



**AGENDA**  
**BREVARD BOARD OF ADJUSTMENT– REGULAR MEETING**  
Tuesday, August 2, 2016 – 3:00 PM  
Council Chambers

- I. **Welcome**
- II. **Introduction of Board Members**
  - a. Certify Quorum and Voting Members
- III. **Approval of Agenda**
- IV. **Approval of Minutes**
  - a. April 5, 2016
- V. **New Business**
  - a. Consideration of Application for Special Use Permit #SUP16-000001 by Imran Iqbal for request for a gas station and convenience store on property located at 20 Hendersonville Highway within the corporate limits of the City of Brevard, further identified by PIN # 8597-45-8002-000.
- VI. **Old Business**
- VII. **Other Business**
- VIII. **Adjourn**

**MINUTES**  
**BREVARD BOARD OF ADJUSTMENT – REGULAR MEETING**  
**Tuesday, April 5, 2016– 3:00 PM – Council Chambers**

The Brevard Board of Adjustment met in regular session on Tuesday, April 5, 2016 at 3:03 PM in Council Chambers of City Hall.

Members Present:                 Judith A. Mathews, Chair  
  Tad Fogel  
  Carol Dillingham  
  Tom Tartt, Vice Chair  
  Paul Welch  
  Kevin Jones

Members Absent:                 Mike Young

Staff Present:                     Daniel Cobb, Planning Director  
  Janice H. Pinson, Board Secretary  
  Mike Egan, Board Attorney

**I. Welcome and Introduction of Board Members**

Chair, J. Mathews called the meeting to order at 3:00 PM. Chair, J. Mathews certified that a quorum of the Board was present.

**II. Approval of Agenda**

J. Mathews requested a motion to approve the agenda. T. Fogel moved to approve, seconded by T. Tartt, unanimously carried.

**III. Approval of Minutes**

J. Mathews requested a motion to approve the Minutes of the March 1, 2016 meeting. Motion by T. Fogel to approve minutes as written, seconded by K. Jones, unanimously carried.

**IV. New Business:** None.

**VI. Old Business**

a. Rules of Procedure

The board asked questions and made revisions to the recommended revised Rules of Procedure. Motion to approve By-Laws with revisions by P. Welch, seconded by T. Fogel, unanimously carried.

## **VII. Other Business**

M. Egan, Board Attorney, requested a word with the board. He announced he will be retiring effective May 31, 2016, and that this would be his last meeting. He stated that it was with mixed emotions and sadness that he retires, that he has enjoyed serving this board for the past 10 years and that they have done a lot of good things.

The board wished M. Egan well and thanked him for his service.

## **VIII. Adjourn**

Motion to adjourn by P. Welch, seconded by C. Dillingham, unanimously carried and meeting adjourned at 3:28 PM.

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Judith A. Mathews, Chairman

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Janice H. Pinson, Board Secretary



The City of  
*Brevard*  
North Carolina

**BOARD OF ADJUSTMENT STAFF REPORT**

**August 2, 2016**

**TITLE:** Special Use Permit Request 16-000001  
**SPEAKER:** Daniel P. Cobb, AICP, CFM, CZO – Planning Director  
**PREPARED BY:** Daniel P. Cobb, AICP, CFM, CZO – Planning Director

**Executive Summary:**

The Board will hear a request by Imran Iqbal for a Special Use Permit (SUP) to operate a Citgo brand gas station at 20 Hendersonville Highway (PIN 8597-45-8002-000), previously home to an Exxon brand gas station.

**Applicant:** Imran Iqbal  
143 Thoroughbred Circle  
Arden, NC 28704  
**Meeting Date:** August 2, 2016 – 3:00PM  
**Proposed Use:** Gas Station  
**Project Site:** 20 Hendersonville Highway  
Pisgah Forest, NC 28768

**Background:**

The Planning Department received an application from Mr. Imran Iqbal on July 1, 2016. The request is to operate a Citgo brand gas station in a Downtown Mixed-Use (DMX) zoning district. Mr. Iqbal's application is included as Attachment A. The property in question is located at 20 Hendersonville Highway and was previously operated as an Exxon brand gas station. There are no changes to the site proposed at this time. Please see the attached site plan (Attachment B) for reference.

