board of Directors, and shall perform such other duties as may be prescribed by the Board or the President. The Secretary shall keep in safe custody the seal of the Association and, when authorized by the Board, affix the same to any instrument requiring it. The Secretary shall be responsible for the proper recording of all duly adopted amendments to the governing documents. Any of the foregoing duties may be performed by an Assistant Secretary, if one has been designated.

5.5 Treasurer. The Treasurer shall have the custody of Association funds and securities, and be responsible for the keeping of full and accurate accounts of receipts and disbursements in books belonging to the Association. The Treasurer is responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as are selected by the Board of Directors. The Treasurer shall oversee the disbursement of Association funds, keeping

proper vouchers for such disbursements, and shall render to the President and Directors, at meetings of the Board, or whenever they may require it, a full accounting of all transactions and of the financial condition of the Association. The Treasurer shall prepare an annual budget of estimated revenues and expenses to present to the Board of Directors for approval. Any of the foregoing duties may be performed by an Assistant Treasurer, if one is elected.

5.6 Compensation of Officers. No compensation shall be paid to any officer for services as an officer of the Association. This provision does not preclude the Board of Directors from employing officers as employees of the Association.

6. FISCAL MATTERS. The provisions for fiscal management of the Association set forth in the Declaration shall be supplemented by the following provisions.

6.1 Depository. The Association shall maintain its funds in such federally insured accounts at financial institutions in the State of Florida as shall be designated from time to time by the Board. Withdrawal of monies from such accounts shall be only by such persons as are authorized by the Board. The Board may invest Association funds in interest-bearing accounts, money market funds, certificates of deposit, U.S. Government securities and other similar investments vehicles.

6.2 Accounts of the Association. The Association shall maintain its accounting books and records according to generally accepted accounting principles. There shall be an account for each residential unit. Such accounts shall designate the name and mailing address of each residential unit, the amount and due date of each assessment or charge against the residential unit, amounts paid, date of payment and the balance due.

6.3 Budget. The Treasurer shall prepare and the Board of Directors shall adopt a budget of Association estimated revenues and expenses for each coming fiscal year. Once adopted, the Association shall provide to each member a copy of the annual budget or a written notice that a copy of the budget is available upon request at no charge to the member. The proposed budget shall be detailed and shall show the amounts budgeted by accounts and revenue and expense classifications. The estimated surplus or deficit as of the end of the current year shall be shown and all fees or charges for recreational amenities shall be set out separately.

6.4 Reserves. The Board of Directors may establish in the budget one (1) or more restricted reserve amounts for capital expenditures and deferred maintenance. Contingency reserves for unanticipated operating expenses shall be included, if at all, in the operating portion of the budget. These funds may be spent for any purpose approved by the Board. The purpose of reserves is to provide financial stability and to avoid the need for special assessments. The annual amounts proposed to be so reserved shall be shown in the annual budget.

6.5 Assessments; Installments. The regular annual assessment based on an adopted budget shall be paid in quarterly installments, in advance, due on the first day of January of each year. Written notice of the annual assessment shall be sent to the owners of each Lot prior to the first quarterly installment being due, but failure to send (or receive) such notice does not excuse the obligation to pay. If an annual budget for a new fiscal year has not been adopted, or if notice of any increase has not been made at the time the payment for the first quarterly installment is due, it shall be presumed that the amount of such installment is the same as the last quarterly installment, and payments shall be continued at such rate until the budget is adopted and new annual assessments are calculated, at which time an appropriate adjustment shall be added to or subtracted from each unit's next due quarterly installment. Any assessments which are not paid when due shall be delinquent.

6.6 Special Assessments. Special assessments may be imposed by the Board of Directors when necessary to meet unusual, unexpected, unbudgeted or non-recurring expenses, or for such other purposes as are authorized by the Declaration and these Bylaws. Special assessments are due on the day specified in the resolution of the Board approving such assessment. The notice of any Board meeting at which a special assessment will be considered shall be given as provided in Section 4.8 above; and the notice to the owners that the assessment has been levied must contain a statement of the purpose(s) of the assessment. The funds collected must be spent for the stated purpose(s) or returned to the members as provided by law.

6.7 Fidelity Bonds. The President, Treasurer, and all other persons who are authorized to sign checks, shall be bonded in such amounts as may be acquired by law or otherwise determined by the Board of Directors. The premiums on such bonds are a common expense.

6.8 Financial Reports. Not later than ninety (90) days after the close of each fiscal year, the Board shall cause to be prepared a financial report as prescribed in 720.303, Florida Statutes. The Association shall provide each member with a copy of the financial report or a written notice that a copy of the financial report is available upon request at no charge to the member.

6.9 Audits. A formal, certified audit of the accounts of the Association, if required by law, by vote of a majority of the voting interests, or by a majority of the Directors, shall be made by a certified public accountant, and a copy of the audit report shall be available to all members.

6.10 Application of Payments and Co-Mingling of Funds. All monies collected by the Association may be co-mingled in a single fund or divided into two (2) or more funds, as determined by the Board of Directors. Regardless of any restrictive endorsement all payments on account by a Lot owner shall first be applied to late fees, interest, costs, attorney fees, other charges, fines and then to regular or special assessments.

6.11 Fiscal Year. The fiscal year for the Association shall begin on the first day of January of each calendar year and end on December 31 that same calendar year.

7. RULES AND REGULATIONS; USE RESTRICTIONS. The Board of Directors may, from time to time, adopt and amend administrative rules and regulations governing the use, maintenance, management and control of the common areas, the Lots and the operation of the Association. Copies of such rules and regulations shall be furnished to each residential Lot owner.

8. AMENDMENT OF BYLAWS. Amendments to these Bylaws shall be proposed and adopted in the following manner.

8.1 Proposal. Amendments to these Bylaws shall be proposed by a majority of the Board or upon petition of one-fourth (1/4th) of the Members Voting Interests, and shall be submitted to a vote of the members not later than the next annual meeting.

8.2 Vote Required. Except as otherwise required by Florida law or as provided elsewhere in these Bylaws, these Bylaws may be amended if the proposed amendment is approved by the affirmative vote of at least a majority (50%+1) of the Members' Voting Interests present and voting, in person or by proxy, at a duly called meeting of the members of the Association.

