

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

PACETTA, LLC; MAR-TIM, INC.; )  
AND DOWN THE HATCH, INC., )  
 )  
 Petitioners, )  
 )  
vs. ) Case No. 09-1231GM  
 )  
TOWN OF PONCE INLET, )  
 )  
 Respondent. )  
 )  
----- )  
PACETTA, LLC; MAR-TIM, INC.; )  
AND DOWN THE HATCH, INC., )  
 )  
 Petitioners, )  
 )  
vs. ) Case No. 11-2247GM  
 )  
TOWN OF PONCE INLET, )  
 )  
 Respondent. )  
----- )

RECOMMENDED ORDER

The final hearing in this case was held on January 31-February 1, 2012, in Ponce Inlet, Florida, before Bram D. E. Canter, Administrative Law Judge of the Division of Administrative Hearings ("DOAH").

APPEARANCES

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STATEMENT OF THE ISSUES

The issues to be determined in this case are whether the amendments to the Town of Ponce Inlet Comprehensive Plan adopted by Ordinances 2008-01 (2008 Amendment) and 2010-09 (2010 Amendment) are "in compliance" as that term is defined in section 163.3184(1)(b), Florida Statutes (2011).<sup>1/</sup>

PRELIMINARY STATEMENT

In March 2008, the Town of Ponce Inlet proposed amendments to all elements of its Comprehensive Plan. On November 18, 2008, the Town adopted the 2008 Amendment. On February 13, 2009, the Department of Community Affairs issued its Notice of Intent to find the 2008 Amendment in compliance.

Petitioners filed a petition to challenge the Department's determination, and the matter became DOAH Case No. 09-1231GM. The case was abated several times while the parties were engaged in related litigation in circuit court. On March 18, 2010, the court invalidated one of the policies in the 2008 Amendment.

On October 12, 2009, jurisdiction was partially relinquished from DOAH to the Department for portions of the 2008 Amendment that were not being challenged.

On October 21, 2010, the Town adopted Ordinance 2010-09, which adopted a new policy to replace the one that had been invalidated by the circuit court. On February 28, 2011, the Department issued its Notice of Intent to find the 2010 Amendment in compliance.

Petitioners filed a petition to challenge the 2010 Amendment, which became DOAH Case No. 11-2247GM. DOAH Case No. 09-1231GM and DOAH Case No. 11-2247GM were then consolidated.

While the cases were pending, the Legislature enacted chapter 2011-139, Laws of Florida, which made significant changes to chapter 163, Florida Statutes. An Order was issued informing the parties that chapter 2011-139 would apply to the consolidated cases.

Based on provisions of the new law, the Department moved to be dismissed as a party. In August 2011, it was dismissed. Effective October 1, 2011, the Department of Economic Opportunity became the successor to the Department of Community Affairs.

On January 4, 2012, the undersigned issued an Order that dismissed the petitions and granted leave for Petitioners to file a consolidated amended petition that conformed with chapter 163, as amended. On January 13, 2012, Petitioners filed a Consolidated Amended Petition for Formal Administrative Hearing.

The Town filed a notice for an expedited hearing pursuant to section 163.3184(7). The final hearing was held within 30 days after receipt of the notice, as required by the statute.

At the final hearing, Petitioners presented the testimony of Joe Nolin, Tracy Crowe, and Aref Joulani. Petitioners' Exhibits 1-6, 8-10, 12-13, 17, 21, 23-27, 29, 37-38, 40-45, and 47 were admitted into evidence. The Town presented the testimony of Tracy Crowe, Aref Joulani, Georgia Zern, and Charles Gauthier. Respondent's Exhibits 1-6, 9-19, 21, 24-25, 27-32, 34-36, 38-41, 49-51, 55, 59, 62-63, 67, 79, 87, 90, and 96 were admitted into evidence.

The three-volume Transcript of the final hearing was prepared and filed with DOAH. The parties filed proposed recommended orders that were carefully considered in the preparation of this Recommended Order.

