

CITY COUNCIL AGENDA STATEMENT



Meeting Date: September 8, 2020

To: Honorable Mayor and Members of City Council

From: George Garrett, Planning Director

Through: Chuck Lindsey, City Manager

Item: **Resolution 2020-58**, Approving The Ranking And Allocations Of The Market Rate And Affordable Residential Dwelling Unit Allocation System (RBPAS) For Period 1, Year 21; And Providing For An Effective Date (July 14, 2020 To January 13, 2021)

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 three (3) Market Rate Owner Occupied BPAS allocations as shown in “Attachment A” and two (2) 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 29, as defined by the Residential Building Permit Allocation System (RBPAS). This period includes January 14, 2020 to, July 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-ninth 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.

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

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 eight (8) Market Rate General and three (3) Market Rate Owner Occupied BPAS allocations as shown in “Attachment A” and two (2) Affordable BPAS allocations as shown in “Attachment B”.

**CITY OF MARATHON, FLORIDA
RESOLUTION 2020-58**

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 29; AND PROVIDING FOR AN EFFECTIVE DATE (JULY 14, 2020 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 29 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 29 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 eleven (11) Market Rate Residential, two (2) Affordable Residential allocations; 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 29 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 8th DAY OF SEPTEMBER, 2020.

THE CITY OF MARATHON, FLORIDA

Steve Cook, 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:

City Attorney

Attachment A:
Ranking of BPAS Applications for Period 1 Year 29
July 14, 2020 to January 13, 2021