8.3 Effective Date. An amendment shall become effective upon the recording of a copy in the Public Records of Lee County, Florida with the same formalities as are required in the Declaration for recording amendments to the Declaration.

9. MISCELLANEOUS.

9.1 Gender; Number. Whenever the masculine or singular form of a pronoun is used in these Bylaws, it shall be construed to mean the masculine, feminine or neuter; singular or plural, as the context requires.

9.2 Severability. If any portion of these Bylaws is void or becomes unenforceable, the remaining provisions shall remain in full force and effect.

9.3 Conflict. If any irreconcilable conflict should exist, or hereafter arise, with respect to the interpretation of these Bylaws and the Declaration of Covenants, Conditions, Restrictions and Easements, or the Association's Articles of Incorporation, the provisions of the Declaration or Articles of Incorporation shall prevail over the provisions of these Bylaws.

NOTE: SUBSTANTIAL AMENDMENT OF ENTIRE ARTICLES OF INCORPORATION.
FOR PRESENT TEXT SEE EXISTING ARTICLES OF INCORPORATION.

AMENDED AND RESTATED
ARTICLES OF INCORPORATION

OF

PALMETTO POINT ASSOCIATION, INC.

Pursuant to Section 617.1007, Florida Statutes, these Articles of Incorporation of Palmetto Point Association, Inc., a Florida corporation not for profit, which was originally incorporated under the same name on October 8, 1979, are hereby amended and restated in their entirety. All amendments included herein have been adopted pursuant to Section 671.1002, Florida Statutes, and there is no discrepancy between the corporation's Articles of Incorporation as heretofore amended and the provisions of these Amended and Restated Articles other than the inclusion of amendments, adopted pursuant to Section 617.1002, Florida Statutes, and the omission of matters of historical interest. The Amended and Restated Articles of Incorporation of Palmetto Point Association, Inc., shall henceforth be as follows:

ARTICLE I

NAME: The name of the corporation is Palmetto Point Association, Inc., sometimes hereinafter referred to as the "Association".

ARTICLE II

PRINCIPAL OFFICE: The principal office of the corporation shall be at 6685 Daniel Court, Fort Myers, FL 33908.

ARTICLE III

PURPOSE AND POWERS: This Association will not permit pecuniary gain or profit nor distribution of its income to its members, officers or Directors. It is a nonprofit corporation formed for the purpose of establishing a corporate residential community homeowners' association which, subject to a Declaration of Covenants, Conditions, and Restrictions of Palmetto Point and Palmetto Point 2 originally recorded in the Public Records of Lee County, Florida, at O.R. Book 1017 at Page 760 et seq., and as amended, has the powers described herein. The Association shall have all of the common law and statutory powers of a Florida

corporation not for profit consistent with these Articles, the Bylaws of the corporation, and with said Declaration and shall have all of the powers and authority reasonably necessary or appropriate for the operation and regulation of a residential community, subject to said recorded Declaration, as it may from time to time be amended, including but not limited to the power:

(A) to fix, levy, collect and enforce payment by any lawful means all charges, assessments, or liens pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the corporation, including all license fees, taxes or governmental charges levied or imposed against the property or the corporation;

(B) to make, amend and enforce reasonable rules and regulations governing the use of the Common Areas and the operation of the Association;

(C) to sue and be sued, and to enforce the provisions of the Declaration, the Articles, the Bylaws and the reasonable rules of the Association;

(D) to contract for the management and maintenance of the Common Areas and to delegate any powers and duties of the Association in connection therewith except such as are specifically required by the Declaration to be exercised by the Board of Directors or the membership of the Association;

(E) to employ accountants, attorneys, architects, and other professional personnel to perform the services required for proper operation of the properties;

(F) to dedicate, sell or transfer all or any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication, sale or transfer shall be effective unless first approved by two-thirds (2/3rds) of the members voting interests, present and voting, in person or by proxy at a duly called meeting of the membership.

(G) to borrow money, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred if first approved by two-thirds (2/3rds) of the members voting interests, present and voting, in person or by proxy at a duly called meeting of the membership;

(H) to maintain, repair, replace and provide insurance for the Common Areas;

(I) to acquire, (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, or otherwise dispose of real or personal property in connection with the affairs of the corporation; and

(J) to exercise any and all powers, rights and privileges which a corporation organized under Chapters 617 and 720 of Florida Statutes may now or hereafter have or exercise; subject always to the Declaration as amended from time to time.

All funds and the title to all property acquired by the Association shall be held for the benefit of the members in accordance with the provisions of the Declaration, these Articles of Incorporation and the Bylaws.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS: Membership and Voting Rights shall be as set forth in the Bylaws of the Association.

ARTICLE V

TERM; DISSOLUTION: The term of the Association shall be perpetual. The Association may be dissolved with the consent given in writing and signed by not less than two-thirds (2/3rds) of total member voting interests of the Association. Upon dissolution of the Association, other than incident to a merger or consolidation, its assets, both real and personal, shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was formed. In the event there is a refusal to accept such dedication, then such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization which is devoted to purposes similar to those of this Association.

ARTICLE VI

BYLAWS: The Bylaws of the Association may be altered, amended or rescinded in the manner provided therein.

ARTICLE VII

AMENDMENTS: Amendments to these Articles shall be proposed and adopted in the following manner:

(A) Proposal. Amendments to these Articles shall be proposed by a majority of the Board or upon petition of one-fourth (1/4th) of the member voting interests, and shall be submitted to a vote of the members not later than the next annual meeting.

(B) Vote Required: Except as otherwise required by Florida law or as provided elsewhere in these Articles, these Articles of Incorporation may be amended if the proposed amendment is approved by the affirmative vote of at least a majority (50%+1) of the member voting interests present and voting, in person or by proxy, at a duly called

meeting of the members of the Association.

(C) Effective Date: An amendment shall become effective upon filing with the Secretary of State and recording a certified copy in the Public Records of Lee County, Florida with the same formalities as are required in the Declaration for recording amendments to the Declaration.

ARTICLE VIII

DIRECTORS AND OFFICERS:

(A) The affairs of the Association will be administered by a Board of Directors consisting of the number of Directors determined by the Bylaws, but not less than three (3) Directors, and in the absence of such determination shall consist of three (3) Directors. Directors must be members of the Association.