#### FINDINGS OF FACT

##### The Parties

1. Petitioner, Pacetta, LLC, is a Florida limited liability company that owns real property in Ponce Inlet.

2. Petitioner, Mar-Tim, Inc., is a Florida corporation that owns real property in Ponce Inlet.

3. Petitioner, Down the Hatch, Inc., is a Florida corporation that owns real property in Ponce Inlet.

4. Petitioner, Pacetta, LLC, controls and manages Mar-Tim and Down the Hatch.

5. Petitioners' real property in the Town is directly affected by the challenged plan amendments.

6. Petitioners submitted objections to the Town during the period of time beginning with the transmittal hearing and ending with the adoption of the challenged amendments.

7. The Town of Ponce Inlet is a municipality in Volusia County that adopted a comprehensive plan in 1990 ("Town Plan"), which it amends from time to time pursuant to chapter 163, Florida Statutes.

#### Petitioners' Property

8. Petitioners' property is located on the north cut of the Ponce de Leon Inlet. The current uses on the property include a restaurant, a marina and boat repair yard with a marine travel lift, and vacant lands.

9. An old cemetery is located on a portion of Petitioners' property.

10. A shell midden (ancient refuse pile) is located on a portion of Petitioners' property.

11. Petitioners' property has single family residences on three sides.

12. A significant tree canopy is adjacent to Petitioners' property and large oak trees are on the property.

13. A historic cemetery known as Pacetti Cemetery is near Petitioners' property.

14. Several historic buildings are located near Petitioners' property. A museum and exhibit building are located nearby on Beach Street.

15. Beach Street and Sailfish Drive are the main roads to access the Petitioners' property. These two roads have been designated by the Town as Scenic Roads.

16. Petitioners' property comprises approximately 15 acres. About 2.4 acres are zoned for multifamily development. The remaining acreage is zoned Riverfront Commercial. There is also a special Riverfront Overlay District ("ROD") that covers Petitioners' property.

#### Background

17. There are at least three areas in the Town designated Riverfront Commercial. The Riverfront Commercial land use category permits wet boat storage, dry boat storage, boat sales and services, fishing charter boat dockage, fishing and boat equipment and supplies, seafood markets, restaurants, boatels, and boat construction and repairs.

18. There is only one area in the Town designated ROD. In the ROD, land uses are more restricted. Dry boat storage facilities are allowed by special exception in Riverfront Commercial, but not within the ROD.

19. The Town created the Riverfront Commercial District and the ROD in its Land Use and Development Code in 2004, but these land use categories were not identified in the Town Plan at that time.

20. After the designation of the ROD in 2004, Petitioners began to acquire several parcels of land located within the ROD. The Town continued to engage its citizens in a visioning process for the Town's waterfront, which led to the 2008 Amendment. As originally proposed, the 2008 Amendment allowed upland boat storage in the ROD under certain conditions in Future Land Use Element ("FLUE") Policy 4.1.5.

21. A citizens group obtained a sufficient number of signatures to place on the general election ballot a charter amendment to prohibit dry boat storage facilities in the ROD. Therefore, when the Town adopted the 2008 Amendment, it changed FLUE Policy 4.1.5 to prohibit dry boat storage facilities.

22. Petitioners challenged the charter amendment in circuit court and the court determined that the charter amendment was invalid. The court also invalidated FLUE Policy 4.1.5, determining that the policy was only adopted to conform to the charter amendment. The circuit court decision was affirmed on appeal. Town of Ponce Inlet v. Pacetta, LLC, 63 So. 3d 840 (Fla. 5th DCA 2011).

23. Petitioners also asked the circuit court to invalidate the ROD provisions of the Land Use and Development Code, but the circuit court declined to rule on their validity.

24. Following the court's invalidation of FLUE Policy 4.1.5, the Town adopted the 2010 Amendment, which creates a new Policy 4.1.5. The new policy also prohibits dry boat storage facilities in the ROD.

#### Petitioners' Objections

25. Petitioners' overarching objection to the plan amendments is that they prohibit Petitioners from building a dry boat storage facility. Petitioners claim the prohibition is inconsistent with other policies of the Town Plan and is not supported by data and analysis.

26. The term "dry boat storage facility" is not defined in the Town Plan. The Volusia County Manatee Protection Plan ("MPP"), which is adopted by reference in Coastal Management Element ("CME") Objective 1.6, defines dry boat storage facility as "an upland structure used for storing watercraft."