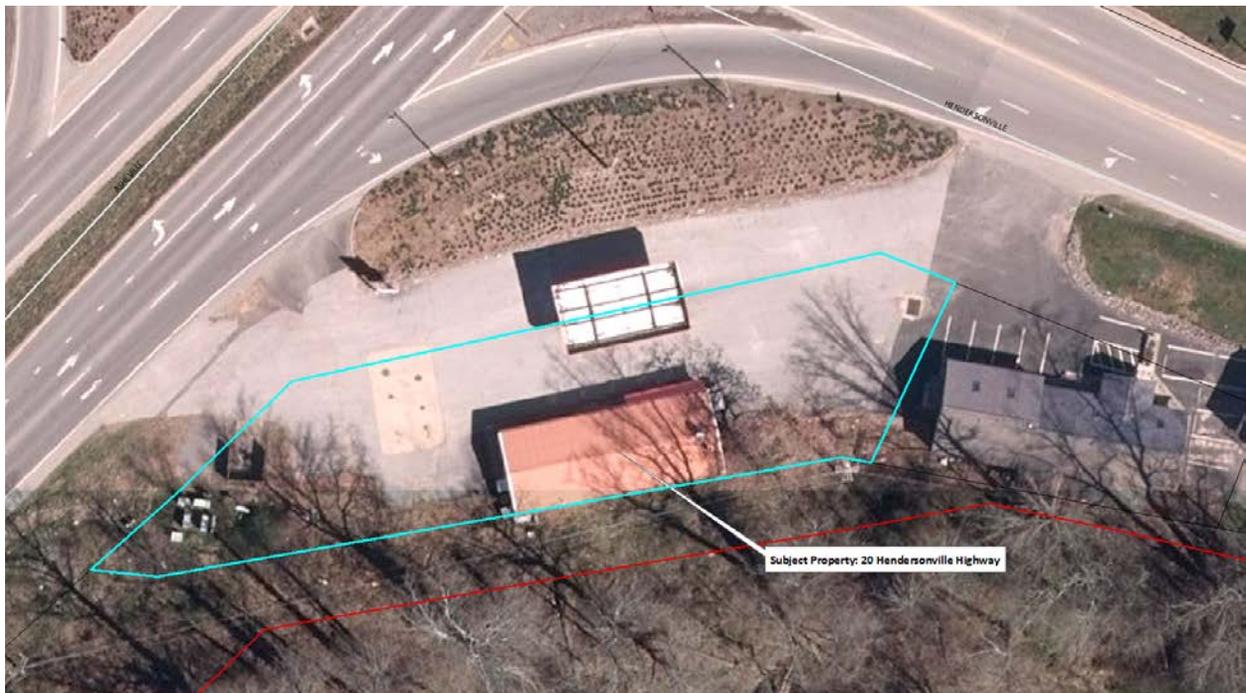
While no new or additional uses are proposed for the site there has not been an operating gas station for over 180 days. After such time, a "grandfathered" use is no longer valid. In order to reopen a gas station, a SUP is required.

The building on site was constructed in 1994 when the property was zoned C-4 – Highway Commercial District (a district that no longer exists). Gas stations were allowed with the granting of a Special Exception Permit (similar to a Special Use Permit) under this code. Along with the adoption of the UDO in 2006, new zoning districts were enacted. At that time the subject parcel was changed from C-4 zoning district to Downtown Mixed Use (DMX) district. Gas stations are permissible uses within this district with the granting of a Special Use Permit by the Board of Adjustment.

Please see below for a graphics representing the location of the site in question. The top image (Vicinity Map) is a view of the subject property and neighboring sites, the image below (Site Map) is a view of the specific site in question. This property is located at a large intersection of several highways, state and federal, including 276, 64, and 280.



**Vicinity Map**



**Site Map**

### **Special Use Permits:**

Special uses are generally compatible with the land uses permitted by right in a zoning district, but require individual review of their location, design, and configuration so as to evaluate the potential for adverse impacts on adjacent property and uses. Special uses ensure the appropriateness of the use at a particular location within a given zoning district.

Only those uses enumerated as Special Uses in a zoning district, including but not limited to hours of operation, height, and bulk, mass, intensity of use, etc. shall be authorized by the BOA.

The evaluation and approval of the Special Use Permit shall be based upon the sworn testimony and evidence presented at the hearing relevant to the following findings of fact:

- a) The use meets all requirements and specifications of the Ordinance and any adopted land use plans and is in harmony with the general purpose and intent and preserves its spirit; and
- b) The proposed use or structure will, if developed according to the plan submitted and approved, be visually and functionally compatible to the surrounding area; and
- c) The proposed use or structure will not be injurious to the public health, safety, and welfare, and will not be detrimental to the value of adjoining property and associated uses.

