

CITY COUNCIL AGENDA STATEMENT



Meeting Date: March 9, 2021

To: Honorable Mayor and Members of City Council

From: Brian Shea, Planning Director

Through: George Garrett, City Manager

Item: **Resolution 2021-14**, Approving The Ranking And Allocations Of The Market Rate And Affordable Residential Dwelling Unit Allocation System (RBPAS) For Period 2, Year 29; And Providing For An Effective Date (January 13, 2021 To July 14, 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 three (3) 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 2, Year 29, as defined by the Residential Building Permit Allocation System (RBPAS). This period includes July 14, 2020 to, January 13, 2021.

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 three (3) Affordable BPAS allocations as shown in “Attachment B”.

**CITY OF MARATHON, FLORIDA
RESOLUTION 2021-14**

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 2, YEAR 29; AND PROVIDING FOR AN EFFECTIVE DATE (JANUARY 14, 2021 TO JULY 13, 2021)

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 2, 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, three (3) 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 2, 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 9th DAY OF MARCH, 2021.

THE CITY OF MARATHON, FLORIDA

Luis Gonzalez, 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:

Steven Williams, City Attorney

Attachment A:
Ranking of BPAS Applications for Period 2 Year 29
January 14, 2021 to July 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	RM-06/02/08-01	Jarmolowitz, Aaron	73	2/8/2006	12:00 PM	7/9/2020	9:51 AM	2	00353970-000000
2	BM-19/07/18-01	Alsina, Emmanuel	72	7/18/2019	12: PM				00364610-000500
3	RM-05/09/12-01	Kamph, Martin	72	9/12/2005	3:50 PM				00354350-000000
4	RM 07/03/09-01	Daniels, David C	70	3/9/2007	10:45 AM			1	00352080-000000
5	BM-18/01/16-06	Clinton, Janice	70	1/16/2018	8:36 AM				00331061-000300
6	BM-19/01/13-03	Torres, Guillermo	70	1/13/2019	3:25 PM				00354440-000000
7	BM-20/06/08-01	Schofield, Bruce	70	6/8/2020	9:00 AM				00363630-000000
8	BPAS-21-2	7 Mile Sunset/Mark Whitney	70	1/7/2021	10:01AM				00101610-000100
9	BM-20/07/09-02	Rodriguez, Francisco	69	7/9/2020	11:23 AM				00364140-003030
10	BM-19/07/16-01	Courter, Glenn	68	7/16/2019	12:00 PM				00363810-000220
11	BM-17/01/03-01	Goodwin, Trace	67	1/3/2017	11:51 AM				00360840-000100
12	BM-18/01/16-05	Hole, Cheri	67	1/16/2018	8:35 AM				00331061-000500
13	BPAS-21-38	LA PALMA 101 INC	67	1/8/2021	1:27PM				00104460-000000
14	BPAS-21-39	LA PALMA 101 INC	67	1/8/2021	1:30PM				00104460-000000
15	BPAS-21-30	GEM Homes LLC	66	12/2/2020	10:00 AM				00101340-000000
16	BPAS-21-30	GEM Homes LLC	66	12/2/2020	10:00 AM				00101340-000000
17	BPAS-21-30	GEM Homes LLC	66	12/2/2020	10:00 AM				00101340-000000
18	BPAS-21-30	GEM Homes LLC	66	12/2/2020	10:00 AM				00101340-000000
19	RM-04/09/07-01	Rodriguez, Jose	65	9/7/2004	10:30 AM			3	00331061-002000
20	RM-04/10/12-01	Laviolette Rentals, LLC	65	10/12/2004	2:35 PM			3	00357041-002900
21	RM-04/11/18-01	Borowski, Gregory & Janice	65	11/18/2004	8:00AM			3	00373010-000000
22	RM-05/11/07-01	Curley, Joseph D and Mary V	65	11/7/2005	10:33 AM			3	00105520-000000
23	RM-05/11/28-01	Perona, Bernard P.	65	11/28/2005	11:17AM			2	00320990-000100
24	BM 07/10/10-01	Gray , Ronald	65	10/10/2007	2:20 PM				00346470-000000
25	BM-17/07/05-02	MAM Holdings	65	7/5/2017	11:05AM				00363850-000000
26	BM-17/07/05-03	MAM Holdings	65	7/5/2017	11:06am				00363850-000000
27	BM-18/07/13-02	Matlock, Kenny	65	7/13/2018	3:00 PM				00321990-000000
28	BM-18/12/27-01	Firstco Marine LLC	65	12/27/2018	9:55 AM				00347480-000200
29	BM-19/01/10-05	JC Construction Management	65	1/10/2019	2:02 PM				00349970-000000
30	BM-18/01/16-01	4 Avenue D LLC	64	1/16/2018	8:30 AM				00363840-000000
31	BM-18/01/16-02	4 Avenue D LLC	64	1/16/2018	8:31 AM				00363840-000000
32	BM-18/04/26-01	Cheon, Rodney	64	4/26/2018	3:00 PM				00105010-000000
33	BM-19/01/10-09	Bacallao, Pavel	64	1/10/2019	2:07 PM				00349000-000000
