

AGREEMENT

WHEREAS, Benson-Phillips Company, Incorporated, a Virginia Corporation, (hereinafter called "the Owner") owns certain real property in James City County, Virginia, (hereinafter called "the Property") and more particularly described as follows:

All that certain tract or parcel of land, together with the buildings and improvements thereon, situated in Jamestown Magisterial District, James City County, Virginia, being a part of the tract of land generally known as Neck-O-Land, containing seventy-four (74) acres, more or less, being all of the remaining property conveyed to the Owner by deed dated September 30, 1938 from Williamsburg Coal Company, Incorporated, recorded October 13, 1938 in James City County Deed Book 30, Page 261.

WHEREAS, the Owner has applied for a rezoning of the Property from the Limited Agricultural District, A-2, to the Limited Residential District, R-1; and

WHEREAS, the County of James City may be unwilling to rezone the Property because the Limited Residential District, R-1, zoning regulations may be deemed inadequate for the orderly development of the property because competing and incompatible uses may conflict; and

WHEREAS, more flexible and adaptable zoning methods are deemed advisable to permit the use of the Property; and

WHEREAS, the Owner is desirous of offering certain conditions for the protection of the community that are not applicable to land similarly zoned in addition to the regulations provided for in the Limited Residential District, R-1.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH:

That for and in consideration of James City County, Virginia, rezoning the Property to the Limited Residential District, R-1, and pursuant to Section

15.1-491.1 of the Code of Virginia, 1950, as amended and Section 20-15 of the Code of James City County, the Owner agrees that in addition to the regulations provided for in the Limited Residential District, R-1, but subject to the current limitations set forth in the aforesaid codes, it will meet and comply with all of the following conditions for the development of the Property:

CONDITIONS

1. Prior to submittal of preliminary subdivision plans, the Owner, at its expense, shall cause to be prepared a comprehensive drainage study of the Property for review and approval by the James City County Director of Public Works.
2. Upon approval of the drainage study, the Owner shall be obligated to incorporate the recommendations of the study in the subdivision of the Property.
3. Prior to the submittal of preliminary subdivision plans, the Owner shall cause to be prepared for review and approval by the County, a Phase I archaeological study for the Property. A Phase I study shall include reconnaissance, systematic surface collection and shovel test pits every 90 to 150 feet.
4. The Property shall not be subdivided into more than seventy-six (76) single family dwelling lots.
5. No dwelling shall be placed within the 100 year flood plain area.
6. The Owner shall incorporate in its subdivision plans, a fifty foot (50') landscape buffer adjacent to the Colonial National Historic Park within which the Owner shall have an evergreen landscape buffer, twenty-five feet (25') in width, utilizing existing, transplanted or new evergreen trees, as needed, to effect a permanent evergreen landscape screen between the Property and the Colonial National Historic Park, which landscaping plan shall be approved by the Subdivision Review Committee of the County Planning Commission.

BENSON-PHILLIPS COMPANY, INCORPORATED

Walter W. Ball President (SEAL)

STATE OF VIRGINIA

CITY/COUNTY OF JAMES CITY, to-wit:

The foregoing instrument was acknowledged before me this 9th day of September, 1987, by Christopher K. Phillips, President of Benson-Phillips Company, Incorporated, a Virginia Corporation on behalf of the corporation.

Linda M. Brennan
Notary Public

My commission expires: January 29, 1990

VIRGINIA: City of Williamsburg and County of James City, to wit:

In the Clerk's office of the Circuit Court of the City of Williamsburg and County of James City the 5 day of Oct, 1987. This agreement was presented with certificates annexed and admitted to record at 9:27 o'clock

Teste: Heleine S. Ward, Clerk
by [Signature]
Deputy Clerk

[Faint, illegible text, possibly a stamp or secondary signature area]

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5 Oct 19 87

Received at 9:27 o'clock in the Clerk's Office
of the City of Williamsburg, and County of
James City, Va.

039 St. Tax	_____
213 County Tax	_____
262 City Tax	_____
272 Trans. Fee (City)	_____
212 Trans. Fee (County)	_____
301 Record. Fee	_____ <u>10 -</u>
301 Plats	_____
038 St. Tax	_____
220 Local Tax (County)	_____
263 Local Tax (City)	_____
Misc. Fee	_____ <u>10 -</u>
Total	_____ <u>Helene S. Ward, Clerk</u>