

CITY COUNCIL AGENDA STATEMENT



Meeting Date: August 13, 2019

From: George Garrett, Planning Director

Through: Chuck Lindsey, City Manager

Agenda Item: Staff Report – Discussion Concerning the Future Dispersement of Affordable Housing BPAS Allocations

This Memorandum seeks to provide information to the City Council concerning Building Permit Allocation System (BPAS) Affordable Housing allocations, the number of projects in the BPAS affordable Housing unit que, and what some of the attendant problems may be in providing those allocations. Staff is not expecting answers to questions posed, but intends to generate discussion prior to the allocation period and BPAS hearing coming up in September.

BACKGROUND & JUSTIFICATION:

The City participates in the Building Permit Allocation System (BPAS), in part, through the Hurricane Evacuation MOU signed in late 2012. Based upon that MOU the City received 300 BPAS allocations. The City is allowed to distribute those allocations received through the MOU and those allocation remaining prior to the MOU through its BPAS allocation process. The City thus distributes twenty-four (24) market rate allocations and six (6) affordable allocations annually. These allocations are then dispersed semi-annually in allotments of 15 Market Rate allocations and 3 Affordable allocations. Not including the July 13, 2019 allocation period (just closed) the City holds eighty-nine (89) Market Rate Allocations, nineteen (19) Affordable Allocations and sixty-four (64) Allocations set aside for Administrative Relief.

In June of 2018, the Governor and Cabinet, sitting as the Administration Commission, authorized an additional 1,300 affordable allocations to be distributed in 300 unit allotments to Key West, Marathon, Islamorada, and unincorporated Monroe County. An additional 100 allocations were set aside for the cities of Layton and Islamorada.

The City of Marathon adopted both Comprehensive Plan and Land Development Regulation amendments to allow the use of the additional 300 affordable allocations. These amendments received final approval by the Department of Economic Opportunity (DEO) in late November of 2018. The Amendments are currently under appeal.

Regardless of the additional allocations, the City is approaching the limits of its affordable allocation pool in consideration of individual or small scale applicants and those projects seeking larger numbers approved through the Conditional Use Permit process (See Table 1 attached)

The attendant issues include and may not be limited to the following

- The number of allocations being sought exceeds current availability of Affordable BPAS allocations without 300 additional units
- The number of allocations being sought potentially exceeds availability of Affordable BPAS allocations with 300 additional units
- large projects at this point are:

- Approved (CUP & DA) with no allocations and no plans 1
- Approved with Market Rate Allocations seeking affordable allocations, but with partial plans 2
- Not Approved yet and no plans 3
- Small projects at this point are
 - In BPAS with plans
 - In BPAS without plans

Note, until the appeal of the City’s “300 Unit” Amendment is resolved, the City cannot assign or even “earmark” these units to any project.

Aside from the possibility that demand will exceed the remaining number of allocations, larger projects are facing something in BPAS that they haven’t had to in the past. All large projects to date have been provided with affordable BPAS allocations up front and typically DID NOT have building plans at that point, notably:

- Seagrape Apartments
- Tarpon Harbour
- Keys Affordables (73rd Street)
- Marathon Housing Partners (47 – 48th Streets)
- Crystal Cove Housing Partners (48 – 50th Streets)
- Seward

In the normal, small scale BPAS process, BPAS applicants are required to submit approvable building plans, in order to make their BPAS application. However, the projects noted above either brought some allocations to the table (Tarpon Harbour and Keys Affordables) or received their allocations through an Interlocal Agreement (ILA) with the County (Marathon Housing Partners, Crystal Cove Housing Partners, & Seward). Seagrape received its allocations from the City at a time when allocations were readily available and there was little competition.

No current large project has available affordable allocations with the exception of the AGPM Acquisitions project (Keys Boat Works) which has sufficient Market Rate Allocations, but is seeking to trade those for Affordable allocations. So, the question becomes:

1. Do we or how do we let these larger projects into the BPAS allocation process? Each will be seeking affordable allocations from the larger pot of 300 units.

In consideration of the smaller projects (arbitrarily, those seeking from 1 to 10 Affordable BPAS allocations), there are eight (8) applicant seeking twenty-two (22) allocations which have building plans in the permit system. There are an additional twelve (12) with Habitat For Humanity that have provided a “master” set of plans that they would generally build from and an additional ten (10) which do not have plans at this juncture, but which have approvals through a Conditional Use Permit (CUP). This leads to the additional question of:

2. How do we want to allocate BPAS Affordable allocations to these projects? These projects may or may not be seeking units from the larger pot of 300 units.