34	BM-20/01/07-01	Ed Sims Development LLC	64	1/7/2020	3:50 PM				00353940-000100
35	BPAS-21-35	ELOY LEON	64	12/30/2020	9:31 AM				00364820-000000
36	RM-05/10/28-01	Aldama, Ivan	63	10/28/2005	2:30 PM				00347020-000000
37	RM-05/11/04-01	Gray, Ronald & Jeanne	63	11/4/2005	3:10 PM				00346480-000000
38	RM-06/01/26-01	Leird, Christine & William	63	1/26/2006	10:13AM			2	00332310-000000
39	RM-06/02/14-01	Held, Michael & Robin	63	2/14/2006	12:00 PM			2	00105240-001900
40	RM 07/03/13-01	Iorge Montiel	63	3/13/2007	2:50 PM			2	00356060-000000
41	BM-11/07/07-05	Playa Dania LLC	63	7/7/2011	2:34 PM				00363520-000800
42	BM-18/12/12-01	Fisher, Aaron	63	12/12/2018	1:30 PM				00354260-000000
43	BM-19/07/12-01	The Royal Company	63	7/12/2019	4:57 PM				00104441-000200
44	BM-19/07/15-01	Guerra, Roger	63	7/15/2019	2:23 PM				00332750-000000
45	BM-20/07/06-03	Corrie, Brent	63	7/6/2020	1:26 PM				00100650-000100
46	BPAS-21-25	Annie Cruz	63	1/5/2021	2:21PM				00331160-000000
47	BPAS-21-29	LA PALMA 101 INC	62	1/8/2021	1:35PM				00104460-000000
48	BPAS-21-36	Andrew George	62	12/16/2020	2:22PM				00376410-000000
49	BM-20/06/17-01	Florida Keys Homes LLC	61	6/17/2020	12:00 PM				00354180-000000
50	BPAS-21-38	Adkins, Michael	61	7/16/2020	12:46PM				00373830-000100
51	BPAS-21-30	GEM Homes LLC	61	12/2/2020	10:00 AM				00101340-000000
52	BM-17/07/05-01	MAM Holdings	60	7/5/2017	11:04am				00363850-000000
53	BM-18/01/16-07	Clinton, Janice	60	1/16/2018	8:37 AM				00331061-000400
54	BM-18/08/03-01	Francon, Castro	60	8/3/2018	12:00 PM				00105240-001000
55	BM-18/01/16-03	4 Avenue D LLC	59	1/16/2018	8:32 AM				00363840-000000
56	BM-18/07/13-06	Epifano, Pamela	59	7/13/2018	4:56 PM				00105240-000500
57	RM-04/08/16-01	Tolton, Frank	58	8/16/2004	8:00 AM	11/15/2004	5:00 PM	1	00355418-001800
58	RM-05/11/08-01	RSW NV 2007 Trust 6/9/2007	58	11/8/2005	11:45 AM			1	00354420-000000
59	BM-20/07/06-04	93 Stirrup Key LLC	58	7/6/2020	4:22 PM				00333641-009300
60	BPAS-21-42	Liron Gozlan	58	11/6/2020	9:00AM				00325080-000000
61	BPAS-21-34	QUINCOSES FELICIA	58	7/27/2020	9:00AM				00364370-000000
62	BPAS-21-7	LARSEN RAYMOND	58	9/17/2020	9:00AM				00331061-002600
63	BPAS-21-26	DESIGN CENTER INC	58	12/17/2020	12:54PM				00376420-000000
64	BPAS-20-28	93 STIRRUP KEY LLC	58	2/10/2020	9:00AM				00333641-009300
65	BPAS-21-24	EVANS GARY C	58	1/5/2021	5:10 PM				00364140-003040
66	RM-04/08/05-08	Benton, Frank & Karen	57	8/5/2004	12:01 PM			1	00365390-000000
67	RM-04/12/21-01	Prieto, Rogel	57	12/21/2004	2:21 PM				00328900-000000
68	RM-06/11/02-01	Pieloch, Mark	57	11/2/2006	4:20PM			1	00366031-000300
69	BM-08/05/13-01	Pieloch, Mark	57	5/13/2008	9:50 AM			1	00366710-000000
70	BM-19/07/15-02	Moreau, Guy	57	7/15/2019	3:00 PM				00329300-000000
71	BPAS-21-17	WELBORN HUGH	57	12/22/2020	1:41PM				00365370-000000
72	BPAS-21-21	WHITE BRYCE LYNN	57	1/6/2021	1:45PM				00331061-002800
73	RM-04/08/09-05	Hallman, John & Carol	55	8/9/2004	10:48 AM				00365410-000000
74	RM-05/10/05-01	Forthman, Todd & Leslie	55	10/5/2005	12:30 PM				00339910-000000
75	RM-04/08/09-08	Mann, James	54	8/9/2004	11:25 AM				00355980-000000
76	RM-04/08/31-01	Lot 91	54	8/31/2004	4:31 PM	12/4/2006	8:00 AM	3	00333641-009210
77	BM-19/06/14-01	Perez, Mirtha	54	6/14/2019	1:40 PM				00353500-000000
78	RM-05/04/13-01	Yellowtail Trust Investments, LLC	53	4/13/2005	8:30 AM				00338780-000100
79	BM-19/02/15-01	Lefkowitz, Eric	53	2/15/2019	2:00 PM				00333641-005000
80	RM-07/02/05-01	Blue Castle Holdings, LLC	52	2/5/2007	2:10 PM				00353690-000000
81	RM 07/03/09-02	Osborne, Robert F	52	3/9/2007	4:40 PM				00319870-000000
82	RM 07/03/09-02	Osborne, Robert F	52	3/9/2007	4:40 PM				00319870-000000
83	RM 07/03/09-03	Hetuin, Jean Michael	52	3/9/2007	4:41 PM				00319880-000000
84	RM 07/03/09-03	Hetuin, Jean Michael	52	3/9/2007	4:41 PM				00319880-000000
85	RM 07/03/09-04	Hayes, Scott & Erica	52	3/9/2007	4:42 PM				00319760-000000
86	RM 07/03/09-04	Hayes, Scott & Erica	52	3/9/2007	4:42 PM				00319760-000000
87	BPAS-21-11	KEYS LUXE LIFE LLC	52	1/12/2021	10:17AM				00368450-000000

