

**A RESOLUTION APPROVING AN APPLICATION FOR A
CONDITIONAL USE PERMIT REQUESTED
BY Nicholas P. Robinson for General Shale Brick, Inc.**

WHEREAS, Nicholas P. Robinson on behalf of General Shale Brick, Inc. has applied to Chatham County for a conditional use permit for an area containing approximately 192.5 total acres (3 tracts) located on Moncure Flatwood Road (SR 1924), Cape Fear Township, from RA-40 Residential Agricultural to Conditional Use Heavy Industrial (H-Ind) for an expansion of their mining operation; and as indicated in the Application; and

WHEREAS, the Chatham County Board of Commissioners based upon the competent, substantial and material evidence in the record, including, without limitation, the Applicant's written materials, all of which are incorporated herein by reference, hereby finds as follows:

1. The use/s requested are among those listed as an eligible conditional use in the district in which the subject property is located or is to be located. Mining is a permitted use within the Heavy Industrial Zoning classifications of the Zoning Ordinance.
2. The requested conditional use permit is either essential or desirable for the public convenience or welfare because General Shale employs approximately 200 people and more employment opportunities could be available with the growth approved for the County thus far. The payroll payout is about \$8,000,000 annually making it one of the largest contributors in the County along with Triangle Brick who they supply the material needed for brick making. The Chatham County Tax Office states General Shale is within the top ten tax payers in the county.
3. The requested permit will not impair the integrity or character of the surrounding or adjoining districts, and will not be detrimental to the health, safety or welfare of the community. General Shale is in the process of closing one mining operation located on Corinth Road. Currently material from this site is mined then those trucks go to the site on the Moncure Flatwood Road to mine another type of clay. Both types of material area located on the proposed new sites therefore traffic on the Corinth Road will be reduced and no increases should be noticed on the Moncure Flatwood Road. Through conditions placed on the approval, visual impacts, environmental impacts, and marketing impacts can all be addressed and approved as described. There is to be no new advertising signs or lighting required and no harmful chemicals, biological, or radioactive agents generated on the premises.

4. The requested permit is consistent with the objectives of the Land Development Plan by ensuring development is guided to suitable locations and designed in ways to maintain the form and function of rural character by being located within an area described as an Economic Development Center for industrial development and other economic activity where continued development is encouraged. General Shale Brick is one of largest industry producing businesses in the County and a contributor of approximately \$8,000,000 annually in payroll payouts. This operation will not impair or threaten environmental sensitive areas surrounding the operation as described on Page 31 of the Land Use Development and Conservation Plan, is reasonable, and public interests are furthered through the supplying of brick for the approved housing developments and commercial properties not yet built. The proposed project will utilize approximately 1% of impervious surface where 36% is allowed under the current watershed regulations.

5. Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary facilities have been or are being provided consistent with the County's plans, policies and regulations and confirmed through conditions placed on its approval as seen below. The applicant states there will be no requirement for the use of the county water system or wells. This matter is being addressed through the Chatham County Environmental Health Division. There are to be no additional roads installed to serve the facility. Storm water detention areas will be installed according to the condition as set below to protect areas from runoff or erosion issues.

NOW, THEREFORE, BE IT RESOLVED BY THE CHATHAM COUNTY BOARD OF COMMISSIONERS, as follows:

That a Conditional Use Permit be, and it hereby is, approved for the reasons hereinabove stated subject to the additional stipulations and conditions set forth hereinafter; and

BE IT RESOLVED FURTHER, that the Chatham County Board of Commissioners hereby approves the application for the conditional use permit in accordance with the plan of Nicholas P. Robinson on behalf of General Shale Brick, Inc. attached hereto and incorporated herein by reference with specific conditions as listed below:

Stipulations Specific to the Application

1. Landscaping shall be followed as indicated in the design guidelines. Taking into account the recommendations of the Appearance Commission regarding residential properties that adjoin the conditional use district property, and with the intent of increasing privacy, noise abatement and dust abatement, the Applicant shall be required to install a seeded berm of at least 6 feet in height between the entry driveway and Basin J as depicted on the attached map. In addition, the applicant shall install a seeded berm of at least 6 feet in height from the southern point of Basin I to the northern point of Basin H as depicted on the attached plan. If required, any additional plantings shall be done at the next optimal planting season following the approval date and shall be maintained to thrive and provide the appropriate screening as required. Prior to planting, a list of proposed vegetation shall be provided to the Planning Department and the Appearance Commission to ensure the correct types of vegetation are being planted for this area and these soil types. The

Appearance Commission with the Planning Department may review the landscaping and screening after one year of the initial planting to verify appropriate measures have been taken as requested. Should there be any changes in the landscaping for effectiveness of screening and environmental protections, they shall be given to the applicant at that time and the applicant will be given ample opportunity to take the corrective measures.

2. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Erosion & Sedimentation Control, Environmental Assessment, Archaeological survey, Environmental Health Division, etc.) shall be obtained and copies submitted to the Planning Department prior to land disturbing activity.
3. (A) A determination as to whether an archaeological survey will be required from the Office of State Archaeology shall be provided to the Planning Department and the applicant prior to beginning any additional land disturbing activity. Should such a survey be required, no land disturbing activity may begin until said survey has been completed and any required protective measures taken. This may involve only the areas of concern where the other areas that do not require any further investigation may continue in developing the property for mining use.
(B) A preliminary field reconnaissance archaeological survey to determine the existence or absence of any site of likely archaeological significance will be performed by a professional archaeologist (as listed on the NC Dept. of Cultural Resources website). The reconnaissance survey shall be performed in areas of ground disturbance which would adversely impact potential sites, such as areas of future roadways, areas to be cleared for mining purposes, and any other land disturbing activity associated with the new areas to be added to the existing site (i.e. not including buffers, open space or irrigation areas). Areas determined by the NC Dept. of Cultural Resources, Archaeology/Historic Preservation Section as a low probability of likely significant sites are not required to be surveyed. Any site identified with likely archaeological significance shall have an intensive survey to determine significance. If a site is determined as a candidate for nomination to the “National Register of Historic Places”, it shall be preserved or documented prior to being disturbed. The field reconnaissance survey shall be performed prior to land disturbing activity. Any recommended intensive survey shall be performed prior to ground disturbing activity in the area of concern. The surveys shall be performed at General Shale & Brick’s expense.
4. The applicant shall install a minimum of 100 feet of rock/gravel along the entrance road for dust control or measures required by the Division of Land Quality in the mining permit (whichever is more stringent) and install other measures necessary to control dust.
5. Storm water management shall be placed and installed to meet the two year 24 hour storm event. A storm water management plan shall be provided to the Director of Public Works prior to beginning any additional land disturbing activity.
6. Stream buffers shall be established according to the County Water Supply Watershed Regulations according to stream delineations established in the field using Division of

Water Quality criteria. A map showing said streams shall be supplied to the Planning Department prior to land disturbing activity in the areas of streams.

7. Off-site improvements required by NCDOT or any other agency shall be constructed at no cost to Chatham County.
8. Any and all lighting shall comply with the “draft” lighting guidelines applicable at the time of approval as described in the application.
9. Utility and Access Easements – Easement documents as required by the County for any public utilities used or furnished to the project area shall be recorded prior to the issuance of a certificate of occupancy.
10. Silt Control – The applicant and/or landowner shall take appropriate measures to prevent and remove the deposit of wet or dry silt on adjacent roadways.
11. Appeal - The County shall be under no obligation to defend any action, cause of action, claim, or appeal involving the decision taken herein. In the event a response is authorized by the County concerning this resolution, or any action to enforce the provisions hereof, the applicant, its successors or assigns shall indemnify and hold the County harmless from all loss, cost or expense, including reasonable attorneys fees, incurred in connection with the defense of or response to any and all known or unknown actions, causes of action, claims, demands, damages, costs, loss, expenses, compensation, and all consequential damages on account of or resulting from this decision. Nothing in this paragraph shall require the applicant to indemnify and hold the County harmless from any losses or costs associated with defense of the County’s actions or procedures in considering and acting upon this application.
12. Fees - Applicant and/or landowner shall pay to the County all required fees and charges attributable to the development of its project in a timely manner, including, but not limited to, utility, subdivision, zoning, and building inspection, established from time to time.
13. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditions listed above.
14. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
15. Non-Waiver - Nothing contained herein shall be deemed to waive any discretion on the part of the County as to further development of the applicant’s property and this permit shall not give the applicant any vested right to develop its property in any other manner than as set forth herein.

BE IT FURTHER RESOLVED, that the Board of Commissioners of the County of Chatham hereby approves the application for a conditional use permit in accordance with the plans and conditions listed above.

Adopted this, the 15th day of October 2007

By: _____
Carl Thompson, Chairman

ATTEST:

Sandra B. Sublett, CMC, Clerk to the Board
Chatham County Board of Commissioners