27. Petitioners already store some boats on trailers or boat stands on the upland while they are being repaired or refurbished in the boatyard. The Town interprets the Town Plan to allow this type of upland storage in the ROD, citing FLUE Policy 4.1.4 of the 2008 Plan Amendment which explains that dry boat storage means "multiple level boat racks" in "fully



enclosed buildings" and not the "[l]imited storage of boats on trailers or boat stands" in conjunction with boatyard operations.

FLUE Policy 4.1.5

28. Petitioners' objections to FLUE Policy 4.1.5, which was adopted in the 2010 Amendment, are addressed first because the associated issues affect the other policies that have been challenged. FLUE Policy 4.1.5 states:

The Town shall maintain a zoning overlay district over those Riverfront Commercial and High Density Multi-family Residential lands west of Sailfish Drive, south of Bounty Lane and north of the most southerly portion of Sailfish Drive to promote the water-oriented character of the River and compatibility with adjacent residential properties, to ensure protection of view corridors of the River and the tree canopy in the Front Street Area, and to preserve the historic setting and unique character of this area, including, but not limited to, the scenic roads of Beach Street and Sailfish Drive. Dry boat storage facilities shall be prohibited within this overlay district.

29. Petitioners argue that the prohibition against dry boat storage facilities in Policy 4.1.5 conflicts with the MPP adopted by reference in the Town Plan because the MPP expresses a preference for dry slips over wet slips.

30. The MPP includes a Boat Facility Siting Plan, which contains requirements that must be met for new or expanded marina facilities. The Plan requires the Town to place a

priority on the development of boat slip capacity at or south of Ponce de Leon Inlet, to encourage marinas to include both wet slips and dry slips, and to "utilize dry storage to the fullest extent possible in addition to wet slips."

31. The Boat Facility Siting Plan includes best management practices ("BMPs"). One of these BMPs is "Use of upland dry storage shall take precedence over the creation of new wet slips."

32. The prohibition against dry boat storage facilities in the ROD will likely reduce the number of boats launched in the ROD because fewer boats can be accommodated in wet slips than in upland dry boat storage facilities.<sup>2/</sup> This proposition was not rebutted by Petitioners.

33. A major objective of the MPP is to reduce manatee injuries and deaths due to collisions with boats. The fewer boats, the fewer potential collisions with manatees. Therefore, the effect of the prohibition against dry boat storage facilities in the ROD is consistent with the objectives of the MPP.

34. Dry boat storage facilities are allowed elsewhere in the Town.

35. The design standards and BMPs in the MPP are described as permitting requirements, not as zoning or land use restrictions. The MPP does not state that all of its design

standards and BMPs must be reflected in every permit issued by the Town, County, or State. It does not require, for example, that every marina must have more dry slips than wet slips.

36. The MPP acknowledges that marina sites must conform to local land use and zoning regulations that affect the construction of new wet and dry slips. Under the Policy 4.1.5, utilizing dry storage to the fullest extent possible in the ROD means allowing upland storage of boats on trailers and boat stands in conjunction with boatyard operations.

37. Petitioners also contend that Policy 4.1.5 is not supported by relevant and appropriate data and an analysis by the Town. The prohibition against dry boat storage facilities in the ROD is supported by data and analysis that shows that the noise, fumes, traffic, scale, and appearance of dry boat storage facilities is incompatible with residential uses and with scenic, historic, and natural resources nearby. Petitioners showed that some of the same incompatibility factors exist in other Riverfront Commercial areas, but the factors are not as numerous and pronounced as they are in the ROD.

FLUE Policy 1.2.2(g)

38. Petitioners challenge FLUE Policy 1.2.2(g), which limits the floor area for buildings within the Riverfront Commercial District (including the ROD) to 5,000 square feet. Petitioners argue that this limit is in conflict with CME Policy

1.6.6, which requires the Town to adopt and maintain a boat slip allocation program pursuant to which the Town made an allocation of 213 dry slips to Petitioners' property.

39. As discussed in the Conclusions of Law, this argument cannot be raised in this proceeding because the 5,000 square-foot limit was already in the Town Plan before the 2008 Amendment.

40. Petitioners argue that the floor area limit is subject to compliance review in this proceeding because its effect has been substantially altered by new provisions in the 2008 Amendment. The 2008 Amendment added a floor area ratio (gross floor area of buildings divided by upland lot area) limit of 35 percent for Riverfront Commercial, and an increase in floor area up to 10,000 square feet is made possible in a new Planned Waterfront Development District. However, these and other changes in the 2008 Amendment do not alter the fundamental effect of the existing floor area limit.

