

CITY COUNCIL AGENDA STATEMENT



Meeting Date: September 10, 2019

To: Honorable Mayor and Members of City Council

From: George Garrett, Planning Director

Through: Chuck Lindsey, City Manager

Item: **Resolution 2019-83**, Approving The Ranking And Allocations Of The Market Rate And Affordable Residential Dwelling Unit Allocation System (RBPAS) For Period 1, Year 28; And Providing For An Effective Date (July 14, 2019 to, January 13, 2020)

RECOMMENDATION

Based on the result of all BPAS applications, Planning Staff recommends that the City Council **APPROVE** the award of Thirteen (13) Market Rate General and three (3) Market Rate Owner Occupied BPAS allocations as shown in “Attachment A” and twenty-nine (29) Affordable BPAS allocations “Attachment B”.

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 28, as defined by the Residential Building Permit Allocation System (RBPAS). This period includes July 14, 2019 to, January 13, 2020.

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-eighth 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.

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
(Utilizing remaining affordable & Administrative Relief allocations)	
(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.

Four (4) permit applications were awarded in previous periods, which then had no further action. These four (4) allocations are being rescinded, and used to allocate the next four (4) allocations on the list within this period.

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.

The final Rankings and proposed allocations are presented in the RBPAS Allocation Resolution.

IV. ANALYSIS AND RECOMMENDATION

At the Council's August 13, 2019 meeting staff discussed the allocation of units for affordable housing indicating that they would return with a recommendation concerning the smaller affordable projects. The larger projects will inevitably require a portion of the 300 additional units provided by the Governor and Cabinet and adopted by Ordinance in December of 2018.

Staff has reviewed the list of smaller project requests (See attached table). There are ten applicants who are either seeking a permit with an affordable allocation and have provided building plans or who wish to trade out market rate units for affordable housing units while upgrading and deed restricting existing units. The ten applicants are seeking a total of twenty-nine (29) affordable allocations.

Remaining applicants have either not provided adequate building plans, have not received a necessary level of approval by the City Council, or are requesting a number of units which could only come from the 300 units once the appeals in that case are resolved.

Staff is suggesting that, in addition to the three (3) affordable allocations typically provided, that the additional twenty-six (26) be awarded. In addition, staff is suggesting that the additional awardees must complete their building permit process within the next ninety (90) days or, in the case of "trade-out" units, complete necessary transfers and obtained building permits for necessary building upgrades within the same period of time.

At the August meeting, staff identified that there remained nineteen (19) affordable allocations and sixty-four (64) administrative relief allocations to provide the pool of necessary units.

The market rate applications for consideration for an allocation this Period are shown on Attachment "A". The ranking of the applications are shown on both attachments.

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

The affordable applications for consideration for an allocation this Period are shown on Attachment "B". The ranking of the applications are shown on both attachments.

See Attachment B of the Resolution: Ranking of Affordable RBPAS

Based on the result of the BPAS System, Planning Staff recommends that the City Council **APPROVE** the award of Thirteen (13) Market Rate General and three (3) Market Rate Owner Occupied BPAS allocations as shown in “Attachment A” and twenty-nine (29) Affordable BPAS allocations as shown in “Attachment B”.

In addition to the three (3) affordable allocations typically provided, an additional twenty-six (26) have been awarded. The additional awardees must complete their building permit process within the next ninety (90) days or, in the case of “trade-out” units, complete necessary transfers and obtained building permits for necessary building upgrades within the same period of time.

BPAS Entry Date	Project Approval Date	Project Name	Number Sought	RE No.	Plans	Notes
	Yes	1733 Overseas Highway LLC	7	00326570-000000	Yes	Has old CUP / Trading Units
	NA	Gunnar Holdings	1	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		??	
	No	Serenity Cove	45	00100620-000000	No	Has not been approved yet
	Yes	Steinmetz	14	00101300-000000	No	Has CUP
	No	Halioua	12	00343500-000000	No	Has not been approved yet
	NA	Andrew George	2		Yes	
	NA	Florida Keys Homes	2		Yes	
	NA	Diaz	4		Yes	
	Yes	Captain Pips	1	00102790-000000	No	Has CUP
	NA	Aranda - 92nd Street	3	00350010-000000	Yes	
	Yes	Holiday Inn Express (Spottswood)	2		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
			29			Small Projects w/ Plans
			10			Small Projects w/o Plans
			199			Large Projects
			238			Total Projects

