

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

RESOLUTION NO. 12-16

A RESOLUTION APPROVING SPECIAL USE PERMIT APPLICATION #1204-1132 (USCOC
NEBRASKA/KANSAS) TO CONSTRUCT AND OPERATE OF A 250 FOOT SELF SUPPORTED
COMMUNICATION TOWER IN AN "A-1" AGRICULTURE 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 April 25th, 2012 that a public hearing would be held to consider Special Use Permit application #1204-1132 (USCOC Nebraska/Kansas) as required by K.S.A. 12-757 and Article 18, Section 18-3.01 of the Franklin County Zoning Regulations; and

WHEREAS, the Planning Commission did on May 17th, 2012 hold a public hearing for the consideration of Special Use Permit Application #1204-1132 for construction and operation of a 250 foot high self supported communication tower in an "A-1" (Agriculture) Zone; and

WHEREAS, the Franklin County Board of County Commissioners did adopt Zoning Regulations on August 14th, 2002 which included Article 18, Section 18-1 through 18-5 setting out the procedures and basis for review in considering a Special Use Permit, including the following criteria:

- a. Whether the use is in compliance with, and would further enhance, the implementation of the adopted Comprehensive Plan;
- b. Whether the use complies with the purpose and intent of the adopted Zoning Regulations;
- c. Whether the use complies with other adopted standards of the County;
- d. Whether the use fits the character of the neighborhood;
- e. Whether the use would be unduly detrimental to surrounding properties and uses;
- f. The suitability of the subject property for the proposed use;

- g. Approval of mitigation measures to minimize impacts to surrounding properties or services; 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 the surrounding properties
6. That, as conditioned, the Special Use Permit will comply with all other County Codes and Regulations
7. That the subject property is suitable for the proposed use.

NOW, THEREFORE, Be It Resolved, that the Franklin County Board of County Commissioners does hereby approve Special Use Permit Application #1204-1132 (USCOC Nebraska/Kansas) to construct and operate a 250 foot high self supported communication tower in an "A-1" (Agriculture) Zone as follows:

Section 1: Special Use Permit #1204-1132 (USCOC Nebraska/Kansas) is granted for the following described property:

LEGAL DESCRIPTION PARENT PARCEL: The East Half of the Northwest Quarter of Section 30; The North Half of the Northeast Quarter of Section 30; The North Half of the Southwest Quarter of Section 30; The South Half of the Northeast Quarter of Section 30; The Southeast Quarter of Section 30; The West half of the Northeast Quarter of Section 31, EXCEPT the West Half of the Southwest Quarter of the Southwest Quarter of the Northeast Quarter of said Section 31; and the East Half of the Northeast Quarter except the Southeast Quarter of the Southeast Quarter of said Northeast Quarter in Section 31; all in Township 16 South, Range 18 East, Franklin County Kansas. This being the same property conveyed to Judd Land Co., a Kansas Corporation from David A. Judd and Cindy A. Judd, his wife in a deed dated December 30, 1991 and recorded January 24, 1992 as book 240 page 399.

Parcel 2: The Northwest Fractional Quarter of Section 31, Township 16 South, Range 18 East EXCEPT the East Half of the Southeast Quarter of said Northwest Fractional Quarter and containing, after deducting the exception noted, 146.11 acres, according to government survey in Franklin County Kansas. The being a portion of the same property conveyed to Judd Ranch, Inc. from Judd Land Co. and Stanley A. Judd Trustee of the Stanley A. Judd trust dated December 13, 1993 in a deed dated November 8, 2002 and recorded December 4, 2002 in book 265, page 580.

LEGAL DESCRIPTION LEASE SITE: A 100 foot by 100 foot lease area and a 20 foot

wide access/utility easement, situated in the Northeast Quarter of Section 31, Township 16 South, Range 18 East in Franklin County Kansas more particularly described as follows: COMMENCING at the Northeast Corner of said Section 31 (fnd 5/8" iron bar); THENCE along the East line of said Northeast Quarter, South 01 degrees 27 minutes 01 seconds East, a distance of 745.21 feet; THENCE leaving said East line, South 88 degrees 32 minutes 59 seconds West a distance of 835.73 feet to the Point of Beginning of said lease area; THENCE South 30 degrees 00 minutes 00 seconds West a distance of 100.00 feet; THENCE North 60 degrees 00 minutes 00 seconds West a distance of 100.00 feet; THENCE North 30 degrees 00 minutes 00 seconds East a distance of 100.00 feet; THENCE South 60 degrees 00 minutes 00 seconds East a distance of 100.00 feet to the Point of Beginning containing 10,000 square feet.

LEGAL DESCRIPTION ACCESS EASEMENT: A 20 foot wide access/utility easement lying 10.00 feet on each side of the following described centerline: Commencing at the Northeast Corner of said Section 31 (fnd. 5/8" iron bar); THENCE along the East line of said Northeast Quarter, South 01 degrees 27 minutes 01 seconds East a distance of 745.21 feet; THENCE leaving said East line South 88 degrees 32 minutes 59 seconds West a distance of 835.73 feet; THENCE South 30 degrees 00 minutes 00 seconds West a distance of 50.00 feet to the Point of Beginning of said centerline; THENCE South 60 degrees 00 minutes 00 seconds East a distance of 50.45 feet; THENCE North 75 degrees 49 minutes 56 seconds East a distance of 27.31 feet; THENCE North 83 degrees 39 minutes 46 seconds East a distance of 27.31 feet; THENCE North 67 degrees 34 minutes 41 seconds East a distance of 64.73 feet; THENCE South 86 degrees 05 minutes 46 seconds East a distance of 44.07 feet; THENCE South 73 degrees 26 minutes 39 seconds East a distance of 44.07 feet; THENCE South 67 degrees 07 minutes 06 seconds East a distance of 70.62 feet; THENCE South 73 degrees 26 minutes 49 seconds East a distance of 44.09 feet; THENCE South 86 degrees 06 minutes 16 seconds East a distance of 44.09 feet; THENCE North 87 degrees 34 minutes 01 seconds East a distance of 199.58 feet; THENCE North 85 degrees 38 minutes 41 seconds East a distance of 112.03 feet; THENCE North 89 degrees 51 minutes 12 seconds East a distance of 61.31 feet to the West right of way line of Colorado Road as it presently exists and the Point of Termination.

Section 2: The real property described above shall be authorized to construct and operate a 250 foot self supported communication tower pursuant to the Franklin County Zoning Regulations and the following conditions:

1. That the tower base 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 around the tower base to include a telephone number of a responsible party in the event of an emergency.
5. That the tower base and access easement be kept free of noxious weeds, litter and debris.

6. That the tower and related facilities comply with the County Building Codes and Permits
7. Two (2) on-site parking spaces shall be provided and maintained on an all-weather surfaced area in accordance with the standards set forth in Article 20 of the County Zoning Regulations.
8. 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.
9. That if the facility is no longer in operation for more than two (2) years, U.S. Cellular would remove the facility
10. 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 6th day of June 2012. This action shall become effective upon publication in the official county newspaper.

/s/ David J Hood
David J. Hood
Chairman

Received and recorded this the 6th day of June 2012.

/s/ Shari Perry
Shari Perry
County Clerk