(B) Directors of the Association shall be elected by the members in the manner determined by the Bylaws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the Bylaws.

(C) The business of the Association shall be conducted by the officers designated in the Bylaws. The officers shall be elected by the Board of Directors at its first meeting following the annual meeting of the members of the Association and shall serve at the pleasure of the Board.

ARTICLE IX

INDEMNIFICATION:

To the fullest extent permitted by Florida law, the Association shall indemnify and hold harmless every Director and every officer of the Association against all expenses and liabilities including attorney fees, actually and reasonably incurred by or imposed on him or her in connection with any legal proceeding (or settlement or appeal of such proceeding) to which he or she may be a party because of his or her being or having been a director or officer of the Association. The foregoing right of indemnification shall not apply to:

(A) Willful misconduct or a conscious disregard for the best interests of the Association, in a proceeding by or in the right of the Association to procure a judgment in its favor.

(B) A violation of criminal law, unless the Director or officer had no reasonable cause to believe his or her action was unlawful.

(C) A transaction from which the Director or officer derived an improper personal benefit.

(D) Wrongful conduct by Directors or officers, in a proceeding brought by or on behalf of the Association.

In the event of a settlement, the right to indemnification shall not apply unless a majority of the disinterested Directors vote that the settlement is in the best interest of the Association. The foregoing rights of indemnification shall be in addition to, and not exclusive of all other rights to which a Director or officer may be entitled.

EFFECTIVE JUNE 28, 2016
AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS
FOR
PALMETTO POINT AND PALMETTO POINT UNIT 2

KNOW ALL MEN BY THESE PRESENTS that on January 24, 1974, the original Deed of Restrictions for Palmetto Point and Palmetto Point Unit 2 was recorded in Official Record Book 1017, at Page 760 *et seq.*, of the Public Records of Lee County, Florida. A Notice of Preservation of Use Restrictions Under the Marketable Record Title Act preserving the original Deed of Restrictions was recorded on December 11, 2003 at Official Record Book 4145, Page 479, Public Records of Lee County, Florida. The Deed of Restrictions, as it has previously been amended, is hereby further amended and is restated in its entirety and renamed the Declaration of Covenants, Conditions and Restrictions for Palmetto Point and Palmetto Point Unit 2, (hereinafter "Declaration").

The land subject to this Declaration (hereinafter "The Properties" or "Palmetto Point") is legally described in Exhibit "A" attached hereto. No additional land is being added by this instrument and no land is being removed by this instrument. The covenants, conditions, and restrictions contained in this Declaration shall run with the land and be binding upon and inure to the benefit of all present and future owners. The acquisition of title to a Lot or any other ownership interest in the Property, or the lease, occupancy, or use of any portion of a Lot in the Property, constitutes an acceptance and ratification of all provisions of this Declaration as amended from time to time, and an agreement to be bound by its terms. The Palmetto Point Owners Association, Inc., (hereinafter "Association") was incorporated on October 8, 1979 and has been assigned the right to enforce the Declaration pursuant to that certain Assignment of Rights to Enforce Restrictive Covenants and Other Reserved Rights recorded in Official Record Book 3842, Page 2576, Public Records of Lee County, Florida.

The definitions of the terms used in this Declaration and the other governing documents are attached hereto as Exhibit "B"

1. All of the Lots in PALMETTO POINT are restricted to use for a single family residence. All Lots 1 to 140 shall be known and described as

Residential Lots and no structure shall be erected, altered, placed, or permitted to remain on any parcel other than one detached single family dwelling.

2. No trade, business, profession or other type of commercial activity shall be carried on upon any of the land covered by these restrictions except as follows: "No impact" home based business in and from a home are allowed. Such uses are expressly declared customarily incident to residential use. Examples of businesses which are prohibited and are considered "impact" businesses are businesses or commercial activity or ventures that create customer traffic to and from the home, create noise audible from outside the home, or generate fumes or odors noticeable outside the home, including but not limited to, a home day care, beauty salon/barber, and animal breeding. Signs and other advertising material visible from the street are prohibited. This provision is intended to be and shall be retroactive to and effective from the date of recording of the original Deed of Restrictions, however, any persons in violation of this amended provision on the date it is recorded in the Public Record shall be given a grace period of up to ninety (90) days to comply before enforcement action shall be commenced. In order to avoid undue hardship the Board of Directors may, in its sole discretion, extend the grace period once for up to an additional ninety (90) days.

3. All lawns and landscaping shall be as approved by the Association. The use of gravel, river rock, egg rock, etc. in landscaping is limited to borders and planter areas and may not be a major portion of the landscaping. No stone, gravel or blacktop or paved parking strips are allowed except as shown on the plot plan submitted for approval under paragraph 4.

4. In order to insure that the homes and other buildings in PALMETTO POINT will preserve a uniformly high standard of construction, no building or other structure shall be erected, placed, or allowed to remain on any building Lot in the subdivision until a set of plans and specifications, including a plot plan showing the location of the buildings or other structures, terraces, patios, walls, driveways, fences, docks, boat lifts, boat elevators, pilings, walks, pools, pool enclosures, property lines and setbacks, is submitted to the Association and approved by said Association as meeting the requirements of these restrictions. Refusal of approval of

plans and specifications and location by the Association shall be based on grounds the Association shall, in its sole and exclusive discretion, deem sufficient according to adopted standards. No alterations in the exterior appearance of buildings or structures shall be made without written approval of the Association. The provisions herein contained shall apply equally to repair, alteration or modification made to any building, wall or other structure on said Lots. All construction is to be completed in a timely manner. The issuance of a building permit or license, which may be in contravention of these restrictions, shall not prevent the Association from enforcing these provisions. The Board of Directors shall establish a separate Architectural Review Committee ("ARC") for the purpose of reviewing and approving plans and specifications. The committee shall be made up of a least five (5) and no more than seven (7) persons. All members of the ARC serve at the pleasure of the Board. The ARC is authorized to and shall establish specifications, procedures and guidelines regarding exterior features of structures including but not limited to location, size, type, appearance, color, style, material and other components for use in considering and approving plans. The ARC shall approve or disapprove all plans within thirty (30) days of receipt of a complete application. If the ARC fails to act within thirty (30) days, the application shall be deemed approved. Any decision of the ARC may be appealed to the Board of Directors within twenty (20) calendar days of the issuance of the written ARC decision. In order to be valid an appeal must be in writing (e-mail is not allowed) and physically received by an officer of the Association within the twenty (20) day period. Upon receipt of an appeal, the Board shall convene a Board meeting, within twenty (20) days. At the Board meeting the appellant shall have a reasonable opportunity to present his or her case to the Board and the ARC shall be afforded a reasonable opportunity to present a rebuttal. After the presentations of each party the Board shall vote to uphold, overrule, or modify the ARC decision. The decision of the Board shall be final. Neither the ARC nor the Board nor any member thereof, shall be liable to the Association or any Owner or any other person or entity for any loss, damage, or injury arising out of or in any way connected with the performance or nonperformance of the ARC's duties hereunder, unless due to the willful misconduct or bad faith of a member, and only that member shall be liable therefore. The ARC shall review and approve or disapprove all plans submitted to it for any

