

**BOARD OF SUPERVISORS
COUNTY OF NEW KENT
VIRGINIA**

R-15-10

At the regular meeting of the Board of Supervisors of the County of New Kent, in the Boardroom of the Administration Building in New Kent, Virginia, on the 12th day of April, 2010:

Present:	Vote:
W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye
James H. Burrell	Aye
Stran L. Trout	Aye
David M. Sparks	Aye

Motion was made by Mr. Evelyn, which carried 5:0, to adopt the following resolution:

**A RESOLUTION RECOMMENDING APPROVAL OF
CONDITIONAL USE PERMIT APPLICATION CUP-05-09 AUTHORIZING
THE INSTALLATION & OPERATION OF A CELL TOWER
IN THE A-1, AGRICULTURAL ZONING DISTRICT**

WHEREAS, Marion W. Williams has submitted an "Application for Conditional Use Permit" dated 16 November 2009; and

WHEREAS, said application requests a Conditional Use Permit to install and operate a cell tower located on property identified on the New Kent County digital map as GPIN K14-2123-3308 and is identified on the New Kent County tax map as parcel 22-80; and

WHEREAS, this application was referred to and considered by the New Kent County Planning Commission ("the Commission"); and

WHEREAS, subsequent to receiving a complete application and within the timeframes established by Code, the Commission scheduled and conducted a formal and duly advertised public hearing, carefully considering the public comment received; and

WHEREAS, the Commission voted 7:0:2 to forward the subject application to the New Kent County Board of Supervisors ("the Board") with a favorable recommendation; and

WHEREAS, the Board is aware that, pursuant to New Kent County Zoning Ordinance Sections 98-745(b)(12)(f) & 98-873(m)(11), a cell tower structure shall not be located within 750' of an existing residential structure unless the Board of Supervisors finds that (1) topographical or similar physical conditions existing on the property make such a set back an undue hardship and (2) the reduction in the set back will not adversely impact the peaceful enjoyment and use of the residential structure by its occupants. Any such reduction in the distance permitted by the Board shall not result in a tower structure being erected at a distance nearer than 125 percent of the tower height to any dwelling unit and shall be buffered from view from that dwelling unit; and

NOW THEREFORE BE IT RESOLVED this, the 12th day of April, 2010, that the New Kent County Board of Supervisors finds that (1) topographical or similar physical conditions exist on the property that make the 750' set back an undue hardship and (2) the reduction in the set back will not adversely impact the peaceful enjoyment and use of the residential structure by its occupants; and

NOW THEREFORE BE IT FURTHER RESOLVED by the Board that Conditional Use Permit Application CUP-05-09 be, and it hereby is, approved subject to the following conditions:

1. The cell tower shall meet all applicable requirements set forth in New Kent County Code Section 98-873(m) – Standards for communication and broadcast towers: radio, television, cellular telephone, and microwave, and in New Kent County Code Section 98-745(b)(12) – Conditions for radio, television or communication stations and/or towers which exceed 50 feet in height in the conservation and agricultural zoning districts.
2. This Conditional Use Permit shall expire on the fifth anniversary of its approval if a building permit pertaining to the cell tower site has not been issued.



G. Cabell Lawton, IV
County Administrator



David M. Sparks
Chairman