

CITY COUNCIL AGENDA STATEMENT



Meeting Date: February 14, 2017

To: Honorable Mayor and Members of City Council

From: George Garrett, Planning Director

Through: Chuck Lindsey, City Manager

Item: **Resolution 2017-05**, Amending The Ranking And Allocations Of The Market Rate And Affordable Residential Dwelling Unit Allocation System (RBPAS) For Period 1, Year 25; And Providing For An Effective Date (July 14, 2016 To January 13, 2017)

RECOMMENDATION

Based on the result of all BPAS applications, Planning Staff recommends that the City Council **APPROVE** the award of Eight (8) Market Rate General and Four (4) Market Rate Owner Occupied BPAS allocations as shown in "Attachment A". Note, an additional on (1) market rate allocation is awarded each period in the approved barrowing of nine (9) allocations (one per period) for Tarpon Harbour.

I. BACKGROUND AND JUSTIFICATION

This evaluation report has been prepared pursuant to Chapter 107 Article 1 of the City of Marathon Land Development Regulations (the "Code"). The residential dwelling unit allocation rankings attached to this report correspond to Period 1, Year 25, as defined by the Residential Building Permit Allocation System (RBPAS). This period includes January 14, 2016 to July 13, 2016.

Monroe County adopted the Rate of Growth Ordinance (#016-1992), commonly referred to as ROGO, on July 13, 1992 to implement portions of its Comprehensive Plan. The ROGO established a building permit allocation system for residential construction, for the purpose of directing and limiting growth and enabling the safe and timely evacuation of the Keys in the event of a hurricane.

The City adopted new Land Development Regulations by Ordinance 2007-03 which replaced the Rate of Growth Ordinance with the Residential Building Permit Allocation System (RBPAS).

In this, its twenty-fifth year, the BPAS allocation system may issue up to 30 awards for residential construction within the boundaries of the City, pursuant to the agreement between the City, the Department of Economic Opportunity (DEO) and Monroe County. Of the 30 allocation awards, 80% (24) are assigned to market-rate residential units and 20% (6) are assigned to affordable housing. Applications for permits are evaluated, scored and ranked according to criteria outlined in Chapter 107 Article 1 of the City of Marathon Land Development Regulations twice a year.

To provide some remedy for the decline in building permits being issued, the City adopted Ordinance 2009-09 that called for a temporary procedure to be implemented to RBPAS. This allowed the Planning Department to create a new list from the applicants that are able and willing to move forward with an awarded allocation and pick up building permits. Temporary Procedures has sunset, however to maintain the efficiency of permitting, a similar process is followed. Rather than bringing a new list back to Council each time an owner responds to defer, the owners are asked before the list is created.

In June of 2009 City Council adopted Ordinance 2009-18, creating a “TBR Affordable Pool”. Additionally in November of 2010, the City Council adopted Ordinance 2010-12, which would allow up to 50% of the annual allocations to be distributed to the “Administrative Relief Pool” at the City Council’s discretion and by the criteria set forth in the Ordinance.

The amendment before you recognizes the retrieval of an allocation during the fall of 2016. City staff went through the process to recover a residential allocation that had not been utilized. Through the completion of the allocation and building permit process. Once recovered, staff felt that it was important to award the allocation to the immediate next applicant on the BPAS scoring list rather than waiting for the next available BPAS award period. Thus, this item in before you for approval. The regular BPAS allocation process will occur in early to mid-March as is normal.