41. The Town has adopted a boat slip allocation program as required by CME Policy 1.6.6. The allocation of 213 dry slips to Petitioners' property is not required by Policy 1.6.6 or by any other policy in the Town Plan. Petitioners cannot base a claim of internal inconsistency on matters that are external to the Town Plan.<sup>3/</sup>

42. Even if the floor area limit in FLUE Policy 1.1.1(g) is subject to compliance review, it is not inconsistent with the MPP for the same reasons that the prohibition of dry boat storage facilities in FLUE Policy 1.4.5 is not inconsistent with the MPP.

FLUE Policy 4.2.4

43. Policy 4.2.4 of the 2008 Amendment states that, in developing design standards for a new Planned Waterfront Development District, limited exceptions might be allowed to the floor area limit of 5,000 square feet, up to 10,000 square feet, but this exception will not apply to dry boat storage facilities. No Planned Waterfront Development District has yet been created in the Town.

44. Despite Petitioners' objection to the 5,000 square-foot floor area limit generally applicable in Riverfront Commercial, Petitioners argue that there is no data and analysis to support the Town's allowance for an increase in the floor area limit to 10,000 square feet in a Planned Waterfront Development District.

45. The knowledge of what a 5,000 square foot or a 10,000 square foot building looks like is all the data needed to set a limit based on scale.

CME Policy 1.6.6

46. CME Policy 1.6.6 of the 2008 Amendment states:

The Town shall maintain and enforce its boat slip allocation program. This program shall provide for equitable allocations of new wet and dry slips. Upland slips may be permitted under this allocation program if they can meet the requirements of the Comprehensive Town and the Town Codes. Upland/dry slips development shall be balanced against other community policies, including neighborhood compatibility and visual impacts. Dry slips shall not take precedence over wet slips based solely on environmental concerns.

47. Petitioners contend that Policy 1.6.6 conflicts with the building size limitations in FLUE Policies 1.2.2(g) and 4.2.4 and with the prohibition against dry boat storage facilities in FLUE Policy 4.1.5 because the size limits and prohibition do not allow for the balancing called for in Policy 1.6.6.

48. Petitioners are interpreting the policy more literally than the Town. Things are not going to be placed on scales and made to balance in the middle. The Town interprets the policy to direct the Town to consider competing policies according to their relative importance. In Riverfront Commercial areas other than the ROD, there can be combinations of wet and dry slips, including dry boat storage facilities, but the floor area limit of 5,000 square feet is a "community policy" that will also apply to affect the outcome of the balancing. In the ROD, the

prohibition against dry boat storage facilities is another community policy that must be applied.

49. The Town has established a community policy to prohibit dry boat storage facilities in the ROD because the Town has determined that such facilities do not harmonize with nearby residential uses and scenic, historic, and natural resources. Data and analysis support this determination.

50. Although Petitioners got a Town witness to testify that a prohibition does not allow for balancing, the record shows that the Town gives no weight to the desirability of dry boat storage facilities in the ROD and some weight to the desirability of wet slips, so that the scales always tip in favor of wet slips and for boats on trailers or boat stands in a boatyard.

51. Petitioners contend that the statement in FLUE Policy 1.6.6 that "Dry slips shall not take precedence over wet slips based solely on environmental concerns," is directly in conflict with the MPP, because the MPP states a preference for dry slips based specifically on environmental concerns (manatees). However, the meaning of the policy statement is that environmental concerns, alone, will not determine how many dry slips are allowed. Other concerns will be taken into account in determining how many dry slips are allowed. That is not inconsistent with the MPP.

## Recreational and Working Waterfronts

52. Petitioners contend that the floor area limit in FLUE Policy 1.2.2(g), the prohibition against dry boat storage facilities in FLUE Policy 4.1.5, and the floor area limit for dry storage facilities in FLUE Policy 4.2.4 are inconsistent with section 163.3177(6)(a)3.c., which requires a FLUE to include criteria to "[e]ncourage preservation of recreational and commercial working waterfronts for water-dependent uses in coastal communities."