proposed improvements, alteration, or addition solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to the immediate vicinity and to the Subdivision. The ARC shall take into consideration the aesthetic aspects of the architectural designs, placement or buildings, landscaping, color schemes, exterior finishes and materials and similar features, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes.

5. All buildings erected, constructed or remodeled in PALMETTO POINT shall conform in area, setback and height limitations as follows: Note: all non-conforming structures in existence on the day this Declaration is recorded in the Public Records of Lee County, Florida shall be allowed to remain ("grandfathered") until such time as the structure is more than 50% destroyed (as determined by the Board of Directors in its sole discretion), at which time the structure shall only be re-built in conformance with all of the provisions of this Declaration including but not limited to the requirements in this paragraph 5. The foregoing notwithstanding, any home on the South side of Conover Court that may become more than 50% destroyed shall be allowed to rebuild on its original footprint without regard to the following setbacks.

Minimum square footage of living area – 2000'

Setback requirements for the house and garage proper:

Front – 25' Sides – 12'6 Rear and Canal – 25'

These set-backs are to be measured from the foundation block or foundation wall of the house and garage proper. A maximum of a 3' roof overhang will be permitted to extend into the front and side Lot line set-back areas. Any cantilevered construction must be within the set-back lines. All elevated construction, with the exception of the roof overhang (as stipulated heretofore), must be within the set-back lines.

Set-back requirements for an open pool, enclosed pool cage, and pool deck are:

Canal or back – 20'

Sides – 12'6"

All stairs, retaining walls and landscape walls must be within the setbacks and approved by the ARC or Board.

These set-backs are to be measured from the closest point of the accessory structure or slab to the Lot line or inside edge of the seawall cap.

Building Height. No structure shall exceed two stories in height with a maximum of thirty five feet (35'). The height of a structure shall mean the vertical distance to the highest point of the roof surface of a flat roof or Bermuda roof, to the deck line of a mansard roof, and to the mean height level between eaves and ridge of gable, hip and gambrel roofs. Where minimum floor elevations in flood prone areas have been established by law, the height shall be measured from such required minimum floor elevations.

The first floor shall be no higher than 12' NGVD above sea level.

The space above the second floor ceiling of a home cannot be used for any purpose other than inactive storage or mechanical equipment (mechanical equipment is that equipment which is actually a part of the home and required for the operation of the home) and can be accessed only by a retractable folding stairway or an access panel. A plywood or plank floor may be installed in the attic to accommodate storage or mechanical equipment, but the total area of this attic flooring cannot exceed an area equal to 15% of the inside living space (air conditioned).

The driveways within the property cannot exceed a slope of 1/4" per foot, and the elevation of the garage slab cannot be higher than 1" above the driveway at the point where the driveway meets the garage slab.

In general, homes on both sides of a common property line shall slope their property to the common property line, and then so graded that the runoff will go to the canal or the street.

Where two or more Lots are acquired and used as a single building site, the side Lot lines shall refer only to the lines bordering on the adjoining owner.

Prior to the commencement of any construction, the property owner shall apply for and secure a permit from the Palmetto Point Association, Inc. The property owner shall secure applications for a building permit from the Association, and shall submit such form in duplicate along with two complete sets of WORKING DRAWINGS. If the drawings comply with the provisions of the Deed of Restrictions, the Board of Directors of the Association shall return one set of the drawings marked "Approved by the Palmetto Point Association" along with one copy of the Application, duly signed and giving authorization to proceed with construction in accordance with the approved plans. The owner understands that if he deviates from the approved plans without first securing written approval from the Association, the permit is automatically rescinded and all work on the site must cease until the revision is either approved by the Association, or the work reverts back to that as shown on the approved drawings.

The Association Permit must be prominently displayed in the same fashion as the Municipal Permit is displayed.

6. The square footage of proposed buildings and structures or additions and enlargements thereto shall be measured from the outside of the exterior walls of the living area of the building or structure, at each floor level. Living area does not include garages, roofed screen porches and the like.

7. No garage shall be erected which is separated from the main building. Each home shall include, as a minimum, one attached two (2) car enclosed garage. Carports are prohibited.

8. Boat landings, docks, piers, boatlifts, boat elevators and mooring posts shall be constructed only in accordance with plans and specifications that have been approved in writing by the Association. The owners and occupants of land in the subdivision shall have an easement in common for the purpose of navigation on all waterways. Docks, piers or mooring posts shall not extend beyond eleven (11') feet from sea wall and shall be no closer than eight feet from the side Lot lines (if the boat, when docked, extends past the dock/lift structure, the boat and boat appurtenances shall not be closer than 1'0" to the Lot line). However, dolphin pilings (including

pilings for boat lifts) and wrap-around docks may not extend beyond twenty five (25') feet from the seawall (except in no event shall this distance exceed twenty five (25) percent of the width of the canal at the property in question from waterside to waterside of the seawalls) and can be no closer than eight (8') feet to an extension of the side Lot line. Boat houses, boat lift canopies, Tiki Huts, boat ramps, and boat moorings are prohibited, nor shall any boat canal or slip be dug or excavated into any of the waterfront Lots. No vessel or boat shall be anchored off shore in any of the waterways adjacent to the subdivision so that the same shall in any way interfere with navigation. No boats, boat trailers or trailers of any description shall be parked or stored on any Lot in the subdivision for longer than seventy-two (72) hours. Extensive repairs and maintenance of boats shall not take place in the waterways or on Lots.