II. ALLOCATION AWARDS AVAILABLE

The following allocation awards are available per period:

<u>Category</u>	<u>BPAS / Period</u>
(Market Rate)	
(a) Owner-occupied Pool	3 / period
(b) General Pool	9 / period
(Affordable)	
(c) General Affordable Pool	1 / period
(d) Community Workforce Pool	1 / period
(e) TBR Affordable Pool	1/ period
(Administrative Relief)	
(e) Administrative Relief Pool	0 / period

On January 1, 2011, the Florida Cabinet (sitting as the Administration Commission) passed Rule 28-18.400 F.A.C., which changes the roll-over procedure for building permit allocations for the City of Marathon. Per the rule:

“The number of allocations issued annually for residential development under the Residential Building Permit Allocation System (BPAS) shall not exceed a total annual unit cap of 30, plus any available unused BPAS allocations from a previous year. Unused BPAS allocations may be retained and made available only for affordable housing and Administrative Relief from BPAS year to BPAS year. Unused market rate allocations shall be available for Administrative Relief. Any unused affordable allocations will roll over to affordable housing. This BPAS allocation represents the total number of allocations for development that may be issued during a year. A BPAS year means the twelve-month period beginning on July 13. Policy 1-3.5.18 supersedes Policy 1-3.5.2 of the City of Marathon Comprehensive Plan.”

The above language has also been made part of the City of Marathon Comprehensive Plan, Policy 1-3.5.1.

III. EVALUATION AND RANKING

Staff's evaluation of the BPAS applications was performed according to the provisions of the Building Permit Allocation System; positive points were granted in compliance with the evaluation criteria contained in Section 107.09 of the City Land Development Regulations. Each allocation application was ranked based on the total number of points scored. RBPAS applications with identical scores were further ranked based on the date and time they applied for RBPAS.

Staff sent letters to all applicants in the RBPAS system offering the opportunity to receive an allocation as contemplated in Section 107.07 G. 1. of the Land Development Regulations (BPAS Temporary Procedures) and as directed by the Council.

THIRTYNINE (39) individuals wish to accept a Market Rate General BPAS Allocation award, SEVEN (7) individuals wish to accept a Market Rate Owner Occupied BPAS Allocation award. In addition, Council granted ONE (1) allocation a period for the next nine periods to the Tarpon Harbor development. The final Rankings and proposed allocations are presented in the RBPAS Allocation Resolution.

IV. ANALYSIS AND RECOMMENDATION

There are one hundred and nine (109) market rate applications for consideration for an allocation this Period, as shown by Attachment "A". The ranking of the applications are shown on both attachments.

See Attachment A of the Resolution: Ranking of Market Rate RBPAS

Based on the result of the BPAS System, Planning Staff recommends that the City Council **APPROVE** the award of EIGHT (8) Market Rate General and Four (4) Market Rate Owner Occupied BPAS allocations as shown in "Attachment A".

**CITY OF MARATHON, FLORIDA
RESOLUTION 2017-05**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, AMENDING THE RANKING AND ALLOCATIONS OF THE MARKET RATE AND AFFORDABLE RESIDENTIAL DWELLING UNIT ALLOCATION SYSTEM (RBPAS) FOR PERIOD 1, YEAR 25; AND PROVIDING FOR AN EFFECTIVE DATE (JULY 14, 2016 TO JANUARY 13, 2017)

WHEREAS, the City of Marathon City Council (the “City”) reviewed the market rate and affordable residential dwelling unit application rankings for Period 1, Year 25 in compliance with the RBPAS Procedures promulgated in Section 107.07 of the Land Development Regulations (the “LDRs”);

WHEREAS, City Staff initiated the call-down procedure contemplated under the BPAS Procedures promulgated in the LDRs; and

WHEREAS, the City conducted a properly advertised public hearing (the “Public Hearing”) regarding the proposed residential BPAS rankings, Period 1, Year 25 pursuant to Chapter 107 Article 1 of the LDRs.

WHEREAS, the City received a returned allocation when a permit application was not picked up, and the applicant wished to return the allocation and placed back on the BPAS list, resulting in an additional allocation to be awarded.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THAT:

Section 1. The above recitals are true and correct and incorporated herein.

Section 2. Based upon the evidence and testimony presented by City Staff and members of the public, the City Council hereby finds:

Residential Building Permit Allocation (RBPAS)

(1) The Public Hearing was properly advertised and held, as required by law, and the Applicants and all interested parties concerned in the matter were given an opportunity to be heard; and

(2) Based upon the RBPAS Rankings shown in the staff recommendation, attached as “Attachment A” for the Market Rate RBPAS pools, the City Council awards Thirteen (13) Market Rate allocations based upon a willingness to build immediately; and

(3) The remaining RBPAS Applicants will retain their relative positions in the RBPAS ranking list and will be marked as deferred in accordance with Section 107.07 of the LDRs.