53. The term "recreational and commercial working waterfronts," is defined in section 342.201(2)(b):

"Recreational and commercial working waterfront" means parcel or parcels of real property that provide access for water-dependent commercial activities or provide access to the public to the navigable waters of the state. Recreational and commercial working waterfronts require direct access to or a location on, over, or adjacent to a navigable body of water. The term includes water-dependent facilities that are open to the public and offer public access by vessels to the waters of the state or that are support facilities for recreational, commercial, research, or governmental vessels. These facilities include docks, wharfs, lifts, wet and dry marinas, boat ramps, boat hauling and repair facilities, commercial fishing facilities, boat construction facilities, and other support structures over the water.



54. There is no current use of Petitioners' property that is prohibited by the challenged amendments. In other words, Petitioners' working waterfront is preserved.

55. To the extent section 163.3177(6)(a)3.c. should be interpreted more broadly to encourage not only preservation, but also economic vitality through further development and redevelopment of waterfronts, the Town has adopted FLUE criteria to encourage their development and redevelopment.

56. The floor area limit and the prohibition against dry boat storage facilities in the ROD do not prevent Petitioners from further developing their working waterfront to add or expand uses.

#### Evaluation and Appraisal

57. Petitioners challenge FLUE Policies 1.2.2(g) and 4.2.4 and CME Policy 1.6.6 as constituting a failure of the Town to update its plan to address the changes needed as identified in the Town's Evaluation and Assessment Report ("EAR").

58. Petitioners failed to prove that the Town did not make the changes identified in the EAR.

#### Summary

59. Petitioners failed to prove beyond fair debate that the 2008 Amendment or the 2010 Amendment create internal inconsistency in the Town Plan.

60. Petitioners failed to prove that the 2008 Amendment or the 2010 Amendment is not supported by relevant data and analysis.

61. Petitioners failed to prove beyond fair debate that the 2008 Amendment or the 2010 Amendment is not in compliance.

#### CONCLUSIONS OF LAW

##### Standing

62. To have standing to challenge a comprehensive plan amendment, a person must be an "affected person," which is defined as a person owning property, residing, or owning or operating a business within the boundaries of the local government, and who made timely comments to the local government regarding the amendment. See § 163.3184(1)(a), Fla. Stat.

63. Petitioners have standing as affected persons.

##### The Ultimate Issue

64. A person challenging a plan amendment must show that it is not "in compliance" as that term is defined in section 163.3184(1)(b):

"In compliance" means consistent with the requirements of ss. 163.3177, 163.3178, 163.3180, 163.3191, 163.3245, and 163.3248, with the appropriate strategic regional policy plan, and with the principles for guiding development in designated areas of critical state concern and with part III of chapter 369, where applicable.

65. A compliance determination is not a determination of whether a comprehensive amendment is the best approach available to a local government for achieving its purposes.

66. In a compliance determination, the motives of the local government are not relevant.

67. Petitioners cannot challenge the 5,000 square-foot floor area for buildings in the Riverfront Commercial land use category in existing FLUE Policy 1.2.2 because that limit was part of a plan amendment adopted by the Town in 2004. See § 163.3184(5)(a), Fla. Stat. (A petition challenging a plan amendment must be filed within 30 days after the adoption of the amendment.) Petitioners may be correct in stating that it is possible for a plan amendment to alter the effect of an existing policy in a manner that causes the existing policy to be subject to a new compliance determination. However, the 2008 Amendment did not change the floor area limit in FLUE Policy 1.2.2 to such an extent that it must be treated as a new provision of the Town Plan.

#### The Burden and Standard of Proof

68. As the challengers, Petitioners have the burden of proof. See Young v. Dep't of Cmty. Affairs, 625 So. 2d 831, 834-835 (Fla. 1993).

69. The Town's determination that the 2008 Amendment and the 2010 Amendment are "in compliance" is presumed to be correct

and shall be sustained if the Town's determination of compliance is fairly debatable. See § 163.3184(5)(c), Fla. Stat.

70. The term "fairly debatable" is not defined in chapter 163. The Florida Supreme Court held in Martin County v. Yusem, 690 So. 2d. 1288 (Fla. 1997) that "[t]he fairly debatable standard is a highly deferential standard requiring approval of a planning action if reasonable persons could differ as to its propriety." Id. at 1295.