9. No Lot or parcel shall be increased in size by filling in the water on which it abuts. No seawall shall be erected, constructed, or altered without the express written permission of the Association.

10. No boundary wall shall be constructed with a height of more than four feet above the ground level of adjoining property. Waterfront walls of solid construction or solid waterfront hedges shall not be permitted in excess of three feet in height and must be set back at least 20' from the seawall and/or 25' from the street. Such walls or hedges where partially open will be permitted to a height of not more than four feet but must still comply with the 20' and 25' setback requirements. In the front, no wall, hedge, or fence shall extend beyond the set-back line of the property. The heights or elevations of any wall shall be measured from the existing property elevation. Any questions as to such heights may be conclusively determined by the Association.

11. No animals, birds or reptiles of any kind shall be raised, bred or kept on any Lot except that dogs, cats, and other household pets may be kept, provided they are not kept, bred or maintained for any commercial purpose. No animal, bird, or reptile shall be kept in such a manner as to constitute a nuisance.

12. All garbage or trash containers, oil tanks and bottle gas tanks must be underground, shrubbed or placed in walled-in areas so that they shall not be visible from the canals, streets or adjoining properties. Air conditioners

and equipment, pool pumps, generators and similar equipment shall be placed behind walls or landscaping so as to not be visible from the road. Walls approved to conceal a/c or pool equipment or garbage cans shall not exceed eight (8') feet in height and shall not be roofed.

13. Satellite dishes greater than one meter in diameter are prohibited. Aerials and antennas designed to receive over-the-air television broadcast, or an antenna designed to receive multi-channel, multi point distribution service shall not exceed the height allowed by the Over the Air Reception Device rule. Ham radio towers are prohibited.

14. No clothesline shall be allowed except if set on removable stanchions, which shall be removed when not in use. No clothesline shall be placed so as to be visible from the street.

15. No vehicle shall be parked on any part of this property except on paved streets and paved driveways. Vehicles currently being used in the active construction of homes in the Subdivision may be parked on vacant Lots but must park at least 50' from the seawall. No trailers, motor homes, busses or commercial vehicles, other than those present on business, may be parked in the subdivision except in an enclosed garage (however, motor homes and busses may be parked in a driveway for a period not to exceed seventy-two (72) hours for loading and unloading purposes only). No car restoration or mechanical repairs are permitted on the exterior of any property. No abandoned or inoperative vehicle shall be left on any property. As used herein the term "commercial vehicle" means trucks and other vehicles of whatever type which are used for business purposes including but not limited to, any vehicle which displays a company name or logo in its exterior, is adorned with signs, flags, advertisements or any type of lettering or graphic of a commercial nature or any vehicle with racks, ladders, staging, or other equipment or attachments of a commercial nature, including supplies used for commercial purposes, on or visible in the vehicle. Additionally, and notwithstanding the foregoing, any vehicle, by whatever name designated, which was originally intended or is used for transporting goods, equipment or paying customers shall be considered a commercial vehicle, regardless of any definition found elsewhere to the contrary and regardless of whether or not the vehicle is presently actually used in such a manner.

16. No "For Rent" or "For Sale" signs larger than one (1) 18" x 24" or three (3) square feet (432 square inches) shall be erected or displayed on any Lot or property. On canal front Lots one (1) additional sign may be displayed on the canal side of the Lot. No other signs of a commercial nature except one (1) home builder/general contractor sign (but not sub contractor) shall be erected, placed or displayed from any Lot or home. Notwithstanding the foregoing "security" signs are allowed as provided in Chapter 720, Florida Statutes and garage and estate sale and similar signs are allowed but shall be displayed for one (1) day only.

17. No temporary or accessory building, shed or structure shall be erected. Temporary tents may be erected for special occasions provided the property owner has applied for and has secured prior written approval from the Association. The temporary tent may be erected not earlier than 48 hours prior to the special occasion, and must be removed within 48 hours after the special occasion. No storage PODS or similar storage devices shall be placed on Lots or roads for longer than seventy-two (72) hours.

18. No weeds, underbrush or other unsightly growths shall be permitted to grow or remain upon the premises hereby conveyed, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon; and in the event that the property owner shall fail or refuse to keep the Lot free of weeds, underbrush or refuse piles or other unsightly growths or objects, then the Association may enter upon the Lot and remove the same at the expense of the owner, and such entry shall not be deemed trespass. The Association shall have a lien on the Lot for the expense incurred and may enforce the same as provided for in the Mechanic's Lien Laws of the State of Florida.

19. Dumping of horticultural materials or refuse into the canals is prohibited.

20. The failure of the Association to enforce any building restrictions, covenant, condition, obligation, right or power herein contained, however long continued, shall in no event be deemed a waiver of the right to enforce thereafter these rights as to the same violation or as to a breach or violation occurring prior or subsequent thereto.

21. The Association reserves the right to itself, its agents, employees or any contractor or subcontractor dealing with the Association to enter upon the land covered by these restrictions for the purpose of carrying out and completing the development of the property covered by these restrictions, including but not limited to completing any dredging, filling, grading or installation of drainage, water lines or sewer lines. These reserved rights in the Association shall also apply to any additional improvements which the Association has the right but not the duty to install, including but not limited to any streets, sidewalks, curbs, gutters, beautification or any other improvements. In this respect, the Association agrees to restore said property to its condition at the time of said entry and shall have no further obligation to the property owner in connection therewith.

22. The violation or breach of any condition, restriction or covenant herein contained by any person or concern shall give the Association or property owners, in addition to all other remedies, the right to proceed at law or in equity to compel a compliance with the terms of said condition, restrictions or covenants and to prevent the violation or breach of any of them. The prevailing party in any action shall be entitled to an award of its reasonable attorney's fees and costs incurred in such action from the non-prevailing party.

23. The Board may authorize variances from compliance with any of the architectural provisions of this Declaration when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations require such variance from compliance, which said variance must be signed by at least a majority of the entire Board of Directors. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matters for which the variances were granted. The granting of such a variance shall not, however, operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provisions hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting his use of the Lot, including, but not limited to, zoning ordinances and setback lines or requirements imposed by any governmental or municipal authority. The granting of a variance may be subject to special conditions imposed by the

Board and shall not create a precedence requiring the Board to grant variances in the future for the same Lot Owner or other Lot Owners.

