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**Circle K & TND Partners Proposed Mixed Use (MU) Development**  
**Request for Exception to Four (4) Acre Site Area**

Under Unified Development Ordinance (UDO) Section 6.11.7.B.1.a, a site area of four (4) acres is required for a Mixed Use (MU) development unless appropriate justification is provided to allow a smaller area. The site that Circle K and TND Partners have proposed for a zoning map change to MU contains 3.782 acres, which is barely below the 4-acre threshold stated in UDO Section 6.11.7.B.1.a. This UDO section specifies three criteria upon which a smaller than four (4) acre site may be approved as an MU development. Given these criteria, the Circle K/TND proposal warrants approval as an MU site for the following reasons:

1. **Location:** The Circle K/TND proposal is situated along an important major thoroughfare, directly adjacent to six parcels located to the north, and these six parcels (all PINs starting with 0823-12: 86-4015; 85-4786; 85-0712; 75-9276; 85-0202; 85-0115) contain approximately 11.75 acres and three (3) office buildings. According to public records of the Durham County Tax Office, these three office buildings contain approximately 175,000 square feet, and based on a site visit as of the date of this application, it appears that these 175,000 square feet of office space are completely vacant. Since these six parcels are contiguous with the Circle K/TND proposal, we believe this proposed MU development can bring new activity to this section of Durham that appears to be experiencing significant disinvestment.
2. **Topography:** The Circle K/TND site and all six of the parcels referred to above are very flat, so there are no topographical obstacles whatsoever to future expansions of the MU district from the Circle K/TND site. Similarly, it appears there are no environmental constraints on the Circle K/TND site or the approximately 11.75 acres referred to above.
3. **Compatibility:** The approximately 11.75 acres described in paragraph 1 above are all zoned OI, which is readily compatible with the proposed MU development. Our team hopes that this MU development will inject new life into this somewhat economically-distressed area that has not experienced the type of new investment we have seen in Downtown and South Durham over the past 10-15 years.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Patrick L. Byker", is written over a faint, larger version of the signature.

Patrick Byker, Morningstar Law Group  
 Project Attorney for Circle K & TND Partners