Section 3. Based upon the above Findings of Fact, the City Council does hereby make the following Conclusions of Law:

(1) The RBPAS applications for Period 1, Year 25 of RBPAS have been processed in accordance with Chapter 107 Article 1 of the LDRs.

- (2) In rendering its decision, as reflected in this Resolution, the City Council has:
- (a) Accorded procedural due process;
 - (b) Observed the essential requirements of the law; and
 - (c) Supported its decision by substantial competent evidence of record.

(3) The attached RBPAS allocations are awarded.

Section 4. This Resolution shall become effective immediately upon its adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS XXth DAY OF XXX, 2017.

THE CITY OF MARATHON, FLORIDA

Dr. Daniel Zieg, Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

Diane Clavier, City Clerk

(City Seal)

APPROVED AS TO FORM AND LEGALITY FOR THE USE AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:

David Migut, City Attorney

Attachment A:
Ranking of BPAS Applications for Period 1 Year 25
January 14, 2016 to July 13, 2016

Market Rate General Pool												
RANK	ROGO/BPAS NUMBER	NAME	BPAS SCORE	DATE ENTERED	TIME ENTERED	DATE RE-ENTERED	TIME RE-ENTERED	# OF DEFERRALS	RE NUMBER	SUBDIVISION	BLOCK	LOT
1	Council Granted	Tarpon Harbour	5 of 9						00338690-000000	EDMONDS ACREAGE TRACTS		
2	RM-04/08/09-07	Hazuka, John	62	8/9/2004	11:19 AM			1	00349690-000000	Gulfstream Shores		2
3	RM-05/08/22-04	Repetto, John and Colleen	62	8/22/2005	8:44 AM			1	00353850-000000	Waloriss	J	8
4	BM-16/07/12-01	Lindsey, Charles	62	7/12/2016	1:30 PM				00331061-004100	Sea Air Estates	2	9
5	BM-15/07/13-04	Reyes, Oscar	60	7/13/2015	4:59 PM				00353090-000000	Waloriss	D	2
6	RM-06/01/19-01	Servais & Sweeney	59	1/19/2006	3:29PM			1	00329300-000000	Marathon Shores N. Part B		10
7	RM-04/08/09-13	Vettrano, David	58	8/9/2004	3:25 PM			1	00355418-002100	Sombrero Anglers Club South	K	8
8	BM-16/01/11-02	Florida Keys Homes	58	1/11/2016	11AM				00333860-000100	Key Colony #1		19
9	BM-16/01/11-04	Matlock, Kenny	58	1/11/2016	11:06AM				00360680-000000	Sunset Bay	3	10
10	RM-04/08/05-09	Felling, Michael	62	8/5/2004	3:02 PM			2	00376160-000000	Dorsett		
11	RM-04/08/09-10	Joulani, Aref	62	8/9/2004	2:00 PM			2	00354380-000000	Waloriss	3	3
12	RM-04/08/18-01	Buften, Ernest	62	8/18/2004	2:05 PM			2	00356900-000000	Flamingo Island Estates	M	16
13	RM-04/09/07-01	Rodriguez, Jose	62	9/7/2004	10:30 AM			2	00331061-002000	Sea Air Estates	H	8
14	RM-04/10/12-01	Cacciutti, John	62	10/12/2004	2:35 PM			2	00357041-002900	Sombrero Isle	1	20
15	RM-04/11/18-01	Borowski, Gregory & Janice	62	11/18/2004	8:00AM			2	00373010-000000	Crain's	-	29
16	RM-05/09/12-01	Kamph, Martin	62	9/12/2005	3:50 PM			2	00354350-000000	Waloriss	J	4
17	RM-05/11/07-01	Bennett, Mark & Debra	62	11/7/2005	10:33 AM			2	00105520-000000	Tingler's Island	2	6
18	RM-04/08/31-01	Young, Forrest A.	62	8/31/2004	4:31 PM	12/4/2006	8:00 AM	2	00333641-009210	Stirrup Key	-	1
