

Board of County Commissioners

Agenda Request

Date of Meeting: April 7, 2009

Date Submitted: March 20, 2009

To: Honorable Chairman and Members of the Board

From: Benjamin H. Pingree, County Administrator
Lindsay Stevens, Assistant County Administrator
Melissa Corbett, Planner II

Subject: Board Consideration of Family Enclave Agreement Renewal Processes

Statement of Issue:

This agenda item provides a report on the renewal process of Family Enclave Agreements in Wakulla County for the Board's consideration.

Background:

According to Planning and Zoning Division records, Wakulla County began use of Family Enclave Agreements in 1995. A Family Enclave Agreement ("Agreement") is a contract that a property owner enters into with the County to place a temporary dwelling on their parcel for the period of one year. This additional dwelling is utilized by a member of the landowner's family, while the family member is experiencing either a financial or medical hardship. An example of a scenario where an Agreement is utilized is when a second dwelling is placed upon a piece of property for use by a relative who needs assistance while the relative recovers from cancer treatment.

In years past, these Agreements were approved administratively by the Planning Director. Current County staff believes that predecessors may have relied on Section 5-7 of the Land Development Code for authority to approve such a temporary use, as this regulation best fits the circumstances designed to be accommodated by a Family Enclave Agreement. However, it should be noted that the Section 5-7 that was in place in years past, required temporary uses of this nature to be approved by the Board. During the Fall of 2003, the County Attorney's Office brought the Policy and Procedures (the "Policy") for handling Family Enclave Agreements in Wakulla County to the attention of the Planning Director. The Policy, which was adopted by the Board in 1998, coupled with Section 5-7, Wakulla County Code, caused these Agreements to be heard by the Board of County Commissioners for approval or denial, as required by both regulations (Attachment #1).

In 2005, the growing number of Agreements prompted an annual review and renewal process to be completed administratively by staff. Current staff is uncertain if this process was initiated by Board direction or at the discretion of a previous Planning Director. Since that time, annual

notices have been sent out to all individuals listed as having active Agreements with the County. Within the annual notice there is a section where the individual must choose to end their Agreement and state that the additional dwelling has been removed or ask to continue their Agreement for another year.

Thus, the Agreements were officially reviewed for the first time in 2005 and property owners were required to complete the renewal form. During that year, fifty-five (55) Agreements were found to be on file with the County. Through the review process, it was determined that twenty-six (26) of these were still active and in use. Through the 2006 review cycle, twenty-eight (28) agreements were active. The increase from the previous year was due to new Agreements being approved by the Board.

A status report on all active Agreements was provided to the Board at their August 6, 2007 public hearing (Attachment #2). This report included staff suggestions for changes to the administrative review process, which included limiting the number of years an Agreement could be administratively renewed. It also included a statistical table for the thirty-three (33) Agreements that were active at that time. It is listed below in Table 1, for reference, and the numbers within it indicate a large percentage of the Agreements were not being used for one-year temporary arrangements. In 2007, the Board chose not to make any changes to the renewal process.

Table 1: 2007 Status of Family Enclave Agreements		
Time Period Agreement has been Active	Number of Agreements	Percentage of All Active Agreements
Effective for <1 year	5	15%
Effective from 1 to 5 years	15	46%
Effective from 6 to 10 years	12	36%
Effective for >10 years	1	3%

Table 2 below, shows the current status of the active Agreements in the County. There are a total of 35 active Agreements in the County. Since the 2007 report, 0 Agreements have terminated while 2 new Agreements have been approved by the Board.

Table 2: 2009 Status of Family Enclave Agreements		
Time Period Agreement has been Active	Number of Agreements	Percentage of All Active Agreements
Effective for <1 year	0	0 %
Effective from 1 to 5 years	23	66%
Effective from 6 to 10 years	0	0 %
Effective for >10 years	12	34%

Analysis:

Should the Board choose to accept this report and not make any changes to the renewal process, staff would continue in the manner in which these arrangements have been previously handled - through an annual renewal letter to the property owner with a self-certification to continue the Agreement. However, this current practice does not comply with the existing Family Enclave Agreement Policy and Procedures adopted in 1998.

If the Board desires to conform to the existing Policy, the Board should know that per the Policy an Agreement cannot be extended beyond a period of one (1) year unless a new hardship is established by the Applicant (See, Policy Section 3). This would require the Board to revisit each Agreement on an annual basis if an Applicant would like to continue the family enclave. Adhering to the existing Policy would take the annual renewals out of staff's hands; unless staff is able to assist the Applicant in subdividing their property – assuming this division would be consistent with the Comprehensive Plan and County Code (See, Policy Section 4). However, this process would require a great investment of time on the part of both the Board and County staff. The Board would have to hear and individually review each Agreement and related case, but in the end the Board would have assurance that all approved Agreements are true hardships and conform to the existing Policy.

Should the Board direct staff to follow the existing Policy, staff proposes that these hearings be heard in sets of five, or another manageable number, in each public hearing. An alternative for hearing the Agreements would be to schedule them in the month that the Agreement was originally approved. For example, an Agreement that was originally approved in July would have its renewal public hearing held by the Board in July. This would spread the renewal of Agreements out over a longer period of time, which would reduce the demand on staff for processing the requisite Agenda Requests, but would prolong the process throughout the year.

An alternative recommendation from staff is to amend the Policy, and related Agreement form drafted by the County Attorney, to allow for administrative renewals of the Agreements. A cap for the number of years the Agreements could be renewed by staff would also be included in this proposal. A three (3) year limit on administrative renewals is recommended by staff, as this would allow the property owner's family member enough time to deal with a temporary hardship and make more permanent arrangements. Of course, staff is open to a different timeframe on administrative renewals should the Board see fit. If an Agreement is extended for a three (3) year period and the enclave continues to exist, the Applicant would be required to go before the Board for renewal of the Agreement. Absent Board approval, the Agreement would cease and the Applicant would be required to remove the additional dwelling unit from their property. Staff believes that this alternative provides a workable middle-ground for all parties involved, but would require revisions to the existing Policy and Agreement.

In short, staff is seeking acceptance of the background information on Agreements provided herein and direction for how to proceed in the renewal of the Agreements in the future. It should be noted, that from this point forward if an Agreement is terminated for any reason, a site inspection will be performed by County staff to verify the removal of the second dwelling from the property. The only instance this would not apply is if the Agreement was terminated by a legal subdivision of the property, and in such case the appropriate documentation would be added to the Agreement file.

Options:

1. Accept staffs' report on the status of Family Enclave Agreements and direct staff to follow the current Family Enclave Agreement Policy and Procedures to bring each Agreement before the Board for approval on an annual basis or effectively terminate the Agreement.
2. Accept staffs' recommendation to revise the current Family Enclave Agreement Policy and Procedures, which would allow for the administrative renewal of Agreements within a Board approved timeframe.
3. Board Direction.

Recommendation

Option #2

Attachment(s):

1. Family Enclave Agreement Policy and Procedure
2. 2007 Status Report to the Board Agenda Request
3. Status of Family Enclave Agreements (list of all Agreements approved by the County)