ANALYSIS

Dealing with the larger projects first (question 1.), each has requested allocations, generally from the pool of 300 allocations.

1. Do we or how do we let these larger projects into the BPAS allocation process? Each will be seeking affordable allocations from the larger pot of 300 units.

Each request has been noted and each applicant has been informed that the award of BPAS affordable allocations cannot be considered until the “300 Allocation” appeal is resolved. Currently, the resolution of that appeal is projected to occur in late December 2019 to sometime early in 2020.

If, the City wins the appeal, then there are currently enough allocations to go around. Then, the question again becomes, does the City require building plans prior to the allocation of Affordable BPAS allocations. It seems that at least two options are available:

Answers

1a. No, all applicants will be required to obtain and provide building plans prior to the City’s allocation of units

1b. Yes, the City would provisionally provide allocations so long as the City received plans within a prescribed period of time, for instance six months or one year.

If the answer were “1a.” then the problem for the City is resolved fairly simply, with a response to applicants of, “get your plans in immediately or as soon as possible and then you will be considered for remaining Affordable allocations from the 300 units.

If the answer is “1b.” then the City has reserved the allocations to the individual project applicants and it simply waits to see whether plans are forthcoming. If they are, then the project reach final building permit approval. If plans are not forthcoming, then the BPAS allocations are returned to the pot of 300 allocations.

Of greatest consideration in Council deliberations, is what it takes to reach the point of submitting plans. For instance, at least one of the currently proposed projects will undoubtedly be seeking Florida Housing Finance Corporation (FHFC) approval and financing. This is a lengthy process during which plans are not normally required. These projects may not be in a position to provide plans until they receive FHFC approvals.

If the City does not prevail in the “300 Allocation” appeal, then we have an entirely different dilemma.

In consideration of question 2., the City has several options. Allocations

2. How do we want to allocate BPAS Affordable allocations to these projects? These projects may or may not be seeking units from the larger pot of 300 units.

First, in the normal procedure with plans in hand, the City allocates three (3) Affordable BPAS allocations per semester (bi-annual or twice per year). We can simply proceed as we have in the past and allow projects with numbers of 4 to 10 to accumulate allocations over multiple periods (notably,

Pelican Pond and the D'Asign Source project on Vaca Cut). Or, the City can utilize its remaining BPAS allocations to provide sufficient allocations to each project. Since there are only nineteen (19) allocations remaining in the Affordable BPAS pool, then we would be required to dip into the "Administrative Relief" pool. Most of the applications provided this opportunity in mid-2017 prior to Hurricane Irma did not take the allocations. The circumstances are likely very different today.

RECOMMENDATION:

The foregoing discussion is intended to generate conversation. The City will be bringing forward its current request for BPAS allocations in September. At that time, based on discussion and this meeting at least, staff will be prepared to make recommendations concerning the smaller projects and the allocation process for those projects. The larger projects can wait, but staff will be prepared to make similar recommendations when the BPAS allocation hearing comes up in September.

Project Approval Date	Project Name	Number Sought	RE No.	Plans	Notes
NA	Gunnar Holdings	3	00331090-000000	Yes	
Yes	Habitat - 64th Street	12	00338720-000000	Yes ??	Has CUP
Yes	Wolfe Storage	1	00100340-000000	Yes	Has CUP & DA
Yes	Ferrucci	6	00352210-000000	Yes ??	Has CUP
Yes	GEM Homes	9	00101340-000000 et al	No	Has CUP & DA
Yes	Seaview Commons	64	00363700-000000 et al	No	Has CUP and DA
Yes	AGPM Acquisitions	52	00337380-000000 et al	No ??	Has CUP / Also has 52 MR Allocations
NA	Fair Acre	1		??	
	Serenity Cove	45	00100620-000000	No	Has not been approved yet
Yes	Steinmetz	14	00101300-000000	No	Has CUP
	Halioua	12	00343500-000000	No	Has not been approved yet
NA	Andrew George	2		Yes	
NA	Florida Keys Homes	2		Yes	
	Diaz	4			
	Captain Pips	1	00102790-000000 et al	No	Has CUP
NA	Aranda - 92nd Street	3	00350010-000000	Yes	
No	Skip Jack	105	00355200-000000		Comp Plan Amendment
No	Aquarium Encounters	7	00363510-000000	No	New Application
No	Essential Personnel	17	00363490-000000	No	New Application
NO	Affordable Housing Project	16	00363500-000000	No	New Application
		51			Small Projects
		325			Large Projects
		376			Total Projects