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	BM-19/08/14-01	Grand Family Trust	72	8/14/2019	12:07 PM				00368440-000000
2	BM-20/06/17-03	Dream America Properties LLC	70	6/17/2020	12:10 PM				00355940-000000
3	BM-17/07/13-01	Daniels Family Investments Inc.	68	7/13/2017	2:54PM				00360740-000100
4	BM-20/07/06-01	JLW Living Trust	68	7/6/2020	1:24 PM				00355280-000100
5	BM-20/03/05-01	Seckinger, Christian	67	3/5/2020	9:00 AM				00364030-000000
6	BM-20/05/26-01	Gilmore, Barry	67	5/26/2020	9:30 AM				00368460-000000
7	BM-20/07/09-03	Rivera, Samuel	67	7/9/2020	12:30 PM				00356040-000100
8	RM-06/10/18-01	Edlund, Steve	67	10/18/2006	1:30 PM	7/13/2020	5:00 PM	1	00373190-000000
9	RM-06/02/08-01	Jarmolowitz, Aaron	66	2/8/2006	12:00 PM	7/9/2020	9:51 AM	2	00353970-000000
10	BM-17/07/05-02	MAM Holdings	65	7/5/2017	11:05AM				00363850-000000
11	BM-17/07/05-03	MAM Holdings	65	7/5/2017	11:06am				00363850-000000
12	BM-18/01/16-05	Hole, Cheri	65	1/16/2018	8:35 AM				00331061-000500
13	BM-18/01/16-06	Clinton, Janice	65	1/16/2018	8:36 AM				00331061-000300
14	BM-18/07/13-02	Matlock, Kenny	65	7/13/2018	3:00 PM				00321990-000000
15	RM-04/09/07-01	Rodriguez, Jose	64	9/7/2004	10:30 AM			3	00331061-002000
16	RM-04/10/12-01	Lavolette Rentals, LLC	64	10/12/2004	2:35 PM			3	00357041-002900
17	RM-04/11/18-01	Borowski, Gregory & Janice	64	11/18/2004	8:00AM			3	00373010-000000
18	RM-05/09/12-01	Kamph, Martin	64	9/12/2005	3:50 PM			3	00354350-000000
19	RM-05/11/07-01	Curley, Joseph D and Mary V	64	11/7/2005	10:33 AM			3	00105520-000000
20	RM-04/08/31-01	Lot 91 Stirrup Key Blvd Land Trust	64	8/31/2004	4:31 PM	12/4/2006	8:00 AM	3	00333641-009210
21	BM-18/01/16-01	4 Avenue D LLC	64	1/16/2018	8:30 AM				00363840-000000
22	BM-18/01/16-02	4 Avenue D LLC	64	1/16/2018	8:31 AM				00363840-000000
23	BM-18/04/26-01	Cheon, Rodney	64	4/26/2018	3:00 PM				00105010-000000
24	BM-18/12/27-01	Firisco Marine LLC	64	12/27/2018	9:55 AM				00347480-000200
25	BM-19/01/10-05	JC Construction Management	64	1/10/2019	2:02 PM				00349970-000000
26	BM-19/01/13-03	Torres, Guillermo	64	1/13/2019	3:25 PM				00354440-000000
27	RM-05/11/28-01	Perona, Bernard P.	63	11/28/2005	11:17AM			2	00320990-000100
28	RM-06/01/26-01	Leird, Christine & William	63	1/26/2006	10:13AM			2	00332310-000000
29	RM-06/02/14-01	Held, Michael & Robin	63	2/14/2006	12:00 PM			2	00105240-001900
30	RM-07/02/05-01	Blue Castle Holdings, LLC	63	2/5/2007	2:10 PM				00353690-000000
31	RM 07/03/13-01	J & S Real Estate Investment	63	3/13/2007	2:50 PM			2	00356060-000000
32	BM-11/07/07-05	Playa Dania LLC	63	7/7/2011	2:34 PM				00363520-000800
33	BM-15/03/06-01	8067 Bonito, LLC	63	3/6/2015	1:50 PM				00330300-000000
34	BM-18/07/13-03	Silva, Alejandro	63	7/13/2018	3:14 PM				00365341-000400
35	BM-19/01/10-09	Bacallao, Pavel	63	1/10/2019	2:07 PM				00349000-000000
36	BM-19/07/12-01	The Royal Company	63	7/12/2019	4:57 PM				00104441-000200
37	BM-20/01/07-01	Ed Sims Development LLC	63	1/7/2020	3:50 PM				00353940-000100
38	BM-20/06/08-01	Schofield, Bruce	63	6/8/2020	9:00 AM				00363630-000000
39	BM-20/07/06-03	Corrie, Brent	63	7/6/2020	1:26 PM				00100650-000100
40	RM-05/10/28-01	Aldama, Ivan	62	10/28/2005	2:30 PM			1	00347020-000000
41	RM-05/11/04-01	Gray, Ronald & Jeanne	62	11/4/2005	3:10 PM			2	00346480-000000
42	BM-18/12/12-01	Fisher, Aaron	62	12/12/2018	1:30 PM				00354260-000000
43	BM-19/07/15-01	Guerra, Roger	62	7/15/2019	2:23 PM				00332750-000000
44	BM-19/07/16-01	Courter, Glenn	62	7/16/2019	12:00 PM				00363810-000220
45	BM-19/07/18-01	Alsina, Emmanuel	62	7/18/2019	12: PM				00364610-000500
46	BM-20/07/09-02	Rodriguez, Francisco	62	7/9/2020	11:23 AM				00364140-003030