24. No residential Lot shall be subdivided into two or more Lots. All construction shall be of new material, provided however, that this paragraph shall not be used for the purpose of reducing or downgrading the standard or quality of the restrictions in effect in the subdivision in which the property is located and provided further that this paragraph shall not be used to change the residential character of the property in this subdivision.

25. Invalidation of any of these covenants by a court of competent jurisdiction shall in no way affect any of the other covenants which shall remain in full force and effect.

26. The foregoing agreements, covenants, restrictions and conditions shall constitute an easement and servitude in and upon the lands herein described running with the land and shall be deemed for the benefit of all the lands in the subdivision, and it shall be and remain in full force until 2037, after which they shall be automatically extended for successive periods of ten (10) years each. The foregoing notwithstanding, this Declaration may be amended by a vote of the Owners of a least a majority (50% +1) of the total number of Lots in the Subdivision voting in favor of the amendment. All amendments shall become effective when recorded in the Public Record of Lee County, Florida which said amendment shall have attached hereto a Certificate of Amendment signed by an officer of the Association with the formalities of a deed.

27. By accepting a deed to land in this subdivision, the property owner agrees that the foregoing restrictions, limitations, covenants, and conditions are made as part of the consideration for the conveyance and as part of the purchase price of the above described lands and that there are covenants running with the land and shall be binding upon the property owner and all subsequent owners.

28. DISCLAIMER OF LIABILITY OF ASSOCIATION

NOTWITHSTANDING ANYTHING CONTAINED HEREIN OR IN THE ARTICLES OF INCORPORATION, BYLAWS, OR ANY RULES AND REGULATIONS OF THE ASSOCIATION OR ANY OTHER DOCUMENT GOVERNING, BINDING ON OR ADMINISTERED BY THE ASSOCIATION (COLLECTIVELY, THE “ASSOCIATION DOCUMENTS”), THE ASSOCIATION SHALL NOT BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE PROPERTIES INCLUDING, WITHOUT LIMITATION, RESIDENTS AND THEIR FAMILIES, GUESTS, INVITEES, AGENTS, SERVANTS, CONTRACTORS OR SUBCONTRACTORS OR FOR ANY PROPERTY OR ANY SUCH PERSONS, WITHOUT LIMITING THE FOREGOING:

28.1 IT IS THE EXPRESS INTENT OF THE ASSOCIATION DOCUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH ARE ENFORCEABLE BY THE ASSOCIATION AND WHICH GOVERN OR REGULATE THE USES OF THE PROPERTIES HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF THE PROPERTIES AND THE VALUE THEREOF.

28.2 THE ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN CREATED TO ACT AS AN ENTITY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE UNITED STATES, STATE OF FLORIDA, LEE COUNTY AND/OR ANY OTHER JURISDICTION OR THE PREVENTION OF TORTUOUS ACTIVITIES.

28.3 ANY PROVISIONS OF THE ASSOCIATION DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO THE HEALTH, SAFETY AND/OR WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF THE ASSOCIATION TO PROTECT OR FURTHER THE HEALTH, SAFETY OR

WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.

28.4 EACH OWNER AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON ANY PORTION OF THE PROPERTIES SHALL BE BOUND BY THESE DISCLAIMERS AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS, AND CAUSES OF ACTION AGAINST THE ASSOCIATION ARISING FROM OR CONNECT WITH ANY MATTER FOR WHICH THE LIABILITY OF THE ASSOCIATION HAS BEEN DISCLAIMED HEREIN.

28.5 AS USED HEREIN "ASSOCIATION" SHALL INCLUDE WITH ITS MEANING ALL OF THE ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES), SUBCONTRACTORS, SUCCESSORS AND ASSIGNS.

EXHIBIT "A"

**ALL LANDS LOCATED IN PALMETTO POINT AS FOUND IN PLAT
BOOK 29, PAGES 21-23 AND PALMETTO POINT UNIT 2 AS FOUND
IN PLAT BOOK 30, PAGE 98, PUBLIC RECORDS LEE COUNTY
FLORIDA**

EXHIBIT "B"

DEFINITIONS. The following words and terms used in this Declaration or any of the governing documents (unless the context shall clearly indicate otherwise) shall have the following meanings:

- A. **"Assessment"** means the dues charged to Members.
- B. **"Articles"** and **"Bylaws"** as used herein, means the Articles of Incorporation and the Bylaws of Palmetto Point Association, Inc., as amended from time to time. A copy of the Articles of Incorporation and Bylaws are attached hereto as Exhibits "C" and "D" respectively.
- C. **"Association"** means Palmetto Point Association, Inc., a Florida corporation not for profit.
- D. **"Board"** means the Board of Directors responsible for the administration of Palmetto Point Association, Inc.
- E. **"Boat Lift Canopy"** means a aluminum frame structure build on dock or boat lift that has open sides and ends that a canvas or vinyl top covers your boat.
- F. **"Common Expenses"** means all expenses, charges and costs related to the operation of the Association.
- G. **"Declaration"** means this Declaration of Covenants, Conditions, and Restrictions of Palmetto Point and Palmetto Point Unit 2 as amended from time to time.
- H. **"Governing Documents"** means and includes this Declaration, the Articles and Bylaws, all recorded exhibits thereto, and any Board adopted rules, all as amended from time to time.
- I. **"Guest"** means any person who is not the owner or a lessee of a home or a member of the owner's or lessee's

family, who is physically present in, or occupies a home on a temporary basis at the invitation of the owner or other legally permitted occupant, without the payment of consideration.