In approving an application for a Special Use Permit, the BOA may attach fair and reasonable conditions which support the required Findings of Fact. The BOA may not require the landowner to waive a vested right as a condition of the Special Use Permit approval. The burden of proof of producing evidence to support these Findings and to overcome any challenges that approval of the plan would be contrary to one or more of these Findings shall rest entirely with the applicant or landowner.

### **Discussion:**

Staff has reviewed the applicant's request by considering the use and its proposed location, and how such a use relates to published land use plans for the area, the visual compatibility with neighboring properties, and thoughts as to any potential impacts to adjacent properties.

#### *Future Land Use / City of Brevard Comprehensive Land Use Plan*

The property in question is designated as "Mixed Use Boulevard" in the August 2002 Future Land Use Plan. Mixed use boulevard land use designations encourage development toward nodes, typically at main intersections, landscaping and street trees are important design considerations for these locations.

#### *Transportation / Pedestrian Plans*

There are no long-term transportation plans for this parcel. The 2007 pedestrian plan does include a sidewalk along this stretch of highway but it was not listed as a priority for funding or construction.

### *Visual / Functional Compatibility*

The building has been in this location since 1994, no site changes are proposed at this time.

### *Impacts to Adjacent Properties / Uses*

Aside from cosmetic changes (Citgo color scheme and new sign) and normal maintenance and repair to the exterior of the building, the use, size, and intensity of the operation will not change.

### *Site Plan Review*

With the exception of a new sign and cleaning the property, the applicant proposes no changes to the site itself. According to Chapter 14 of the Unified Development Ordinance, which addresses nonconformities, and do to the fact that a SUP is required, the street frontage of the site in its current condition will need to be addressed. Access Management Standards state properties of this size and location (on a major thoroughfare) are to have one access point, at least 500 feet from an intersection. However, the ordinance does recognize existing, already built-upon lots without adequate frontage and allows for deviation from this requirement. The Board should consider a condition of approval that the applicant modify the street frontage and access points to this site within 12 months of approval. This will involve reducing the width of the driveways to a maximum of 24', and possibly adding infrastructure (curbing) to prohibit left turns from the site.

### **Summary:**

Gas stations are an allowable use per the table of permissible uses in Chapter 2 of the UDO with the issuance of a Special Use Permit. Due to the fact that the previous gas station did not secure a Special Exception Permit under the previous code, or a Special Use Permit per the UDO and it has been closed for more than 180 days, the applicant must secure an SUP before they may operate.

### **Attachments:**

- A. Application**
- B. Site plan**

**CITY OF BREVARD BOARD OF ADJUSTMENT**

**SUGGESTED MOTION: IMRAN IQBAL (GAS STATION); SUP 16-000001**

*With regard to Case No. SUP 16-000001, the application of Imran Iqbal for a Special Use Permit to operate a gas station in an existing structure at 20 Hendersonville Highway, I move the Board to make the following findings of fact:*

- a) *The use meets all requirements and specifications of the Ordinance and any adopted land use plans and is in harmony with the general purpose and intent and preserves its spirit;*

**List FINDINGS OF FACT for this element per the testimony received**

- b) *The proposed use or structure will, if developed according to the plan submitted and approved, be visually and functionally compatible with the surrounding area; and*

**List FINDINGS OF FACT for this element per the testimony received**

- c) *The proposed use or structure will not be injurious to the public health, safety, and welfare, and will not be detrimental to the value of adjoining property and associated uses.*

**List FINDINGS OF FACT for this element per the testimony received**

*Accordingly, I further move the Board to grant the requested special use permit in accordance with and only to the extent represented in the application and plans*

**[IF, AND ONLY IF, YOU WISH TO ADD CONDITIONS, THEN STATE THE FOLLOWING]**

*“and subject to the following conditions:*

**[ THEN LIST CONDITIONS]”**



Brevard Planning Department  
Brevard, North Carolina

APPOINTMENT OF AGENT

I, James E. Mudrey, owner of property  
located at (street address) 20 Hendersonville Hwy. Pisgah Forest NC 28768  
and identified by the Transylvania County Tax Assessor's Office as PIN: 8597-45-8002-000

\_\_\_\_\_, located in Transylvania County, North Carolina, do hereby  
appoint IMRAN IQBAL to represent me in filing an  
application for CATEGORY TYPE III, SPECIAL USE PERMIT with the Brevard Planning  
Department and before the Technical Review Committee and the Board of Adjustment.

