



**Wichita-Sedgwick County Metropolitan Area Planning Department**

January 8, 2007

Mr. Charley L. Miller  
8301 S. 127<sup>th</sup> "St., East  
Derby, KS 67037

**RE:** CON2006-46 – County Conditional Use to allow a temporary, accessory manufactured home dwelling, associated with a medical hardship, on property zoned "RR" Rural Residential, generally located between 79th and 87th Streets South, on the west side of 127th Street East.

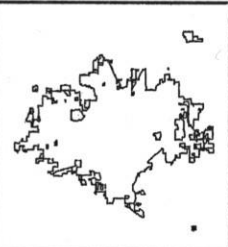
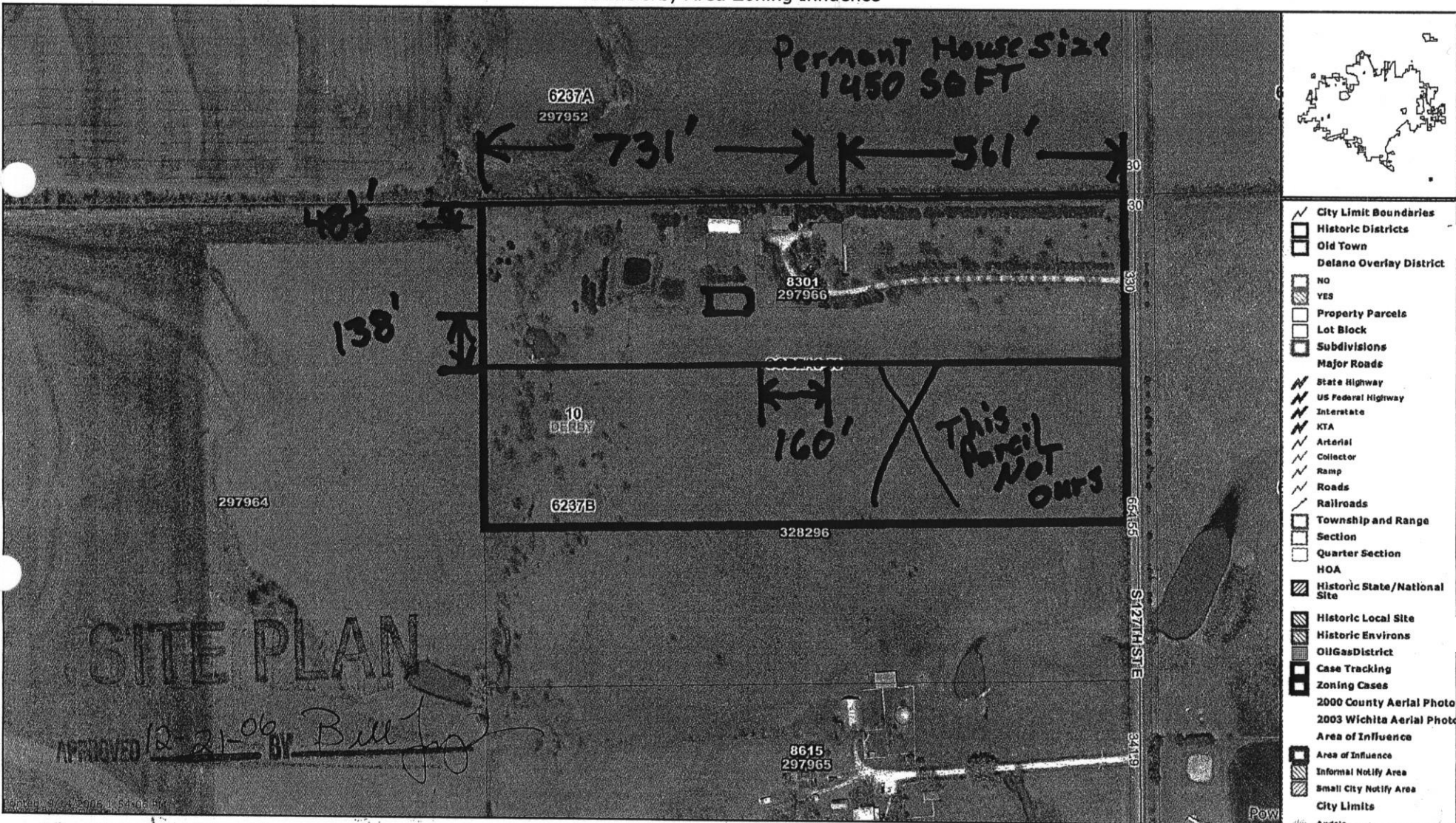
Dear Ladies and Gentlemen:

At its regular meeting on **November 16, 2006**, the Wichita-Sedgwick County Metropolitan Area Planning Commission considered the above captioned request. The action of MAPC was to **APPROVE** the permit subject to the following conditions:

1. The applicants shall obtain all applicable permits including, but not limited to: building, health and zoning. Specifically, the requirements of Art. III, Sec.III-D.6.1 (3) of the Unified Zoning Code shall be met.
2. The temporary, accessory manufactured home dwelling shall meet the post-1976 42 U.S.C. 5403 HUD Code.
3. The temporary, accessory manufactured home dwelling shall remain on the site as an accessory dwelling for the applicants' adult disabled child as long as the applicants' adult disabled child resides in it. The applicants shall report to the County Code Enforcement Office on a yearly basis, every January, the status of the occupancy of this temporary, accessory manufactured home dwelling.
4. The temporary, accessory manufactured home dwelling shall be removed from the property within 90 days after any change in the circumstances used as a basis for the Conditional Use.
5. Development and maintenance of the site shall be in conformance with the approved site plan.
6. If operations have not begun within one year of approval, or if the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

# Miller residence

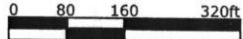
RR...Derby Area Zoning Influence



- City Limit Boundaries
- Historic Districts
- Old Town
- Delano Overlay District
- NO
- YES
- Property Parcels
- Lot Block
- Subdivisions
- Major Roads
- State Highway
- US Federal Highway
- Interstate
- KTA
- Arterial
- Collector
- Ramp
- Roads
- Railroads
- Township and Range
- Section
- Quarter Section
- HOA
- Historic State/National Site
- Historic Local Site
- Historic Environs
- Oil/Gas District
- Case Tracking
- Zoning Cases
- 2000 County Aerial Photo
- 2003 Wichita Aerial Photo
- Area of Influence
- Informal Notify Area
- Small City Notify Area
- City Limits

APPROVED 12-21-06 BY *Bill [Signature]*

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RE: CON2006-46 - Conditional Use Permit for a temporary (medical hardship) accessory apartment on property zoned "RR" Rural Residential, generally located between 79th and 87th St. S., on the west side of 127th St. East.

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Property owners may also file written protest petitions on zoning-related items heard by the MAPC. In order to be considered a "valid" petition, the signatures must reflect the correct and entire ownership of the property, the property must be at least partially within 1,000 feet of the property for which the application was filed, and must be submitted to the County Clerk within 14 days of the conclusion of the MAPC hearing. Such petitions may cause the County Commission to review the decision of the MAPC, and either reverse their decision or return the matter to the MAPC for reconsideration.

Since there were no valid appeals or protest petitions filed opposing this action within fourteen days of the hearing, the action of the MAPC is considered final. A copy of the final resolution listing approval conditions is attached.

Sincerely,



Bill Longnecker  
Senior Planner  
Current Plans Division

WL:mc

Copies to: Ben Sciortino, County Commissioner, District V, Mail Stop, County Room 320  
Bill Buchanan, County Manager, Mail Stop, County Room 343  
Bob Parnacott, County Law, Mail Stop, County Room 359  
Glen Wiltse, County Code Enforcement, 1144 S. Seneca, Wichita, KS 67213  
Jim Weber, County Public Works, 1144 S. Seneca, Wichita, KS 67213

## CONDITIONAL USE RESOLUTION NO. CON2006-00046

**WHEREAS**, Charley L. and Tan Miller (Owners/Applicants); pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), request a Conditional Use to allow a temporary, accessory manufactured home dwelling in the County, due to a medical hardship, on an unplatted 9.91-acre tract zoned "RR" Rural Residential described as:

Beginning at the Northeast corner of the Southeast Quarter; thence South 330 feet; thence West 1320 feet; thence North 330 feet; thence East to beginning. Section 10, Township 29 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas. Generally located midway between 79<sup>th</sup> and 87<sup>th</sup> Streets South, on the west side of 127<sup>th</sup> Street East (BoCC #5).

**WHEREAS**, proper notice as required by the Unified Zoning Code and by the policy of the Metropolitan Area Planning Commission (hereinafter referred to as MAPC) has been given; and

**WHEREAS**, the MAPC did, at the meeting of November 16, 2006, consider said application; and

**WHEREAS**, the MAPC has authority to permit a Conditional Use, subject to any special conditions deemed appropriate in order to assure full compliance with the criteria of the Unified Zoning Code.