- J. **"Home"** or **"Dwelling Unit"** means a residential dwelling intended for residential use that is constructed on a Lot or Lot(s).
- K. **"Lease"** means the grant by a Lot owner of a temporary right of use of the owner's home for valuable consideration.
- L. **"Lot or Lots or Parcel"** means the one hundred forty four (144) Lots of land located within the real property legally described on the Plats of Palmetto Point and Palmetto Point Unit 2. All of said land has been subdivided for residential use with fee simple title to each Lot having been conveyed to an owner for use as a residential home site. No Lot that is subject to this Declaration may be subdivided or joined together without the consent of the Association.
- M. **"Member"** shall mean persons who join and become members of the Association. All Lot Owners are eligible for membership in the Association. The qualifications and requirements for membership in the Association are in the Bylaws.
- N. **"Member's Voting Rights"** shall mean the right of Members to vote in Association matters for which a membership vote is required or allowed.
- O. **"Member's Voting Interests"** means the votes held by the Members pursuant to the Member's Voting Rights for the purpose of casting votes in matters for which a membership vote is required or allowed. There shall only be one (1) Member Voting Interest per Lot which

shall be held by the person designated as the Voting Member. If the Lot Owners cannot agree on the how to cast the vote for the Lot then the vote shall not be counted. The total number of votes is equal to the total number of Members existing at the time of the vote.

- P. "Owner's Voting Rights" shall mean the right of the Owners of Lots to vote to amend this Declaration. Owners who are not members of the Association do not have Member's Voting Rights.
- Q. "Owner's Voting Interest" means the votes held by the Lot Owners pursuant to the Owners Voting Rights for the purpose of casting votes to amend this Declaration. Each Lot has one (1) vote and the vote cannot be divided. If a Lot is owned by more than one person or by a corporation, partnership, trust or other entity and the Owners cannot agree on the how to cast the vote for the Lot then the vote shall not be counted. The total number of votes which is equal to the total number of Lots that are subject to this Declaration. Cumulative voting is prohibited.
- R. "Occupy" when used in connection with a home, means the act of staying overnight in a home. "Occupant" is a person who occupies a home.
- S. "Owner", "Lot Owner" means the record owner of legal title to a lot. An Owner or Lot Owner may be but is not necessarily a Member of the Association.
- T. "Plat(s)" means the recorded Plats for Palmetto Point and Palmetto Point Unit 2 described in Exhibit "A".
- U. "Property", "Properties" or "Subdivision" means Palmetto Point and Palmetto Point Unit 2 shown on the Plats.

V. **“Roads”** means those roads which are part of the Subdivision and which are available for the common use and enjoyment of all owners of Lots.

W. **“Structure”** means that which is built or constructed, or any piece of work artificially built or composed of parts joined together in some definite manner, the use of which requires a more or less permanent location on the ground, or dock piling. The term shall be construed as if followed by the words “or part thereof”. The term includes limitation, swimming pools, fences, antennas and playground equipment.

**Palmetto Point Association Board of Directors Guiding Principals' on Approving a Variance
Amended Deed of Restrictions, Renamed Declaration of Covenants, Conditions and
Restrictions for Palmetto Point and Palmetto Point Unit 2, hereinafter "Declaration".
Recorded December 11, 2003**

The Declaration provides for the Board to authorize variances from compliance with any architectural provisions when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations require such variance from compliance.

The granting of a variance may be subject to special conditions imposed by the Board and shall not create a precedence requiring the Board to grant variances in the future for the same Lot Owner or other Lot Owners.

There are one hundred and forty Lots in Palmetto Point. Three of these Lots had been combined with another Lot, which results in having one hundred and thirty-seven Lots available to build a residence upon. Of these lots, ten are not on water, leaving one hundred and twenty-seven lots with dock space. Of these docks, there are eight on the end of a canal near a culvert and one at the end of the only T shaped canal. There are 20 Lots which are on the end of cul- de- sac that are pie shaped, with the frontage much less than the rear of the Lot. There are fourteen lots on corners Lots on Griffin that are reverse pie shaped. The remaining eighty-four Lots are basically rectangle in shape and should not qualify for a Variance.

Guiding Principal Number One: Side Set Backs

No variances will ever be issued for the require distance of twelve and a half feet (12 ½'), for all side set-backs.

Guiding Principal Number Two: Building Height

No variances will ever be issued that exceeds the maximum height of thirty-five feet (35').

Guiding Principal Number Three: Front and Rear Set-backs for Pie Shape Lots

On pie shaped Lots a Variance of normally not more than three feet can be granted to recognize the fact that the shape of the Lot can cause the home to be moved forward or back from the street to comply with the side set-back of twelve and a half feet. It can also adversely affect the pool area set-backs.

Guiding Principal Number Four: End of Canal and T Shape Canal Lots - Docks

Due to the fact that the seawall is parallel to the canal only for the first fifty feet of the owners Lot, versus the normal one hundred feet, it is necessary to provide the Lot

Owner a Variance to accommodate the curve at the end of the canal. The Variance allows the dock to be built to within five feet of the property line. This would create a ten foot wide space between the adjacent docks at the canal ends. This is room enough for an eight foot barge to provide any needed culvert maintenance at the end of the canal.

Guiding Principal Number Five: Items Concerned When Approving All Docks

- 1. The dock and boat must not interfere with the neighbor's navigation of the canal.**
- 2. The dock and boat must allow the neighbors a clear view of the canal.**
- 3. Docks perpendicular to the seawall would only be considered at the very end of the Griffin Ave – Sherry Lane and Sherry Lane – Laurel Lane canals.**

Guiding Principal Number Six: Driveway Slope

Due to a legal change in the additional required flood height on new construction sites, the ¼" per foot slope requirement is waived for all new construction of driveways.

It is the intent of the Board to treat all Lot Owners fairly and to provide Variances that will protect very owner's ability to enjoy this boating community to the maximum.

