

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

RESOLUTION NO. 13-02

A RESOLUTION APPROVING SPECIAL USE PERMIT APPLICATION #1211-1178 (LYBARGER OIL, INC.) TO PERMIT THE STORAGE AND CUSTOMER DISTRIBUTION OF PROPANE GAS 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 November 29th, 2012 that a public hearing would be held to consider Special Use Permit application #1211-1178 (Lybarger Oil, Inc.) as required by K.S.A. 12-757 and Article 19, Section 19-3.01 of the Franklin County Zoning Regulations; and

WHEREAS, the Planning Commission did on December 20th, 2012 hold a public hearing for the consideration of Special Use Permit Application #1211-1178 for the storage and customer distribution of propane gas 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 19, Section 19-1 through 19-5 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 #1211-1178 (Lybarger Oil, Inc.) to permit the bulk storage and customer distribution of propane gas in an “A-1” (Agriculture) Zone as follows:

Section 1: Special Use Permit #1211-1178 (Lybarger Oil, Inc.) is granted for the following described property:

The Northeast Quarter (NE ¼) of Section 11, Township 16 South, Range 20 East containing 160 acres, more or less, in Franklin County Kansas EXCEPT: Beginning at a 3/8" rebar at the Northeast Corner (NE) of the Northeast Quarter (NE ¼) of Section 11, Township 16 South, Range 20 East of the 6th Principal Meridian, Franklin County, Kansas; THENCE South 00 degrees 33 minutes 05 seconds East for a distance of 867.98 feet along the East line of said Northeast Quarter (NE ¼) to a ½" rebar, the TRUE POINT OF BEGINNING; THENCE South 00 degrees 33 minutes 05 seconds East for a distance of 959.00 feet along said East line to a ½" rebar; THENCE South 89 degrees 26 minutes 56 seconds West for a distance of 455.75 feet to a ½" rebar; THENCE North 00 degrees 24 minutes 51 seconds West for a distance of 959.00 feet to a ½" rebar; THENCE North 89 degrees 26 minutes 55 seconds East for a distance of 453.45 feet to the TRUE POINT OF BEGINNING. Together with and subject to covenants, easements, and restrictions of record. Said property contains 10.00 acres more or less.

Section 2: The real property described above shall be authorized for bulk storage and customer distribution of propane gas pursuant to the Franklin County Zoning Regulations and the following conditions:

1. That the Special Use Permit is granted for the bulk storage and customer distribution of propane gas. Any additional uses will require approval of an amended Special Use Permit.
2. That a sign be placed on the security fence to include a telephone number of a responsible party in the event of an emergency.
3. That the access drive and parking area shall be maintained with an all weather surface.
4. That the site shall be maintained free of weeds, brush and trash.

5. That the storage facility, including security fencing, shall comply with NFPA58 and requirements of the State Fire Marshall.

6. That the enclosed area shall be locked at all times, except when being used by company employees.

7. 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 9th day of January, 2013. This action shall become effective upon publication in the official county newspaper.

/s/ Colton Waymire
Colton Waymire
Vice Chairman

Received and recorded this the 9th day of January, 2013.

Shari Perry

/s/ Shari Perry

County Clerk