I further authorize IMRAN IQBAL to act as my  
agent in all matters, formal and informal, and to receive all official correspondence as it relates to  
the CATEGORY TYPE III, SPECIAL USE PERMIT request and hearing.

x James E. Mudrey  
Property Owner Signature

x 112 Woodcross Dr. St. Johns, FL 32259  
Property Owner Mailing Address and Telephone Number

x 7-1-2016  
Date of Signature

Agent's Information: Name IMRAN IQBAL  
Address 143 THOROUGHSHED CIRCLE  
ARDEN NC 28704  
Telephone & Fax (828) 412 9928  
Email i.igbal@gmail.com

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TRC Hearing Date: \_\_\_\_\_

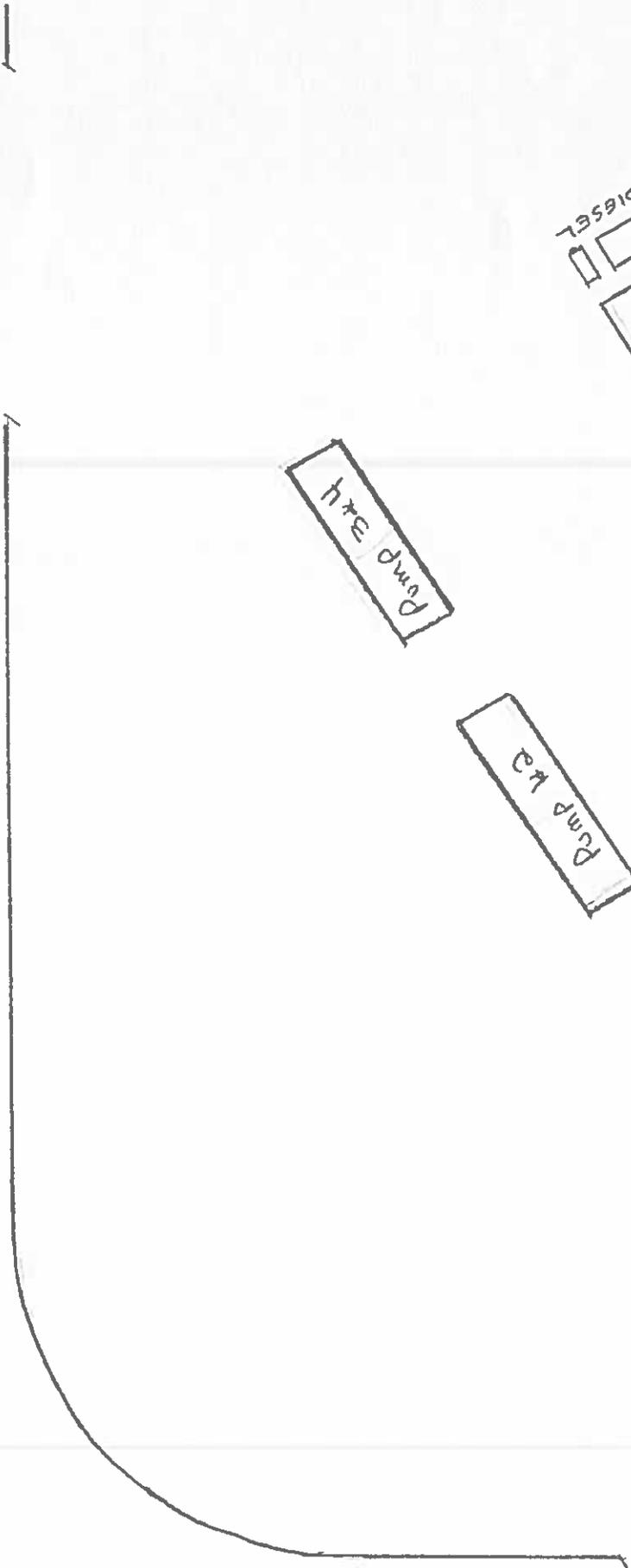
BOA Hearing Date: \_\_\_\_\_

BOA Case Number: \_\_\_\_\_

**Properties within 200 ft of Energy Stop #4:**

- 1 Pisgah Pet Care Animal Hospital  
40 Hendersonville Hwy.  
Pisgah Forest NC 28768
- 
-

Hendersonville Hwy.



ENERGY STOP #4

20 HENDERSONVILLE HWY

RAHAM FOREST NC 28768

Hwy 280