19	RM-05/11/28-01	Perona, Bernard P.	61	11/28/2005	11:17AM			2	00320990-000100	Sombrero Sub #2	-	91
20	RM-06/10/16-01	Calabrese, Mark & Laurie	61	10/16/2006	10:30 AM			2	00353060-000000	Waloriss	-	6
21	RM-06/01/26-01	Leird, Christine & William	60	1/26/2006	10:13AM			2	00332310-000000	Venice	H	18
22	RM-06/02/08-01	Jarmolowitz, Aaron	60	2/8/2006	12:00 PM			2	00353970-000000	Waloriss	4	7
23	RM 07/03/13-01	J & S Real Estate Investment	60	3/13/2007	2:50 PM			2	00356060-000000	Flamingo Island	12	8
24	RM-06/02/14-01	Held, Michael & Robin	60	2/14/2006	12:00 PM			2	00105240-001900	Treasure Island	1	62
25	RM-05/11/04-01	Gray, Ronald & Jeanne	60	11/4/2005	3:10 PM			2	00346480-000000	Little Venice		3
26	BM-16/01/11-03	Matlock, Kenny	58	1/11/2016	11:07AM				00360690-000000	Sunset Bay	3	11
27	RM-07/03/07-01	Young, William & Terrie	58	3/7/2007	11:20 AM	4/26/2016	2:00 PM		00356850-000000	Flamingo Island Estates	1	54
28	BM-16/06/29-01	Devries, Troy	58	6/29/2016	8:00 AM				00355380-001800	Sombrero Properties		16
29	BM-16/06/29-02	Stepenovitch, Joseph	58	6/29/2016	8:01AM				00331061-013100	Sea Air Estates	6	14
30	RM-05/10/28-01	Sand Dollars of the Keys, Inc.	57	10/28/2005	2:30 PM			1	00347020-000000	Atlantic Shores	-	54
31	RM-06/10/18-01	Edlund, Steve	56	10/18/2006	1:30 PM			1	00373190-000000	Crain's	H	5
32	BM-15/1/14-01	Onorato, Bernard	56	1/14/2015	2:00 PM				00356950-000000	Flamingo Island Estates	4	3
33	RM-04/08/16-01	Tolton, Frank	55	8/16/2004	8:00 AM	11/15/2004	5:00 PM	1	00355418-001800	Sombrero Anglers Club South	8	13
34	RM-05/11/08-01	Keys Ltd.	55	11/8/2005	11:45 AM			1	00354420-000000	Waloriss	-	51
35	RM-04/08/05-08	Benton, Frank & Karen	54	8/5/2004	12:01 PM			1	00365390-000000	Coco Plum Beach		82
36	RM-06/11/02-01	Pieloch, Mark	54	11/2/2006	4:20PM			1	00366031-000300	Coco Plum Beach	14	16
37	BM-08/05/13-01	Pieloch, Mark	54	5/13/2008	9:50 AM			1	00366710-000000	Coco Plum	20	2A
38	RM 07/03/09-01	Daniels, David C	53	3/9/2007	10:45 AM			1	00352080-000000	Coral Colony	1	15
39	BM-16/01/11-05	Matlock, Kenny	53	1/11/2016	11:08AM				00360720-000000	Sunset Bay	3	14
40	BM-16/03/29-01	WCT Properties Inc	53	3/29/2016	1:40 PM				00357041-002500	Sombrero Isle		25
41	RM-07/02/05-01	Ayers, Michael & Natalie	52	2/5/2007	2:10 PM				00353690-000000	Waloriss		14
42	RM-04/12/21-01	Prieto, Rogel	52	12/21/2004	2:21 PM				00328900-000000	North Marathon Shores	H	9
43	BM-16/05/11/01	Pacifico, Anthony	52	5/11/2016	9:00AM				00363800-000100	Coco Plum Beach Replat	7	19
44	BM-16/05/11/02	Pacifico, Anthony	52	5/11/2016	9:01AM				00363800-000100	Coco Plum Beach Replat	7	19
45	RM-04/08/09-05	Hallman, John & Carol	51	8/9/2004	10:48 AM				00365410-000000	Coco Plum Beach	C	9
46	RM-05/10/05-01	Forthman, Todd & Leslie	50	10/5/2005	12:30 PM				00339910-000000	Sheryl		3
47	BM-15/06/16-03	Aranda, Mike	50	6/16/2015	4:30 PM				00327000-000500	Anglers At Sombrero		5
48	BM-15/06/16-04	Aranda, Mike	50	6/16/2015	4:30 PM				00327000-000500	Anglers At Sombrero		5