71. The fairly debatable standard's deference to the local government's determination of compliance means that the local government's interpretation of a challenged amendment or comprehensive plan provision will be used to evaluate the amendment, as long as it is a reasonable interpretation.

72. The Town's interpretations of relevant objectives and policies of the Town Plan are reasonable interpretations.

73. The standard of proof to establish a finding of fact is preponderance of the evidence. See § 120.57(1)(j), Fla. Stat.

#### Internal Consistency

74. Section 163.3177(2) requires the elements of a comprehensive plan to be internally consistent. A plan amendment creates an internal inconsistency when it conflicts with an existing provision of the comprehensive plan.

75. Petitioners failed to prove beyond fair debate that the Plan Amendments are inconsistent with any goal, objective, or policy of the Town Plan.

Data and Analysis

76. Section 163.3177(1)(f) requires that all plan amendments be based on relevant and appropriate data and an analysis by the local government. The statute explains:

To be based on data means to react to it in an appropriate way and to the extent necessary indicated by the data available on that particular subject at the time of adoption of the plan or plan amendment at issue.

77. The data which may be relied upon in this proceeding is not limited to the data identified or used by the local government. All data available to the local government and in existence at the time of adoption of the Plan Amendments may be presented. See Zemel v. Lee Cnty., Case. No. 90-7793GM, 1993 Fla. ENV Lexis 77 (Fla. DOAH Dec 16, 1992), adopted, (Fla. DCA June 22, 1993), aff'd, 642 So. 2d 1367 (Fla. 1st DCA 1994).

78. Relevant analyses of data need not have been in existence at the time of adoption of a plan amendment. Data existing at the time of adoption may be analyzed through the time of the administrative hearing. Id.

79. Data supporting an amendment must be taken from professionally accepted sources. See § 163.3177(1)(f)2., Fla.

Stat. However, local governments are not required to collect original data. Id.

80. The methodology used in data collection must be professionally acceptable, but the question of whether one professionally acceptable methodology is better than another cannot be evaluated. Id.

81. Some matters of policy are not subject to numeric computation. See Indian Trail Improvement Dist. v. Dep't of Cmty. Affairs, 946 So. 2d 640, 642 (Fla. 4th DCA 2007).

82. Petitioners failed to prove that the Plan Amendments are not based on relevant and appropriate data and an analysis by the Town.

#### Recreational and Working Waterfronts

83. Section 163.3177(6)(a)3.c. requires a FLUE to include criteria to "[e]ncourage preservation of recreational and commercial working waterfronts for water-dependent uses in coastal communities." However, the statute does not suggest that a local government would be in violation if any restriction is placed on one or more of the many uses listed in the definition of "recreational and commercial working waterfront" in section 342.201(2)(b). The restrictions established in the challenged amendments do not prevent the Town from achieving the purposes of the statute.

84. Petitioners failed to prove that the 2008 Amendment or the 2010 Amendment is inconsistent with section 163.3177(6)(a)3.c.

Evaluation and Appraisal

85. A local government is required by section 163.3191(2) to submit plan amendments "necessary to reflect changes in state requirements" identified in the evaluation and appraisal of its comprehensive plan.

86. Petitioners failed to prove that the EAR-based 2008 Amendment failed to satisfy this statutory requirement.

Summary

87. In summary, Petitioners failed to prove beyond fair debate that the 2008 Amendment and the 2010 Amendment are not in compliance.

RECOMMENDATION

Based on foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that the Department of Economic Opportunity enter a final order determining that the plan amendments adopted by Town Ordinances 2008-01 and 2010-09 are in compliance.

DONE AND ENTERED this 20th day of March, 2012, in  
Tallahassee, Leon County, Florida.



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Filed with the Clerk of the  
Division of Administrative Hearings  
this 20th day of March, 2012.

ENDNOTES

1/ All references to the Florida Statutes are to the 2011  
codification.

2/ The relative number of boats associated with wet slips versus  
dry boat storage facilities is not addressed in the MPP. The  
MPP addresses wet slips versus dry slips. A dry slip is defined  
in the MPP as a "space designed for the storage of single  
watercraft in an upland location."

3/ If the Town makes an allocation of slips that is  
inconsistent with a policy in the Town Plan, it is the validity  
of the allocation that is called into question, not the validity  
of the policy.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.