

## CITY COUNCIL AGENDA STATEMENT



**Meeting Date:** September 14, 2021

**To:** Honorable Mayor and Members of City Council

**From:** Brian Shea, Planning Director

**Through:** George Garrett, City Manager

**Item:** **Resolution 2021-77**, Approving The Ranking And Allocations Of The Early Evacuation Building Permit Allocation System (EE-BPAS) For Period 1, Year 30 (July 14, 2021 To January 13, 2022); And Providing For An Effective Date

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### RECOMMENDATION

Based on the result of all BPAS applications, Planning Staff recommends that the City Council **APPROVE** the award of two hundred ninety three (293) Early Evacuation BPAS allocations as shown in “Attachment A.” Additional applications have been received after the July 13<sup>th</sup> deadline, these will be scored, and brought forward as another resolution.

### 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 30, as defined by the Residential Building Permit Allocation System (RBPAS). This period includes July 14, 2021 to, January 13, 2022.

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 thirtieth 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.

In October of 2018 the City Council enacted Ordinance 2018-10, creating an Affordable Early Evacuation Pool. The units allowed under this pool are to evacuate within the 48 to 24-hour window of evacuation.

## **II. ALLOCATION AWARDS AVAILABLE**

The 300 allocation awards were made available by the governor, which were in addition to the maximum allocations identified in Rules 28-18, Florida Administrative Code. At any time, through a public hearing process prescribed in Chapter 102, Article 2 of the Land Development Regulations, the City may allocate Early Evacuation Allocations to the cumulative limit of 300 affordable allocations.

## **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.

Applications for allocations were received that did not meet the specific criteria in the code for Early Evacuation units. These included structures that do not meet the Florida Building Code, as well as units that were proposed to be located within V-zones.

## **IV. ANALYSIS AND RECOMMENDATION**

The Early Evacuation applications for consideration for an allocation this Period are shown on Attachment “A”. See Attachment A of the Resolution: Ranking of Early Evacuation RBPAS

Based on the result of the BPAS System, Planning Staff recommends that the City Council **APPROVE** the award of two hundred ninety three (293) Early Evacuation BPAS allocations as shown in “Attachment A.”

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2021-77**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, APPROVING THE RANKING AND ALLOCATIONS OF THE EARLY EVACUATION BUILDING PERMIT ALLOCATION SYSTEM (EE-BPAS) FOR PERIOD 1, YEAR 30 (JULY 14, 2021 TO JANUARY 13, 2022); AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Marathon City Council (the “City”) reviewed the affordable early evacuation dwelling unit application rankings for Period 1, Year 30 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 30 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 Early Evacuation Affordable pool, the City Council awards two hundred ninety three (293) Early Evacuation Affordable allocations;

**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 30 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 14<sup>th</sup> DAY OF SEPTEMBER, 2021.**

**THE CITY OF MARATHON, FLORIDA**

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**Luis Gonzalez, Mayor**

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

**ATTEST:**

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Diane Clavier, City Clerk

(City Seal)

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

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Steven T. Williams, City Attorney

## Early Evacuation

Rank	BPAS Number	Applicant	Score	Allocations Sought	Approved project
1	BPAS-21-6	LA PALMA 101 INC	67	6	Y
2	EE-1	Guillermo/Pescayo	67	6	Y
3	BPAS 18-4	Seaview Commons	40	64	Y
4	BPAS3	Marty/700 39th St	40	52	Y
5	EE-11	Jim Rhyne	40	12	Y
6	EE-5	Chelsea/Aviation	40	14	Y
7	EE-6	Key RV	40	17	Y
8	EE-8	Longhorn Lodge	40	42	Y
9	EE-9	Seaview Commons	40	60	Y
10	BPAS2	Josh/Flamingo Inn	36	10	Y
11	EE-6	Sandpiper	36	4	Y
12	EE-6	Aloha	36	6	Y
				293	

RE Number
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00363700-000000
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00338720-000000
00101300-000000
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