Any application submitted, perseverance points or changes made after July 13, 2020 will not be reflected on this list.

Affordable General Pool								
RANK	ROGO/BPAS NUMBER	NAME	BPAS SCORE	DATE ENTERED	TIME ENTERED	DATE RE-ENTERED	TIME RE-ENTERED	RE NUMBER
1	BPAS-21-31	GEM Homes	59					00101340-000000
2	BPAS-21-31	GEM Homes	59					00101340-000000
3	BPAS-21-31	GEM Homes	59					00101340-000000
4	BPAS-21-31	GEM Homes	59					00101340-000000
5	BPAS-21-4	La Palma 101 Inc	57					00104460-000000
6	BPAS-21-5	La Palma 101 Inc	57					00104460-000000
7	BPAS-21-6	La Palma 101 Inc	57					00104460-000000
8	BPAS-21-4	La Palma 101 Inc	57					00104460-000000
9	BPAS-21-5	La Palma 101 Inc	57					00104460-000000
10	BPAS-21-6	La Palma 101 Inc	57					00104460-000000
11	BPAS-21-31	GEM Homes	54					00101340-000000
12	BPAS-21-31	GEM Homes	54					00101340-000000
13	BPAS-21-31	GEM Homes	54					00101340-000000
14	BPAS-21-31	GEM Homes	54					00101340-000000
15	BPAS-21-31	GEM Homes	54					00101340-000000
16	BPAS-21-18	FLORIDAS DUCK KEY PROPERTIES LLC	48					00332920-000000
17	BPAS-21-19	FLORIDAS DUCK KEY PROPERTIES LLC	48					00332940-000000
18	BPAS-21-20	FLORIDAS DUCK KEY PROPERTIES LLC	48					00332930-000000
19	BPAS-21-18	FLORIDAS DUCK KEY PROPERTIES LLC	48					00332920-000000
20	BPAS-21-19	FLORIDAS DUCK KEY PROPERTIES LLC	48					00332940-000000
21	BPAS-21-20	FLORIDAS DUCK KEY PROPERTIES LLC	48					00332930-000000
22	BPAS-21-19	FLORIDAS DUCK KEY PROPERTIES LLC	48					00332940-000000
23	BPAS-21-19	FLORIDAS DUCK KEY PROPERTIES LLC	48					00332940-000000
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
1	BPAS-20-1	FLAMINGO KEY LLC	26					00376290-000000
2	BPAS-20-1	FLAMINGO KEY LLC	26					00376290-000000
3	BPAS-20-1	FLAMINGO KEY LLC	26					00376290-000000
4	BPAS-20-1	FLAMINGO KEY LLC	26					00376290-000000
5	BPAS-20-1	FLAMINGO KEY LLC	26					00376290-000000
6	BPAS-20-1	FLAMINGO KEY LLC	26					00376290-000000
7	BPAS-20-1	FLAMINGO KEY LLC	26					00376290-000000
8	BPAS-20-1	FLAMINGO KEY LLC	26					00376290-000000
9	BPAS-20-1	FLAMINGO KEY LLC	26					00376290-000000
10	BPAS-21-39	212 LINDAHL LLC	26					00333380-000000
11	BPAS-21-39	212 LINDAHL LLC	26					00333380-000000
12	BPAS-21-40	212 LINDAHL LLC	26					00333370-000000
13	BPAS-21-40	212 LINDAHL LLC	26					00333370-000000

