

**BOARD OF COUNTY COMMISSIONERS
OF
FRANKLIN COUNTY, KANSAS**

RESOLUTION NO. 05-14

A RESOLUTION APPROVING SPECIAL USE PERMIT APPLICATION #0412-425 (WESTERN WIRELESS) TO PERMIT THE CONSTRUCTION AND OPERATION OF A 150 FOOT HIGH COMMUNICATION TOWER IN AN "A-1" AGRICULTURAL ZONE

WHEREAS, Franklin County, Kansas is a county municipal government, organized pursuant to K.S.A. 19-101; and

WHEREAS, The Franklin County Board of County Commissioners did adopt Resolution # 23-91 creating the Franklin County Planning Commission as provided in K.S.A. 12-744; and

WHEREAS, the Franklin County Planning Commission did publish notice on December 29, 2004 that public hearing would be held to consider Special Use Permit application #0412-425 (Western Wireless as required by K.S.A. 12-757 and Article 17, Section 17-3 of the Franklin County Zoning Regulations; and

WHEREAS, the Planning Commission did on January 20, 2005 hold a public hearing for the consideration of Special Use Permit application #0412-425 to permit the construction and operation of a 150 foot high communication tower; and

WHEREAS, the Planning Commission, after reviewing and considering all reports and testimonies did, by a majority vote of those present, approve said Special Use Permit based on certain findings and subject to certain conditions; and

WHEREAS, the Board of County Commissioners of Franklin County, after duly reviewing the recommendation of the Planning Commission together with all public comments for and against said Special Use Permit finds:

1. That the Special Use Permit is consistent with the County Zoning Regulations.
2. That the Special Use Permit is in conformance with and would further enhance the County Comprehensive Plan.
3. That as conditioned, the Special Use Permit will not overburden the county roads and other public services.
4. That as conditioned, the Special Use Permit will not unduly affect the character of the surrounding community.
5. That as conditioned, the Special Use Permit will not impact property values of surrounding properties.

NOW, THEREFORE, Be It Resolved, that the Franklin County Board of County Commissioners does hereby approve Special Use Permit Application #0412-425 (Western Wireless) to permit the construction and operation of a 150 foot high communication tower in an "A-1" Agriculture Zone as follows:

Section 1: Special Use Permit #0412-425 (Western Wireless) is granted for the following described property:

LEGAL DESCRIPTION PARENT PARCEL: The South Half (S ½) of the Southeast Quarter (SE ¼) of Section 34, Township 16S, Range 19E, and the East 495 feet of the Northeast Quarter (NE ¼) of the Southeast Quarter (SE ¼) of said Section and a tract beginning 495 feet West of the Northeast Corner (NE) of said Northeast Quarter (NE ¼) of the Southeast Quarter (SE ¼); THENCE North 40 feet; THENCE East 805 feet; THENCE South 40 feet to the Point of Beginning, less highway right-of-way, containing 91.6 acres, more or less, in Franklin County, Kansas.

LEGAL DESCRIPTION LEASE SITE: A tract of land in the East Half (E ½) of the Northeast Quarter (NE ¼) of the Southeast Quarter (SE ¼) of Section 34, Township 16S, Range 19E, being more particularly described as follows: Commencing at the East Quarter (E ¼) Corner of said Section 34; THENCE North 89 degrees 56 minutes 22 seconds West and along the North line of the Southeast Quarter (SE ¼) a distance of 307.86 feet; THENCE South 00 degrees 03 minutes 38 seconds West a distance of 186.15 feet to the Point of Beginning of proposed Lease site; THENCE South 00 degrees

00 minutes 00 seconds East a distance of 50.00 feet; THENCE North 90 degrees 00 minutes 00 seconds West a distance of 50.00 feet; THENCE North 00 degrees 00 minutes 00 seconds West a distance of 50.00 feet; THENCE South 90 degrees 00 minutes 00 seconds East a distance of 50.00 feet to the Point of Beginning containing 2500 square feet, more or less.

LEGAL DESCRIPTION ACCESS EASEMENT: An access easement over and across said Parent Parcel, said easement being twelve (12) feet in width and six (6) feet either side of the line described as follows: Commencing at the Northeast Corner (NE) of proposed Lease site; THENCE North 90 degrees 00 minutes 00 seconds West a distance of 23.18 feet, to the Point of Beginning for said 12' access easement; THENCE North 00 degrees 00 minutes 00 seconds West a distance of 136.18 feet to the Point of Termination.

LEGAL DESCRIPTION POWER/TELCO EASEMENT: A Power/Telco easement over and across said Parent Parcel, said easement being eight (8) feet in width, four (4) feet either side of the line described as follows: Commencing at the Southwest Corner (SW) of proposed Lease site. THENCE North 00 degrees 00 minutes 00 seconds West a distance of 25.00 feet to the Point of Beginning for said 8' Power/Telco easement; THENCE North 89 degrees 58 minutes 29 seconds West a distance of 168.28 feet to the Point of Termination.

Section 2: The real property described above shall be authorized to construct and operate a 150-foot high communication tower pursuant to the Franklin County Zoning Regulations and the following conditions:

That the monopole tower base and equipment area be enclosed with a 6' high chain link fence with security barbed wire. Access to the enclosed area shall be locked at all times except when being used by company employees.

2. That lighting on the tower shall be in compliance with Federal Aviation Administration lighting standards.

3. That the communication facilities comply with all requirements of the Federal Communication Commission.

4. That a sign be placed on the security fence to include a telephone number of a responsible party in the event of an emergency.

That the tower base, equipment area and access easement be kept free of noxious weeds, litter and debris.

That all electronic equipment associated with the communication tower be maintained at an elevation at least one (1) foot above the Base Flood Elevation (BFE) as determined by the Federal Emergency Management Agency.

That the applicant agrees to provide space for County emergency and safety users, at no cost to the County, in the event that such services are deemed necessary to provide service to Franklin County.

8. That the Special Use Permit shall be null and void by operation of law if said permit has not been initiated and utilized by commencing the activity or use at the site specified in said permit within one (1) year of the date of approval.

PASSED AND ADOPTED by the Franklin County Board of County Commissioners this 7th day of February, 2005. This action shall become effective upon publication in the official county newspaper.

/s/ Donald E. Waymire #9; /s/ John E. Taylor

Donald E. Waymire John E. Taylor Commissioner District 1

Commissioner District 2

/s/ Roy C. Dunn9; /s/ Donald C. Hay

Roy C. DunnDonald C. Hay

Commissioner District 3#9; Commissioner District 4

/s/ Donald R. Stottlemire

Donald R. Stottlemire

Commissioner District 5

Received and recorded this the 7th day of February, 2005.

/s/ Shari Perry
Shari Perry
County Clerk