47	BM-20/06/12-01	Ahearn, Justin	61	6/12/2020	9:00 AM				00354270-000000
48	BM-20/06/17-01	Florida Keys Homes LLC	61	6/17/2020	12:00 PM				00354180-000000
49	BM-17/07/05-01	MAM Holdings	60	7/5/2017	11:04am				00363850-000000
50	BM-18/01/16-07	Clinton, Janice	60	1/16/2018	8:37 AM				00331061-000400
51	BM-18/01/16-03	4 Avenue D LLC	59	1/16/2018	8:32 AM				00363840-000000
52	BM-18/07/13-06	Epifano, Pamela	59	7/13/2018	4:56 PM				00105240-000500
53	BM-18/08/03-01	Francon, Castro	59	8/3/2018	12:00 PM				00105240-001000
54	RM-04/08/16-01	Tolton, Frank	57	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	57	11/8/2005	11:45 AM			1	00354420-000000
56	BM-08/05/13-01	Pieloch, Mark	57	5/13/2008	9:50 AM			1	00366710-000000
57	RM-04/08/05-08	Benton, Frank & Karen	56	8/5/2004	12:01 PM			1	00365390-000000
58	RM-04/12/21-01	Prieto, Rogel	56	12/21/2004	2:21 PM				00328900-000000
59	RM-06/11/02-01	Pieloch, Mark	56	11/2/2006	4:20PM			1	00366031-000300
60	RM 07/03/09-01	Daniels, David C	56	3/9/2007	10:45 AM			1	00352080-000000
61	BM-19/04/09-01	Hull, Jonathan	56	4/9/2019	2:20 PM				00355151-001400
62	BM-19/07/15-02	Moreau, Guy	56	7/15/2019	3:00 PM				00329300-000000
63	RM-04/08/09-05	Hallman, John & Carol	54	8/9/2004	10:48 AM				00365410-000000
64	RM-05/10/05-01	Forthman, Todd & Leslie	54	10/5/2005	12:30 PM				00339910-000000
65	BM-17/01/03-01	Goodwin, Trace	54	1/3/2017	11:51 AM				00360840-000100
66	BM-19/06/14-01	Perez, Mirtha	54	6/14/2019	1:40 PM				00353500-000000
67	RM-04/08/09-08	Mann, James	53	8/9/2004	11:25 AM	8/12/2005	1:15 PM		00355980-000000
68	RM-05/04/13-01	Yellowtail Trust Investments, LLC	53	4/13/2005	8:30 AM				00338780-000100
69	BM-19/02/15-01	Lefkowitz, Eric	53	2/15/2019	2:00 PM				00333641-005000
70	RM 07/03/09-02	Osborne, Robert F	52	3/9/2007	4:40 PM				00319870-000000
71	RM 07/03/09-02	Osborne, Robert F	52	3/9/2007	4:40 PM				00319870-000000
72	RM 07/03/09-03	Hetuin, Jean Michael	52	3/9/2007	4:41 PM				00319880-000000
73	RM 07/03/09-03	Hetuin, Jean Michael	52	3/9/2007	4:41 PM				00319880-000000
74	RM 07/03/09-04	Hayes, Scott & Erica	52	3/9/2007	4:42 PM				00319760-000000
75	RM 07/03/09-04	Hayes, Scott & Erica	52	3/9/2007	4:42 PM				00319760-000000
76	BM 07/10/10-01	Gray, Ronald	52	10/10/2007	2:20 PM				00346470-000000
77	BM 08/06/03-01	Torres, Luis & Maria Elena	51	6/3/2008	1:55 PM				00100750-001200
78	RM-05/07/13-04	33 Southpoint, LLC	47	7/13/2005	3:20 PM				00358230-000104
79	RM-05/07/13-05	33 Southpoint, LLC	47	7/13/2005	3:22 PM				00358230-000106
80	BM 08/03/07-02	Jutstrom, Bryan	46	3/7/2008	3:50 PM				00345780-000000
81	BM-19/01/13-02	ARM S A LLC	46	1/13/2019	3:30 PM				00357041-002400
82	BM-18/06/25-01	Valentin, Barbara	43	6/25/2018	4:00 PM				00345570-000000
83	BM-13/01/14-01	Keys Dragon Marathon, LLC	42	1/14/2013	2:00 PM				00102440-000000
84	BM-18/01/16-04	Vitale, John	41	1/16/2018	8:34 AM				00356720-000000
85	BM-16/01/11-07	Tatro Michigan, LTD	39	1/11/2016	10:00AM				00355417-003100
86	BM-19/03/22-01	JRC LLC	39	3/22/2019	3:31 PM				00355370-000101

Affordable General Pool								
RANK	ROGO/BPAS NUMBER	NAME	BPAS SCORE	DATE ENTERED	TIME ENTERED	DATE RE-ENTERED	TIME RE-ENTERED	RE NUMBER
1	BA-20/02/12-01	Bacallao, Pavel	51	2/12/2020	8:00 AM			00347110-000000
2	BA-20/02/12-02	Bacallao, Pavel	51	2/12/2020	8:00 AM			00347110-000000
Community Workforce Housing								
RANK	ROGO/BPAS NUMBER	NAME	BPAS SCORE	DATE ENTERED	TIME ENTERED	DATE RE-ENTERED	TIME RE-ENTERED	RE NUMBER
TBR Affordable Pool								
RANK	ROGO/BPAS NUMBER	NAME	BPAS SCORE	DATE ENTERED	TIME ENTERED	DATE RE-ENTERED	TIME RE-ENTERED	RE NUMBER
				<i>Awards</i>	<i>Available</i>	<i>Recommended</i>	<i>Remaining</i>	
				General	1	2	0	
				Workforce	1	0	0	
				TBR	1	0	1	