



Application for Conditional Use Permit

- 1. Applicant's Name Horvath Towers III LLC / Kevin Tracy, Attorney and Agent
- 2. Applicant's Address 500 Energy Plaza, 409 South 17th Street, Omaha, NE 68102
- 3. Applicant's Telephone Number (402) 978-5364
- 4. Owner's Name Anthony J. Bohaty
- 5. Owner's Address 1618 Road O York, NE 68467
- 6. Owner's Telephone Number 402-641-3176
- 7. Purpose of Conditional Use Permit Wireless Communication Tower
- 8. Present Zoning C-3 being rezoned to A-2
- 9. Within City Limits Lexington Within Zoning Jurisdiction Lexington
- 10. Legal Description See Attaced
- 11. Street Address of Property or Approximate Location South Adams Street Lexington, NE
- 12. Site Plan (if applicable) _____

I/We the undersigned do hereby acknowledge that I/We do fully understand and agree to comply with the provisions and requirements for an application for a special use permit as described above. I/We the undersigned do hereby agree to allow City of Lexington employees or agents working for the City of Lexington, to enter the above referenced property as it pertains to this application.

Anthony J. Bohaty
Signature of Owner

[Signature]
Signature of Applicant

Administrative Use Only

| | |
|---------------------------|------------------------------|
| Date Submitted _____ | Case Number _____ |
| Filing Fee \$100.00 _____ | Accepted By _____ |
| Cert. Of Ownership _____ | Date Advertised _____ |
| Date Sign Posted _____ | Date of Public Hearing _____ |

EXHIBIT "A"

File # 48957-

An undivided 1/4 interest in and to:

Tract 1:

Lot 2, Block 1, Ferritta Addition to the City of Lexington, Dawson County, Nebraska.

Tract 2:

The South Half of the Southeast Quarter of Section 9, in Township 9 North, Range 21 West of the 6th P.M., Dawson County, Nebraska, EXCEPT an undivided one-half interest in oil, gas and mineral rights in and under the surface of said land and all rights and easements in favor of the estate of said undivided one-half interest of the oil, gas and minerals.

Horvath Towers III, LLC
Application for Special Use Permit in Lexington, NE
Application Narrative / Findings of Fact
August 20, 2014

Horvath Towers III, LLC ("Horvath Towers") thanks you for the opportunity to submit the enclosed rezoning and special use permit applications. Horvath Towers is a full-service Wireless Site Development firm and Tower Company. Horvath Towers has acquired wireless sites and constructed towers for all major carriers from the Great Lakes region westward through the Plains states.

Horvath Towers will be the tower developer and owner for this project. Horvath Towers has an agreement with a Commnet to acquire property in Lexington, Nebraska for their 2014–2015 Build Plan. There is a demonstrated need for wireless coverage in Lexington, NE, as Commnet currently has no coverage in Lexington. When this site is fully constructed, Commnet customers, tourists traveling through the area as well as Lexington and the surrounding community will be able to have state of the art wireless service, browse the internet, use cell phones, smart phones, computers and handheld devices to access You Tube, play video games, text, send emails and many other data applications not mentioned.

Subject Property: South Adams Street, Lexington, NE 68467
Parcel Number: 240213327
Site Name: Lexington East
Site Number: HV774

Horvath Towers and their site acquisition team has done a great deal of research regarding the location of this tower. The site acquisition team utilized a mapping program and database to keep track of existing towers and plotted the search area on this map to scrub against any existing structures. Additionally, an FAA Search was performed for the target coordinates. These searches look not just for currently-existing towers, but also those that are proposed. Finally, a Google Earth search of the area is performed to see if search for anything of any height from a satellite image. This search is often cross checked with the local county GIS system. All of these searches are completed prior to doing an actual field recognizance. Once in the field the site acquisition team confirms all of the findings from the desktop discovery. Once the final target set of coordinate sis determined, the site acquisition team searches for a site within a search area to find the proposed tower site.