**CITY OF MARATHON, FLORIDA
RESOLUTION 2019-83**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, APPROVING THE RANKING AND ALLOCATIONS OF THE MARKET RATE AND AFFORDABLE RESIDENTIAL DWELLING UNIT ALLOCATION SYSTEM (RBPAS) FOR PERIOD 1, YEAR 28; AND PROVIDING FOR AN EFFECTIVE DATE (JULY 14, 2019 TO JANUARY 13, 2020)

WHEREAS, the City of Marathon City Council (the “City”) reviewed the market rate and affordable residential dwelling unit application rankings for Period 1, Year 28 in compliance with the RBPAS Procedures promulgated in Section 107.07 of the Land Development Regulations (the “LDRs”);

WHEREAS, the City conducted a properly advertised public hearing (the “Public Hearing”) regarding the proposed residential BPAS rankings, Period 1, Year 28 pursuant to Chapter 107 Article 1 of the LDRs.

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 and “Attachment B” for the Affordable pools, the City Council awards sixteen (16) Market Rate Residential, twenty-nine (29) Affordable Residential made up of remaining affordable allocations and allocations which have rolled over from years when they remained unused based upon a willingness to build immediately and/or to meet the requirements for rehabilitating existing residential units to meet the Florida Building Code (FBC); and

(3) In addition to the three (3) affordable allocations typically provided, an additional twenty-six (26) have been awarded. The additional awardees must complete their building permit process within the next ninety (90) days or, in the case of “trade-out” units, complete necessary

transfers and obtained building permits for necessary building upgrades within the same period of time.

(4) 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 28 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. Applicants requesting transfer of building rights as part of the provision of affordable allocations shall be required to meet the criteria established in Chapter 107,17 C, prior to the receipt of affordable allocations from the City completion of transfer of market rate residential units to other locations.

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 10th DAY OF SEPTEMBER, 2019.

THE CITY OF MARATHON, FLORIDA

John Bartus, 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 28
July14, 2019 to January 13, 2020**

