

CITY COUNCIL AGENDA STATEMENT



Meeting Date: March 14th, 2023

To: Honorable Mayor and Members of City Council

From: Brian Shea, Planning Director

Through: George Garrett, City Manager

Item: Resolution 2023-27, Approving The Allocation Of Commercial Building Permit Allocation System (CBPAS) To St. Columba Episcopal Church For Period 2, Year 31 (January 14, 2023 To July 13, 2023); And Providing For An Effective Date.

Resolution 2023-28, Approving The Allocation Of Commercial Building Permit Allocation System (CBPAS) To Floridian Holdings LLC For Period 2, Year 31 (January 14, 2023 To July 13, 2023); And Providing For An Effective Date.

Resolution 2023-29, Approving The Ranking And Allocations Of The Market Rate And Affordable Residential Building Permit Allocation System (RBPAS) For Period 2, Year 31 (January 14, 2023 To July 13, 2023); And Providing For An Effective Date.

RECOMMENDATION

Based on the result of the BPAS System, Planning Staff recommends that the City Council **APPROVE** the award of 73,633 square feet of commercial square footage through Resolutions 2023-27 & 2023-28.

Based on the result of all BPAS applications, Planning Staff recommends that the City Council **APPROVE** the award of two (2) Market Rate General and two (2) Market Rate Owner Occupied BPAS allocations as shown in “Attachment A” and seven (7) 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 31, as defined by the Residential Building Permit Allocation System (RBPAS). This period includes January 14, 2023 To July 13, 2023

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 thirty first 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.

Resolution 2022-22 amends the available allocation awards as set by Council. This resolution amends the previous Resolution 2010-18 that revised the annual allocations available.

Based upon the aforementioned MOU commercial square footage is also given out through the BPAS process. 500,000 square feet was set to be given out over the 10 year period. This amounts to 25,000 square feet every six months. New commercial development is rare, with the majority falling under commercial redevelopment. Therefore, applications for commercial BPAS are few and far between. Any commercial square footage not awarded rolls over into the next period. There are three applications for commercial square footage in the last year. Based upon this, 443,294 square feet of commercial square footage is currently available.

II. ALLOCATION AWARDS AVAILABLE

The following allocation awards are available this period:

<u>Category</u>	<u>BPAS / Period</u>
(Market Rate)	
(a) Owner-occupied Pool	2 / period
(b) General Pool	2 / period
(Affordable)	
(c) General Affordable Pool	1 / period
(d) Community Workforce Pool	
(e) TBR Affordable Pool	
(To be granted to highest scoring allocation within the 3 pools)	
(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.

Administrative relief may be provided through the above-mentioned code section. In making a determination in review of an application for administrative relief, the City Council may:

- (a) Offer to purchase the property at its fair market value as its preferred action if the property is considered environmentally sensitive; or
- (b) Grant the applicant an allocation award for all or a number of dwelling units requested in the next succeeding allocation period or extended pro rata over several succeeding quarterly allocation periods as the preferred action for buildable properties not meeting any of the criteria in subsection (f)(1) of this section; or
- (c) Suggest or provide such other relief as may be necessary and appropriate.

IV. ANALYSIS AND RECOMMENDATION

Three applications have been submitted for commercial square footage. Two are advertised for this Council meeting, but the staff report will address all three, with the third commercial resolution set for a later Council meeting. St. Columba Episcopal Church is seeking 1,438 square feet of commercial square footage. Floridian Holdings LLC is seeking 72,195 square feet of commercial square footage. Joanne Marie GK, LLC is seeking 1,508 square feet of commercial square footage.

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. Council has expressed that staff review the properties purchased through the Community Development Block Grant - Disaster Recovery – Voluntary Home Buyout (CDBG-DR-VHB), to be eligible to transfer allocations to owner occupied residents. At this time none of the properties that have been acquired have had the dwelling units demolished. Therefore, none of the building rights are eligible to be transferred. Staff is recommending a separate resolution to be completed once all five allocations are eligible to be transferred.

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. City Council previously granted 6 allocations from the administrative relief pool to be used for deed restricted affordable housing. These are being administratively tracked on Attachment “B”, as well as in the award resolution.

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 73,633 square feet of commercial square footage through Resolutions 2023-27 & 2023-28.

Based on the result of the BPAS System, Planning Staff recommends that the City Council **APPROVE** the award of two (2) Market Rate General and two (2) Market Rate Owner Occupied BPAS allocations as shown in “Attachment A” and seven (7) Affordable BPAS allocations as shown in “Attachment B”.

**CITY OF MARATHON, FLORIDA
RESOLUTION 2022-27**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, APPROVING THE ALLOCATION OF COMMERCIAL BUILDING PERMIT ALLOCATION SYSTEM (CBPAS) TO ST. COLUMBA EPISCOPAL CHURCH FOR PERIOD 2, YEAR 31 (JANUARY 14, 2023 TO JULY 13, 2023); AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Marathon City Council (the “City”) reviewed the commercial square footage application rankings for Period 2, Year 31 in compliance with the CBPAS 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 commercial BPAS rankings, Period 2, Year 31 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:

Commercial Building Permit Allocation (CBPAS)

(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 CBPAS Rankings shown in the staff recommendation, the City Council awards 1,438 square feet of commercial square footage; and

(3) The remaining CBPAS Applicants will retain their relative positions in the CBPAS 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 CBPAS applications for Period 2, Year 31 of CBPAS 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.

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 14th DAY OF MARCH, 2023.

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 T. Williams, City Attorney