**NOW, THEREFORE, BE IT RESOLVED** by the Metropolitan Area Planning Commission that this application be approved to allow a temporary, accessory manufactured home dwelling in the County, due to a medical hardship, on an unplatted 9.91-acre tract zoned "RR" Rural Residential described as:

Beginning at the Northeast corner of the Southeast Quarter; thence South 330 feet; thence West 1320 feet; thence North 330 feet; thence East to beginning. Section 10, Township 29 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas. Generally located midway between 79<sup>th</sup> and 87<sup>th</sup> Streets South, on the west side of 127<sup>th</sup> Street East (BoCC #5).

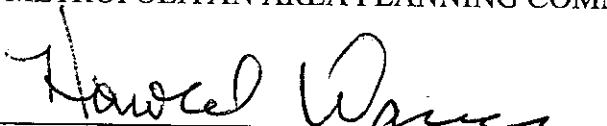
APPROVED, subject to the following conditions:

1. The applicants shall obtain all applicable permits including, but not limited to: building, health and zoning. Specifically, the requirements of Art.III, Sec.III-D.6.1(3) of the Unified Zoning Code shall be met.
2. The temporary, accessory manufactured home dwelling shall meet the post-1976 42 U.S.C. 5403 HUD Code.
3. The temporary, accessory manufactured home dwelling shall remain on the site as an accessory dwelling for the applicants' adult disabled child as long as the applicants' adult disabled child resides in it. The applicants shall report to the County Code Enforcement Office on a yearly basis, every January, the status of the occupancy of this temporary, accessory manufactured home dwelling.
4. The temporary, accessory manufactured home dwelling shall be removed from the property within 90 days after any change in the circumstances used as a basis for the Conditional Use.
5. Development and maintenance of the site shall be in conformance with the approved site plan.
6. If operations have not begun within one year of approval, or if the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning


Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

Adopted this 16th DAY of November, 2006. This resolution shall become effective on the fifteenth day after the date last noted above unless the matter is forwarded to the Governing Body for final action under the provisions of Section V-D.6. When any one or more of the exceptions listed in Section V-D.6 exist, this resolution with its conditions of approval shall be considered a recommendation of the MAPC to the Governing Body which shall then have final authority to approve, approve with conditions or modifications, or deny the Conditional Use application.

METROPOLITAN AREA PLANNING COMMISSION

  
\_\_\_\_\_  
Harold Warner, Chair MAPC

ATTEST:

  
\_\_\_\_\_  
John L. Schlegel, Secretary



**FILE COPY**

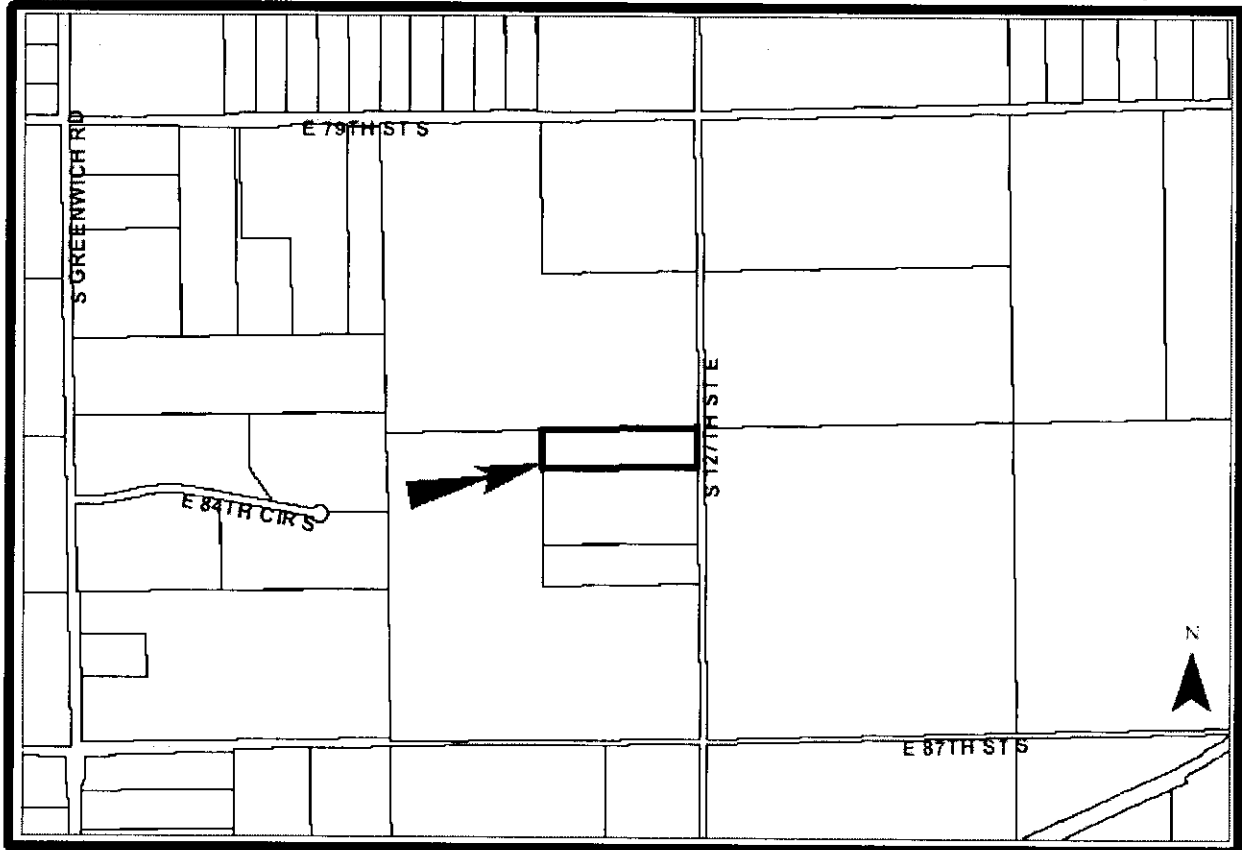
AGENDA ITEM NO. \_\_\_\_\_

## STAFF REPORT

MAPC November 16, 2006

Derby Planning Commission November 2, 2006

- CASE NUMBER:** CON2006-00046
- APPLICANT/OWNER:** Charley & Tan Miller
- REQUEST:** Conditional Use to allow a temporary, accessory manufactured home dwelling in the County
- CURRENT ZONING:** "RR" Rural Residential
- SITE SIZE:** 9.91-acres
- LOCATION:** Midway between 79<sup>th</sup> & 87<sup>th</sup> Streets South, on the west side of 127<sup>th</sup> Street East (BoCC District #5)
- PROPOSED USE:** Temporary, accessory residence for medial hardship



**BACKGROUND:** The applicants are seeking a Conditional Use to permit a temporary, accessory manufactured home dwelling in the County. The 9.91-acre unplatted tract is zoned "RR" Rural Residential. The applicants have stated that their 28-year old son has a permanent disability (medical hardship), which will cause him to lose his right leg up to his hip and thus requires him to be monitored by onsite care provided by them. The applicants will continue to live in the existing single-story residence (approximately 1,450-square feet, built in 1974) on the site. Their adult child will live in an approximately 1,400-square foot manufactured home; the temporary, accessory manufactured home dwelling. Per Art.III, Sec.III-D.6.I (3), of the Unified Zoning Code (UZO) a temporary, accessory manufacture home dwelling can be considered as a Conditional Use in the County. The site is located within the city of Derby's area of zoning influence and must be considered by the Derby Planning Commission prior to consideration by the MAPC.

The site is located on the west side of 127<sup>th</sup> Street East, a dirt and sand road, midway between 79<sup>th</sup> & 87<sup>th</sup> Streets South, in a rural part of the County. All abutting and adjacent properties are zoned "RR". Agricultural fields/crop lands abut the site's west, south and north sides, with more agricultural fields/crop lands east, across 127<sup>th</sup>, of the site. The site is one of three single-family residences located on this section of 127<sup>th</sup> between 79<sup>th</sup> & 87<sup>th</sup> Streets South. Both of these neighbors are located approximately 680-1,000-feet south/southeast of the site.

The applicant has provided a site plan that shows the location of the existing residence, some outbuildings, trees/landscaping, a lagoon and the proposed temporary, accessory manufactured home dwelling. The existing residence is located more than 550-feet off of 127<sup>th</sup> and is screened from the road by numerous trees. The proposed temporary, accessory manufactured home dwelling is shown located behind the existing residence and over 100-feet from the south property line.