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
1	RM-06/10/16-01	Calabrese, Mark & Laurie	67	10/16/2006	10:30 AM			2	00353060-000000
2	RM-04/08/18-01	JLW Living Trust 4/24/2014	66	8/18/2004	2:05 PM			3	00356900-000000
3	RM-07/03/07-01	Young, William & Terrie	65	3/7/2007	11:20 AM	4/26/2016	2:00 PM		00356850-000000
4	BM-17/06/14-01	Gunner Holdings LLC	65	6/14/2017	8:15 AM				00331061-016400
5	BM-17/07/12-01	Pontius, Christopher	65	7/12/2017	2:33pm				00365580-000000
6	BM-18/12/07-01	Ferradaz, Adrian	65	12/7/2018	3:00 PM				00363740-000000
7	RM-06/01/23-01	R & L Lending Inc	64	1/23/2006	2:00PM				00364790-000000
8	BM-15/1/14-01	Onorato, Gary	64	1/14/2015	2:00 PM				00356950-000000
9	BM-16/01/11-06	Royal Crest Homes	64	1/11/2016	11:05AM				00354190-000000
10	BM-17/01/04-01	8th And 7st Street Properties LLC	64	1/4/2017	3:36 PM				00327000-001700
11	BM-18/01/08-01	Design Center LLC	64	1/8/2018	3:00 PM				00356700-000000
12	BM-18/01/08-02	Florida Keys Homes LLC	64	1/8/2018	3:01 PM				00356710-000000
13	BM-18/01/16-05	Hole, Cheri	64	1/16/2018	8:35 AM				00331061-000500
14	BM-18/01/16-06	Clinton, Janice	64	1/16/2018	8:36 AM				00331061-000300
15	BM-18/12/07-02	Ferradaz, Adrian	64	12/7/2018	3:00 PM				00363740-000000
16	RM-04/08/05-09	Felling, Michael	63	8/5/2004	3:02 PM			3	00376160-000000
17	RM-04/08/09-10	Bindoboo Land Holdings, LLC	63	8/9/2004	2:00 PM			3	00354380-000000
18	RM-04/08/31-01	Daughtry, Christopher B	63	8/31/2004	4:31 PM	12/4/2006	8:00 AM	3	00333641-009210
19	RM-04/09/07-01	Rodriguez, Jose	63	9/7/2004	10:30 AM			3	00331061-002000
20	RM-04/10/12-01	Laviolette Rentals, LLC	63	10/12/2004	2:35 PM			3	00357041-002900
21	RM-04/11/18-01	Borowski, Gregory & Janice	63	11/18/2004	8:00AM			3	00373010-000000
22	RM-05/09/12-01	Kamph, Martin	63	9/12/2005	3:50 PM			3	00354350-000000
23	RM-05/11/07-01	Curley, Joseph D and Mary V	63	11/7/2005	10:33 AM			3	00105520-000000
24	BM-18/04/26-01	Cheon, Rodney	63	4/26/2018	3:00 PM				00105010-000000
25	BM-18/12/27-01	Firstco Marine LLC	63	12/27/2018	9:55 AM				00347480-000200
26	RM-05/11/28-01	Perona, Bernard P.	62	11/28/2005	11:17AM			2	00320990-000100
27	RM-06/01/26-01	Leird, Christine & William	62	1/26/2006	10:13AM			2	00332310-000000
28	RM-06/02/08-01	Jarmolowitz, Aaron	62	2/8/2006	12:00 PM			2	00353970-000000
29	RM-06/02/14-01	Held, Michael & Robin	62	2/14/2006	12:00 PM			2	00105240-001900
30	RM-07/02/05-01	Blue Castle Holdings, LLC	62	2/5/2007	2:10 PM				00353690-000000
31	RM 07/03/13-01	J & S Real Estate Investment	62	3/13/2007	2:50 PM			2	00356060-000000
32	BM-17/07/13-01	Daniels Family Investments Inc.	62	7/13/2017	2:54PM				00360740-000100
33	BM-18/11/16-01	The Cove at Coco Plum	62	11/16/2018	12:21 PM				00363770-000000
34	BM-19/07/12-01	The Royal Company	62	7/12/2019	4:57 PM				00104441-000200
35	BM-19/07/15-01	Guerra, Roger	62	7/15/2019	2:23 PM				00332750-000000
36	BM-18/07/13-03	Silva, Alejandro	62	7/13/2018	3:14 PM				00365341-000400
37	RM-05/10/28-01	Aldama, Ivan	61	10/28/2005	2:30 PM			1	00347020-000000
38	RM-05/11/04-01	Gray, Ronald & Jeanne	61	11/4/2005	3:10 PM			2	00346480-000000
39	BM-16/01/11-01	Boumerhi, Pierre	61	1/11/2016	9:45AM				00341390-000000
40	BM-18/12/12-01	Fisher, Aaron	61	12/12/2018	1:30 PM				00354260-000000
41	BM-19/01/13-03	Torres, Guillermo	61	1/13/2019	3:25 PM				00354440-000000
42	BM-17/07/05-01	MAM Holdings	59	7/5/2017	11:04am				00363850-000000
43	BM-18/01/16-07	Clinton, Janice	59	1/16/2018	8:37 AM				00331061-000400