The proposed tower site is located approximately 2.7 miles south of Lexington off S. Adams Street near the intersection of Interstate 80 and HWY–283. The property is owned by Anthony Bohaty of 1618 Road O, York, NE 68467. The new structure will be built with easy access off of S. Adams Street in the open field behind the Retail Center. There will be a 70' x 70' fenced compound that will host the structure and all equipment shelters/cabinets. An access road will be improved upon running from the S. Adams Street back to the facility. That access easement will also include enough space to accommodate the utilities that will need to go back to the facilities. These tower facility will be unmanned but technicians will periodically perform routine maintenance. Per our approval from the FAA, this tower built at a height of 165' including

lightning rod and will not require lighting. The type of structure being proposed is that of a Monopole.

As required by the Wireless Communication Towers ordinance of the City of Lexington, there are no other towers within a 750 foot radius of the proposed tower site. Additionally, there are no competing towers within a one-mile radius of the proposed site.

As required under Section 7.07 Wireless Communication Towers subsection 07.07.05 Tower Development Permit, Procedure. In all zoning districts in which towers are permitted by conditional use of land, the Tower Development Permit shall be deemed a conditional use permit for said tract of land.

Additionally, Horvath Towers provides the following Findings of Fact that would be required for a Conditional Use Permit under Article 6: Conditional Use Permits, Section 6.08 Standards to wit:

6.8.1 That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, moral, comfort or general welfare of the community.

The approval of this conditional use will allow Horvath Towers to install a wireless facility structure that will add to the safety and general welfare of the community providing a facility for wireless communication services.

6.8.2 That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.

The establishment of this facility on the subject property will not be injurious to the current or future planned use of the subject property or surround properties.

6.8.3 That the establishment of the conditional use will not impede the normal and orderly development of the surrounding property for uses permitted in the district.

The establishment of this facility on the subject property will not impede the normal and orderly development of the use of the subject property or surround properties as it will not interfere with any agricultural or commercial operations of the surrounding properties.

6.8.4 Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.

As outlined and described in the provided Preliminary Site Plan for the proposed tower site, adequate utilities, access roads, drainage, and/or necessary facilities are provided for.

6.8.5 Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

As outlined and described in the provided Preliminary Site Plan for the proposed tower site, adequate measure have taken to provide ingress and egress designed to minimize traffic congestion in the public streets.

6.8.6 The use shall not include noise which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.

The use of the unmanned electronic radio facilities will not create objectionable noise volume, frequency or beat.

6.8.7 The use shall not involve any pollution of the air by fly-ash, dust, vapors or other substance which is harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.

The use of the unmanned electronic radio facilities will not involve any pollution of the air by fly-ash, dust, vapors or other substance which is harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.

6.8.8 The use shall not involve any malodorous gas or matter which is discernible on any adjoining lot or property.

The use of the unmanned electronic radio facilities will not involve any malodorous gas or matter which is discernible on any adjoining lot or property.

6.8.9 The use shall not involve any direct or reflected glare which is visible from any adjoining property or from any public street, road, or highway.

The use of the unmanned electronic radio facilities will not involve any direct or reflected glare which is visible from any adjoining property or from any public street, road, or highway.

6.8.10 The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.

Because this facility once constructed will only have periodic visits by technical personnel the use of the unmanned electronic radio facilities will not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.

6.8.11 The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.

All proper precautions will be made and have been made to minimize the impact on any public utilities or facilities. This unmanned electronic radio facility will not pull substantially more from the local public utilities than any like commercial endeavor.

Having demonstrated that Commnet and Horvath Towers III, LLC will abide and satisfy all requirements made under Section 7.07 Wireless Communications Towers and Article 6: Conditional Use Permits of the Ordinance of the City of Lexington Nebraska. Horvath Towers respectfully requests that you grant approval for the Tower Development Permit.

If any further information would be helpful in the review of these application materials, please contact:

Kevin Tracy
Fraser Stryker PC LLO
500 Energy Plaza
409 South 17th Street
Omaha, NE 68102
402-978-5364
ktacy@fslf.com

Submitted on August 20, 2014 by Kevin Tracy / Attorney for applicant.