**Attachment A:
Ranking of BPAS Applications for Period 1 Year 25
January 14, 2016 to July 13, 2016**

RANK	ROGO/BPAS NUMBER	NAME	BPAS SCORE	DATE ENTERED	TIME ENTERED	DATE RE-ENTERED	TIME RE-ENTERED	# OF DEFERRALS	RE NUMBER	SUBDIVISION	BLOCK	LOT
49	BM-15/06/16-05	Aranda, Mike	50	6/16/2015	4:32 PM				00327000-000600	Anglers At Sombrero		6
50	BM-15/06/16-06	Aranda, Mike	50	6/16/2015	4:32 PM				00327000-000600	Anglers At Sombrero		6
51	BM-16/01/11-06	Royal Crest Homes	50	1/11/2016	11:05AM				00354190-000000	Waloriss	K	27
52	BM-16/01/13-03	Coastal Properties-Vaca Cut LLC	50	1/13/2016	4:00 PM				00100740-000100			
53	BM-16/01/13-04	Coastal Properties-Vaca Cut LLC	50	1/13/2016	4:01 PM				00100740-000100			
54	BM-16/01/13-05	Coastal Properties-Vaca Cut LLC	50	1/13/2016	4:03 PM				00100740-000100			
55	BM-16/01/13-06	Coastal Properties-Vaca Cut LLC	50	1/13/2016	4:05 PM				00100740-000100			
56	BM-16/01/13-07	Coastal Properties-Vaca Cut LLC	50	1/13/2016	4:06 PM				00100740-000100			
57	BM-16/01/13-08	Coastal Properties-Vaca Cut LLC	50	1/13/2016	4:07 PM				00100740-000100			
58	BM-16/01/13-09	Coastal Properties-Vaca Cut LLC	50	1/13/2016	4:08 PM				00100740-000100			
59	BM-16/01/13-10	Coastal Properties-Vaca Cut LLC	50	1/13/2016	4:09 PM				00100740-000100			
60	BM-16/04/01-02	Hiller, Donald	50	4/1/2016	2:08 PM				00358170-000000	Yacht Harbor		38
61	RM-05/04/13-01	Wood, Roger and Barbara	49	4/13/2005	8:30 AM				00338780-000100	Edmunds Acreage Tracts	A	12
62	RM-04/08/09-08	Mann, James	49	8/9/2004	11:25 AM	8/12/2005	1:15 PM		00355980-000000	Flamingo Island Estates	-	pt 10
63	RM-06/07/13-01	Smith, Mark	48	7/13/2006	10:06 AM				00364630-000000	Coco Plum	11	14
64	RM 07/03/09-02	Osborne, Robert F	48	3/9/2007	4:40 PM				00319870-000000	Knights Key Village	3	10
65	RM 07/03/09-02	Osborne, Robert F	48	3/9/2007	4:40 PM				00319870-000000	Knights Key Village	2	13
66	RM 07/03/09-03	Michon, James & Robin	48	3/9/2007	4:41 PM				00319880-000000	Knights Key Village	2	13
67	RM 07/03/09-03	Michon, James & Robin	48	3/9/2007	4:41 PM				00319880-000000	Knights Key Village	2	14
68	RM 07/03/09-04	Hayes, Scott & Erica	48	3/9/2007	4:42 PM				00319760-000000	Knights Key Village	2	14
69	RM 07/03/09-04	Hayes, Scott & Erica	48	3/9/2007	4:42 PM				00319760-000000	Knights Key Village	2	3
