CHARLOTTE

September 14, 2012

NCDOT APA Coordinator
c/o Ms. Helen Landi
1501 Mail Service Center
Raleigh, NC 27699-1501

RE: Proposed Permanent Rules – Outdoor Advertising

To Whom It May Concern:

On behalf of the City of Charlotte, thank you for the opportunity to comment on the proposed permanent rules governing the issuance of selective vegetation removal permits for outdoor advertising and business facilities.

The City of Charlotte has a strong, long standing commitment to preserving the natural environment to enhance community livability and promoting economic development. The City Council has adopted a number of policies over the years, with extensive citizen and stakeholder input and support for achieving these goals. Our efforts on behalf of the natural environment have resulted in our urban environment being rated as one of the most beautiful and livable cities in the United States. Charlotte also values its strong economic base, the strongest in North Carolina, all within that framework of existing environmental policy. Accordingly our comments hinge on the vital need for communities to retain the ability to protect the natural environment through the enforcement of our local ordinances and regulations while enhancing the community's economic base.

Section 19A NCAC 02E.0609

The City opposes this section as written as it does not require the outdoor advertising structure to comply with local zoning ordinances and regulations prior to the granting of a permit for selective vegetation removal. Therefore, the City strongly supports the inclusion of language that requires the structure to comply with local zoning ordinances and regulations prior to the granting of a selective vegetation removal permit, and to maintain compliance in order to retain the permit. The requested language is based upon the federal Highway Beautification Act of 1965 and the resulting 1972 agreement between the State and the Federal Highway Administration where it was agreed that zoning authority with respect to size, lighting, and spacing of outdoor advertising signs in areas adjacent to the interstate and federal-aid primary system would be granted to localities that had established "effective control" over the erection and maintenance of outdoor advertising structures. Thus, the Act supports local zoning authority of outdoor advertising structures. Furthermore, NCGS 136-138 authorizing the State to enter

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into the 1972 agreement authorizes NCDOT to "... take action in the name of the State to comply with the terms of the agreements." Since our local zoning ordinances and regulations have met the "effective control" standard, the State has a responsibility to make reasonable provisions in its rules and regulations to enforce such local zoning ordinances and regulations.

The language we are proposing for inclusion reads as follows:

(b) (10) The outdoor advertising structure must comply with local zoning ordinances and regulations prior to the permit for selective vegetation removal being granted, and the applicant must maintain compliance with such ordinances and regulations in order for the permit not to be revoked.

Section 19A NCAC 02E.0603 (b) (1) and (b) (6)

The City is opposed to the proposed language that removes the requirement in subsection (b) (1) that trees of more than four inches caliper may be removed even if the tree was in existence prior to the business facility being established. The City is also opposed to the proposed language in subsection (b) (6) that allows business facilities to remove vegetation planted in accordance with local, State or Federal beautification projects, which were oftentimes paid for by taxpayers, and replace with less substantial vegetation.

If (b) (1) and (b) (6) are not reinstated, then the new language will open up much more acreage to selective vegetation removal activities than originally envisioned when the enlarged outdoor advertising vegetation cut zones in 2011-397 were approved by the General Assembly. It is also our understanding that the business facility cut zones are of much greater length than those established for outdoor advertising structures by the 2011 General Assembly.

Section 19A NCAC 02E.0603 (b) (10) and Section 19A NCAC 02E.0610 (13)

The City supports the proposed language requiring that conservation easements or State or federal rules, statutes, or permits must be followed as these are necessary protections for the environment, especially in urban settings. However, the language should be strengthened to recognize local ordinances and regulations. Article 11 of NCGS Chapter 136, Outdoor Advertising Control Act defines "State law" as a "State constitutional provision or statute, or an ordinance, rule or regulation enacted or adopted by a State agency or *political subdivision* of a State pursuant to a State Constitution or statute." Clearly, ordinances and regulations adopted by municipalities, which are political subdivisions of the State, should be considered in the granting and maintaining of selective vegetation removal permits.

Section 19A NCAC 02E.0608 (a)

The City supports the proposed language providing for a 30-day period for municipalities to review and comment upon selective vegetation removal permit applications prior to the applicant submitting the application to NCDOT for review. This will enable municipalities to work more effectively with outdoor advertisers to resolve issues prior to a formal application for selective vegetation removal being made to NCDOT.

Section 19A NCAC 02E.0610 (14) and Section 19A NCAC 02E.0611 (f) (2)

The City supports the proposed language requiring applicants for selective vegetation removal permits to adhere to erosion control requirements pursuant to the Sedimentation Pollution Control Act of 1973. This will help ensure that environmental issues that have arisen in our area are not replicated in the future, thus preventing further environmental degradation.

Section 19A NCAC 02E.0604 (7)

The City supports the proposed language requiring applicants to provide the property tax identification number for the parcel on which the facility is located. This will lead to more effective review of applications by municipalities.

Section 19A NCAC 02E.0608 (c)

The City supports the proposed language requiring applicants to provide in the application the year the outdoor advertising structure was originally erected. This will enable municipalities and NCDOT to determine compliance with environmental impact studies findings and commitments.

Thank you for the opportunity to provide input into the permanent rulemaking process.

Sincerely,

Jeb Blackwell
City Engineer

Cc: Secretary of Transportation
Mecklenburg State Delegation
Mayor and Council
City Manager