



Application for Conditional Use Permit

- 1. Applicant's Name Horvath Towers III, LLC
2. Applicant's Address 312 West Colfax Ave., South Bend, IN 46601
3. Applicant's Telephone Number (574) 237-0464; Attorney: (402) 978-5364
4. Owner's Name Duane James Lehman
5. Owner's Address 1717 ALA Wai Blvd., Honolulu, HI 96815
6. Owner's Telephone Number (808) 946-3383
7. Purpose of Conditional Use Permit Wireless Telecommunications Tower
8. Present Zoning A2
9. Within City Limits Lexington Within Zoning Jurisdiction Lexington
10. Legal Description See Attached
11. Street Address of Property or Approximate Location State Route 21, Lexington, NE 68850
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.

Signature of Owner

Signature of Applicant

Administrative Use Only
Date Submitted
Filing Fee \$100.00
Cert. Of Ownership
Date Sign Posted
Case Number
Accepted By
Date Advertised
Date of Public Hearing

## EXHIBIT A

### Legal Description

SITUATED IN THE COUNTY OF DAWSON, STATE OF NEBRASKA:

PARENT PARCEL:

TRACT ONE: A TRACT OF LAND IN THE NORTHEAST QUARTER (NE1/4) OF SECTION THIRTYONE (31), TOWNSHIP TEN (10) NORTH, RANGE TWENTY-ONE (21) WEST OF THE 6TH P.M., DAWSON COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

REFERRING TO THE NORTHEAST CORNER OF SECTION THIRTY-ONE (31), TOWNSHIP TEN (10) NORTH, RANGE TWENTY-ONE (21) WEST OF THE 6TH P.M., DAWSON COUNTY, NEBRASKA; THENCE NORTH 89 DEGREES 34 MINUTES 47 SECONDS WEST (AN ASSUMED BEARING), AND ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 31, A DISTANCE OF 50.00 FEET, TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 89 DEGREES 34 MINUTES 47 SECONDS WEST, AND ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 31, A DISTANCE OF 2597.28 FEET; THENCE SOUTH 0 DEGREES 6 MINUTES 39 SECONDS EAST, AND ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 31, A DISTANCE OF 2048.32 FEET; THENCE SOUTH 78 DEGREES 33 MINUTES 15 SECONDS EAST, AND ALONG THE CENTERLINE OF VACATED IRRIGATION DITCH RIGHT OF WAY A DISTANCE OF 2614.55 FEET; THENCE SOUTH 89 DEGREES 59 MINUTES 4 SECONDS EAST, AND ALONG THE CENTERLINE OF VACATED IRRIGATION DITCH RIGHT OF WAY, A DISTANCE OF 30.00 FEET; THENCE NORTH 0 DEGREES 0 MINUTES 56 SECONDS EAST, AND ALONG THE WESTERLY RIGHT OF WAY LINE OF STATE HIGHWAY NO. 21, A DISTANCE OF 582.93 FEET; THENCE NORTH 88 DEGREES 4 MINUTES 35 SECONDS WEST, A DISTANCE OF 190.11 FEET; THENCE NORTH 0 DEGREES 0 MINUTES 56 SECONDS EAST, A DISTANCE OF 177.00 FEET; THENCE SOUTH 89 DEGREES 59 MINUTES 4 SECONDS EAST, A DISTANCE OF 190.00 FEET; THENCE NORTH 0 DEGREES 0 MINUTES 56 SECONDS EAST, AND ALONG THE WESTERLY RIGHT OF WAY LINE OF STATE HIGHWAY NO. 21, A DISTANCE OF 236.10 FEET; THENCE SOUTH 89 DEGREES 59 MINUTES 4 SECONDS EAST, A DISTANCE OF 10.00 FEET; THENCE NORTH 0 DEGREES 0 MINUTES 56 SECONDS EAST, AND ALONG THE WESTERLY RIGHT OF WAY LINE OF STATE HIGHWAY NO. 21, A DISTANCE OF 138.83 FEET; THENCE NORTH 88 DEGREES 2 MINUTES 14 SECONDS WEST, A DISTANCE OF 270.16 FEET; THENCE NORTH 0 DEGREES 0 MINUTES 56 SECONDS EAST, A DISTANCE OF 334.46 FEET; THENCE SOUTH 89 DEGREES 59 MINUTES 4 SECONDS EAST, A DISTANCE OF 270.00 FEET; THENCE NORTH 0 DEGREES 0 MINUTES 56 SECONDS EAST, AND ALONG THE WESTERLY RIGHT OF WAY LINE OF STATE HIGHWAY NO. 21, A DISTANCE OF 183.53 FEET; THENCE NORTH 89 DEGREES 59 MINUTES 4 SECONDS WESTS, A DISTANCE OF 10.00 FEET; THENCE NORTH 0 DEGREES 0 MINUTES 56 SECONDS EAST, AND ALONG THE WESTERLY RIGHT OF WAY LINE OF STATE HIGHWAY NO. 21, A DISTANCE OF 879.75 FEET, TO THE PLACE OF BEGINNING.

TRACT TWO: THE WEST APPROXIMATELY 109.8 ACRES, MORE OR LESS, WHICH ACREAGE INCLUDES ROADS AND DITCHES, OF THAT PART OF THE NORTH HALF (N1/2) OF SECTION THIRTY-ONE (31), IN TOWNSHIP TEN (10) NORTH, RANGE TWENTY-ONE (21), WEST OF THE 6TH P.M., DAWSON COUNTY, NEBRASKA, AND LYING NORTH OF THE IRRIGATION CANAL OF PLATTE VALLEY PUBLIC POWER & IRRIGATION DISTRICT.

TAX I.D. NUMBER: 240022947

**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. As part of this plan, Horvath Towers proposes to build one tower South of Lexington and this tower on the Northern edge of Lexington. 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: State Road 21, Lexington, NE 68467  
Parcel Number: 240022947  
Site Name: Lexington North  
Site Number: HV759

Horvath Towers and their site acquisition team have 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. Next, an FAA Search is performed for the target coordinates. These searches look not just for currently-existing towers, but also those that are proposed. Once these searches are complete, 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 1.2 miles North of Lexington off N. Adams Street just Northwest of the intersection of N. Adams and Cherokee Rd. The property is owned by Duane James Lehman of 1717 ALA Wai Blvd., Honolulu, Hawaii. The new structure will be built with easy access off of N. Adams Street. There will be a 70' x 70' fenced compound that will host the structure and all equipment shelters/cabinets. An existing gravel access road from N. Adams St. will be improved, as required, to provide access to the facility. That access easement will also include enough space to accommodate the utilities that will need to go back to the facilities. The tower facility will be unmanned but technicians will periodically perform

maintenance. Per our approval from the FAA, this tower built at a height of 135' 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.

This proposed tower location lies in a floodplain within an area zoned as AH on the Flood Insurance Rate Map (FIRM) dated May3, 2011 and designated as a Flood Fringe Overlay District by Ordinance No. 2294. The proposed use is in accordance with such ordinance as no residential units or enclosed structures are included in the plan. Horvath Towers will provide any certifications required by the City Manager as to compliance with this Ordinance.

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 of future planned use of the subject property or surround properties. The subject property is surrounded by land used for agriculture and is approximately 850 feet from the nearest residential unit.**

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 this Tower Development Permit.

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

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Fraser Stryker PC LLO  
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Submitted on August 20, 2014 by Kevin Tracy / Attorney for applicant.