70	BM 07/10/10-01	Gray, Ronald	48	10/10/2007	2:20 PM				00346470-000000	Little Venice #2	2	3
71	BM 08/06/03-01	Torres, Luis & Maria Elena	47	6/3/2008	1:55 PM				00100750-001200	Fat Deer Key		114
72	BM-16/01/13-11	Coastal Properties-Vaca Cut LLC	45	1/13/2016	4:10 PM				00100740-000100			
73	BM-15/07/13-03	Kyriacou, Mark	44	7/13/2015	4:59 PM				00105160-000400			35
74	RM-05/07/13-04	33 Southpoint, LLC	43	7/13/2005	3:20 PM				00358230-000104	Marina Homes at Seawatch	D	7
75	RM-05/07/13-05	33 Southpoint, LLC	43	7/13/2005	3:22 PM				00358230-000106	Marina Homes at Seawatch	-	4
76	RM-06/01/23-01	Sparkman, Joseph	43	1/23/2006	2:00PM				00364790-000000	Coco Plum Bch	-	6
77	BM 08/03/07-02	Jutstrom, Bryan	42	3/7/2008	3:50 PM				00345780-000000	Little Venice	12	6
78	BM-11/07/07-02	Pescayo, Inc.	42	7/7/2011	2:31 PM				00363520-000200	Pescayo Village		46
79	BM-11/07/07-05	Pescayo, Inc.	42	7/7/2011	2:34 PM				00363520-000800	Pescayo Village	1	2
80	BM-11/07/07-01	Pescayo, Inc.	42	7/7/2011	2:30 PM				00363520-000100	Pescayo Village	1	8
81	BM-	Cerepo, Jorge (Serenity Cove)	42						00100280-000000			3
82	BM-	Cerepo, Jorge (Serenity Cove)	42						00100280-000000			3
83	BM-	Cerepo, Jorge (Serenity Cove)	42						00100280-000000			3
84	BM-	Cerepo, Jorge (Serenity Cove)	42						00100280-000000			3
85	BM-	Cerepo, Jorge (Serenity Cove)	42						00100280-000000			3
86	BM-	Cerepo, Jorge (Serenity Cove)	42						00100280-000000			3
87	BM-15/06/16-02	JLW Living Trust	41	6/16/2015	3:35 PM				00341870-000000	Puerta Del Sol	F	2
88	BM-15/07/08-01	Lafreniere, Scott	41	7/8/2015	9:00 AM				00331180-000100	Roosevelt Point		11
89	BM-15/07/09-02	JLW Living Trust	41	7/9/2015	12:50 PM				00340370-000000	Days	2	6
90	BM-16/01/11-01	Boumerhi, Pierre	41	1/11/2016	9:45AM				00341390-000000	Puerta Del Sol	C	7
91	BM-16/04/01-01	Struyf, Kerry	41	4/1/2016	2:07 PM				00334440-000100	Key Colony #2		31
92	RM-06/03/16-01	JPSP Investments LLC	39	3/16/2006	1:45PM				00358230-000105	Marina Homes at Seawatch	1	1
93	BM-16/04/15-01	Sea N Ski LLC	38	4/15/2016	10:16AM				00355151-001100	Sunrise Isle		11
94	BM-13/01/14-01	Bolobanic, Emil & Janet	37	1/14/2013	2:00 PM				00102440-000000		-	5
95	BM-	Cerepo, Jorge (Serenity Cove)	37						00100280-000000			3
96	BM-	Cerepo, Jorge (Serenity Cove)	37						00100280-000000			3
97	BM-	Cerepo, Jorge (Serenity Cove)	37						00100280-000000			3