Lot Map Legend:

End of Canal – Red

Pie Shape - Green

Reverse Pie Shape - Orange

PALMETTO POINT UNIT 2

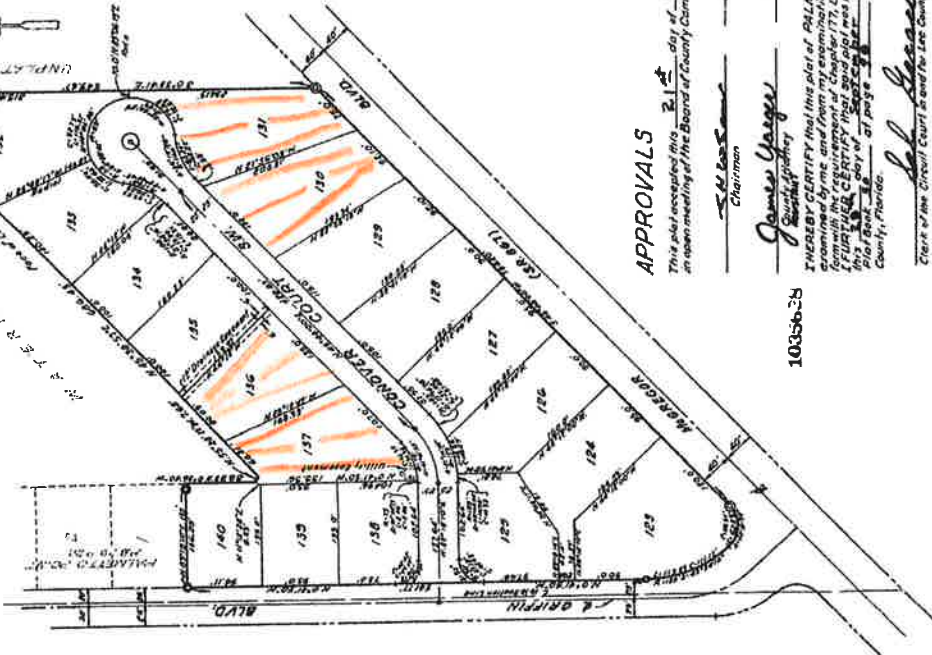
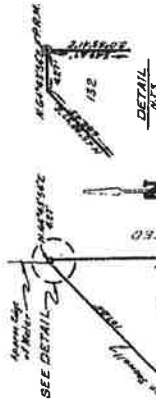
A RESUBDIVISION OF
TRACTS "A" AND "C" OF PALMETTO POINT
(According to plat recorded in Plat Book 29, Pages 21 through 23)
SECTION 29, T.45S., R.24E.
LEE COUNTY, FLORIDA

SCALE: 1"=100' JUNE 1977

JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS LAND SURVEYORS
FORT MYERS, FLORIDA

NOTES

- Permanent Reference Monuments (PRMs) are placed at the corners of the tract and at the center of the tract. The surveyor's certificate number is 10356-29.
- The surveyor's certificate number of the surveyor marked thereon is 10356-29.
- Bearings shown are from Palmetto Point, P.B. 29, P. 22.



DESCRIPTION

TRACTS A and C of PALMETTO POINT according to plat recorded in Plat Book 29 at page 21 through 23 of the public records of Lee County, Florida and all the part of the plat showing the surveyor's certificate number of the surveyor marked thereon. The surveyor's certificate number of the surveyor marked thereon is 10356-29. The surveyor's certificate number of the surveyor marked thereon is 10356-29. The surveyor's certificate number of the surveyor marked thereon is 10356-29.

DEDICATION

KNOW ALL MEN BY THESE PRESENTS that QUIN TON, INC., a corporation under the laws of the State of Florida, the owner of the herein described lands, has caused this plat of PALMETTO POINT UNIT 2 to be made and does hereby dedicate to the public use of the public all streets, roads, drainage easements and public utility easements shown hereon, and all the part of the plat showing the surveyor's certificate number of the surveyor marked thereon. IN WITNESS WHEREOF QUIN TON, INC. caused this dedication to be signed in its name by its President, and its Corporate Seal to be affixed, attested by its Secretary this 21st day of July, 1977 A.D.

Donald R. Harper
President
Paul Neal
Secretary

ACKNOWLEDGMENT

STATE OF FLORIDA
COUNTY OF LEE, ss: I, the undersigned, Clerk of the County, do hereby certify that on this day before me personally appeared Daniel R. Harper, President and Curtis B. Baker, Secretary of QUIN TON, INC., a corporation under the laws of the State of Florida, known to me to be the persons described in and who executed the foregoing dedication and they acknowledged the execution thereof to be the acts and purposes therein mentioned.

WITNESS my hand and official seal at Fort Myers, said County and State this 20 day of July, 1977 A.D.
Paul Neal
Notary Public State of Florida at Large
My Commission Expires 12/31/81

NOTES

- Permanent Reference Monuments (PRMs) are placed at the corners of the tract and at the center of the tract. The surveyor's certificate number is 10356-29.
- The surveyor's certificate number of the surveyor marked thereon is 10356-29.
- Bearings are shown as Palmetto Point Subdivision, Plat Book 29, Page 21.
- Public utility easements, 6 feet wide along boundaries of all homesites including these boundaries on easement way.

CERTIFICATE

I HEREBY CERTIFY that this plat of PALMETTO POINT UNIT 2 is a true and correct copy of the original plat on file in the office of the Clerk of the County, Florida, and that the surveyor's certificate number of the surveyor marked thereon is 10356-29.

APPROVALS

This plat accepted this 21st day of September, 1977 A.D., in open meeting of the Board of County Commissioners of Lee County, Florida.

James W. Yager
Chairman
Paul Neal
County Engineer

10356-29

I HEREBY CERTIFY that this plat of PALMETTO POINT UNIT 2 has been examined by me, and from my examination I find that said plat complies in all respects with the requirements of Chapter 171, Florida Statutes, and that the surveyor's certificate number of the surveyor marked thereon is 10356-29.

Paul Neal
Clerk of Lee County, Florida

FLAT 600K 2.9, PMSL 2.2

S 1/2, SEC. 20 & W 1/2, SEC. 29, T 45S, R 24E
LEE COUNTY, FLORIDA

מחלקת



PALMETTO POINT

A SUBDIVISION LYING IN
S½, SEC. 20 & W½, SEC. 29, T45S, R24E
LEE COUNTY, FLORIDA
SHEET 3 of 3

PLAT BOOK 25 PAGE 23



Palmetto Point Association

4810 Griffin Blvd.

Fort Myers, Fl 33908

952-250-1152

Palmetto Point is a prestigious Southwest Florida waterfront community located in Fort Myers. Distinct for its deep water, direct gulf access living with some of the widest, deepest canals and basins in the area. The community is comprised of 137 homes surrounded by natural preserves and the Caloosahatchee River. Tarpon, dolphin and manatee can often be spotted cruising the waterways. The residents of Palmetto Point enjoy easy access to local beaches, golf, restaurants, theater, trails, and the islands of Sanibel, Captiva, and Pine Island as well as the Gulf of Mexico.