**CASE HISTORY:** CoBZA 6-88 was a County Use Exception permitting a temporary second dwelling unit (mobile home) on the site, which at that time was a 20-acre tract. The applicants at that time, Garland & Shirley Sapp, requested the Use Exception to care for an elderly parent. Conditions of approval included that the mobile home be allowed on the site only as long as the elderly parent lived in it, that it be removed within 30 days after the elderly parent ceased to live in it, that it comply with all setbacks of the zoning district and flood plain regulations, that all permits and inspections are acquired, including health for the existing lagoon and that it not be located closer to 127<sup>th</sup> or the north property line than the existing residence. That temporary dwelling unit is no longer on the site. The Derby Planning Commission unanimously approved the current Conditional Use request as recommended by the MAPD at their November 2, 2006 meeting.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"RR"	agricultural fields/crop land
SOUTH:	"RR"	agricultural fields/crop lands, two other homes on this section of 127 <sup>th</sup>
EAST:	"RR"	agricultural fields/crop lands
WEST:	"RR"	agricultural fields/crop lands

**PUBLIC SERVICES:** The property is located on 127<sup>th</sup> Street East, a dirt and sand Rockford Township road with a 30-foot half-street right of way. The property has a water well and a lagoon for sewage, with no public sewer available. The site is located within Rural Water District 3's service area. All other utilities appear to be available.

**CONFORMANCE TO PLANS/POLICIES:** *The Comprehensive Plan's Wichita and Small Cities 2030 Urban Growth Area Map* identifies this area as a "Rural Functional Land Use Category". This category encompasses land outside the 2030 urban growth area of Wichita and the small cities of Sedgwick County. The category's intended uses are agricultural, rural based uses that are no more offensive than those agricultural uses commonly found in the county and predominately larger lot residential suburban subdivisions with provisions for individual or community water and sewer services.

The UZC, Art.III, Sec.III-D.6.I(3) lists temporary, accessory manufactured home dwellings in the County as a Conditional Use subject to the following conditions and requirements: (a) The location of the manufactured home shall conform to all setback requirements of the district in which located; (b) If the property is not served by a public water supply and municipal type sewer system, the minimum lot size shall be determined by the County Health Department; (c) The unit shall comply with all of the standards of Art.III, Secs.III-D.6.I(1) and III-D.6.I(2); (d) The applicant shall show due cause that hardship exists and that the hardship cannot reasonably be alleviated without the granting of the Conditional Use; and (e) The Planning Commission shall determine a reasonable time limit for each individual case. The temporary, accessory manufactured home dwelling shall be removed from the property within 90 days after any change in circumstances used as a basis for the Conditional Use.

The UZC defines a "manufactured home" as one or more mobile components constructed to meet the 42 U.S.C. 5403 HUD Code, providing all accommodations necessary to be a dwelling unit, and connected to all utilities in conformance with applicable regulations.

**RECOMMENDATION:** Planning staff finds that the application meets the conditions of the UZC Art.III, Sec. III-D.6.I(3). Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions.

1. The applicants shall obtain all applicable permits including, but not limited to:

building, health and zoning. Specifically, the requirements of Art.III, Sec.III-D.6.I(3) of the Unified Zoning Code shall be met.

2. The temporary, accessory manufactured home dwelling shall meet the post-1976 42 U.S.C. 5403 HUD Code.
3. The temporary, accessory manufactured home dwelling shall remain on the site as an accessory dwelling for the applicants' adult disabled child as long as the applicants' adult disabled child resides in it. The applicants shall report to the County Code Enforcement Office on a yearly basis, every January, the status of the occupancy of this temporary, accessory manufactured home dwelling.
4. The temporary, accessory manufactured home dwelling shall be removed from the property within 90 days after any change in the circumstances used as a basis for the Conditional Use.
5. Development and maintenance of the site shall be in conformance with the approved site plan.
6. If operations have not begun within one year of approval, or if the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the surrounding area: All property surrounding the application area is zoned "RR" and is characterized by agricultural fields/crop lands with infrequent large tract single-family residences or farmsteads.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR", with its intended uses being agricultural, rural based uses that are no more offensive than those agricultural uses commonly found in the county and predominately larger lot residential exurban subdivisions with provisions for individual or community water and sewer services. The site could continue to be used as it is without the Conditional Use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Provided that the proposed temporary, accessory manufactured home dwelling meets all applicable codes, and because of the temporary nature of the requested Conditional Use, the proposed accessory use should have no affect on the surrounding properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested Conditional Use is in conformance with the *The Wichita-Sedgwick County Comprehensive Plan* and

the UZC, Art.III, Sec.III-D.6.1(3) provisions for accessory manufactured home dwellings in the County.

5. Impact of the proposed development on community facilities: None identified.