44	BM-18/07/13-02	Matlock, Kenny	59	7/13/2018	3:00 PM				00321990-000000
45	BM-18/01/16-01	4 Avenue D LLC	58	1/16/2018	8:30 AM				00363840-000000
46	BM-18/07/13-06	Epifano, Pamela	58	7/13/2018	4:56 PM				00105240-000500
47	BM-18/08/03-01	Francon, Castro	58	8/3/2018	12:00 PM				00105240-001000
48	BM-19/01/10-05	JC Construction Management	58	1/10/2019	2:02 PM				00349970-000000
49	RM-06/10/18-01	Edlund, Steve	57	10/18/2006	1:30 PM			1	00373190-000000
50	BM-17/07/05-02	MAM Holdings	57	7/5/2017	11:05AM				00363850-000000
51	BM-17/07/05-03	MAM Holdings	57	7/5/2017	11:06am				00363850-000000
52	BM-19/01/10-09	Bacallao, Pavel	57	1/10/2019	2:07 PM				00349000-000000
53	BM-19/07/16-01	Courter, Glenn	57	7/16/2019	12:00 PM				00363810-000220
54	RM-04/08/16-01	Tolton, Frank	56	8/16/2004	8:00 AM	11/15/2004	5:00 PM	1	00355418-001800
55	RM-05/11/08-01	RSW NV 2007 Trust 6/9/2007	56	11/8/2005	11:45 AM			1	00354420-000000
56	BM-08/05/13-01	Pieloch, Mark	56	5/13/2008	9:50 AM			1	00366710-000000
57	BM-18/01/16-02	4 Avenue D LLC	56	1/16/2018	8:31 AM				00363840-000000
58	BM-18/01/16-03	4 Avenue D LLC	56	1/16/2018	8:32 AM				00363840-000000
59	BM-19/07/15-02	Moreau, Guy	56	7/15/2019	3:00 PM				00329300-000000
60	RM-04/08/05-08	Benton, Frank & Karen	55	8/5/2004	12:01 PM			1	00365390-000000
61	RM-04/12/21-01	Prieto, Rogel	55	12/21/2004	2:21 PM				00328900-000000
62	RM-06/11/02-01	Pieloch, Mark	55	11/2/2006	4:20PM			1	00366031-000300
63	RM 07/03/09-01	Daniels, David C	55	3/9/2007	10:45 AM			1	00352080-000000
64	BM-18/11/16-02	The Cove at Coco Plum	55	11/16/2018	12:21 PM				00363770-000000
65	BM-18/11/16-03	The Cove at Coco Plum	55	11/16/2018	12:21 PM				00363770-000000
66	BM-19/04/09-01	Hall, Jonathan	55	4/9/2019	2:20 PM				00355151-001400
67	BM-18/01/09-01	Warner, William	54	1/9/2018	11:30 AM				00356580-000000
68	RM-04/08/09-05	Hallman, John & Carol	53	8/9/2004	10:48 AM				00365410-000000
69	RM-05/10/05-01	Forthman, Todd & Leslie	53	10/5/2005	12:30 PM				00339910-000000
70	BM-17/01/03-01	Goodwin, Trace	53	1/3/2017	11:51 AM				00360840-000100
71	BM-19/06/14-01	Perez, Mirtha	53	6/14/2019	1:40 PM				00353500-000000
72	RM-04/08/09-08	Mann, James	52	8/9/2004	11:25 AM	8/12/2005	1:15 PM		00355980-000000
73	RM-05/04/13-01	Yellowtail Trust Investments, LLC	52	4/13/2005	8:30 AM				00338780-000100
74	BM-19/02/15-01	Lefkowitz, Eric	52	2/15/2019	2:00 PM				00333641-005000
75	RM 07/03/09-02	Osborne, Robert F	51	3/9/2007	4:40 PM				00319870-000000
76	RM 07/03/09-02	Osborne, Robert F	51	3/9/2007	4:40 PM				00319870-000000
77	RM 07/03/09-03	Hetuin, Jean Michael	51	3/9/2007	4:41 PM				00319880-000000
78	RM 07/03/09-03	Hetuin, Jean Michael	51	3/9/2007	4:41 PM				00319880-000000
79	RM 07/03/09-04	Hayes, Scott & Erica	51	3/9/2007	4:42 PM				00319760-000000
80	RM 07/03/09-04	Hayes, Scott & Erica	51	3/9/2007	4:42 PM				00319760-000000
81	BM 07/10/10-01	Gray, Ronald	51	10/10/2007	2:20 PM				00346470-000000
82	BM-19/07/11-01	Jaymar Holdings	51	7/11/2019	11:28 AM				00355810-000000
83	BM 08/06/03-01	Torres, Luis & Maria Elena	50	6/3/2008	1:55 PM				00100750-001200
84	RM-05/07/13-04	33 Southpoint, LLC	46	7/13/2005	3:20 PM				00358230-000104
85	RM-05/07/13-05	33 Southpoint, LLC	46	7/13/2005	3:22 PM				00358230-000106
86	BM 08/03/07-02	Jutstrom, Bryan	45	3/7/2008	3:50 PM				00345780-000000
87	BM-11/07/07-05	Pescayo, Inc.	45	7/7/2011	2:34 PM				00363520-000800

RANK	ROGO/BPAS NUMBER	NAME	BPAS SCORE	DATE ENTERED	TIME ENTERED	DATE RE-ENTERED	TIME RE-ENTERED	RE NUMBER