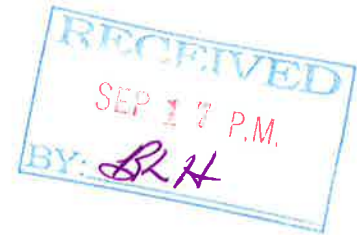




January 16, 2012



Tulsa Metropolitan Area  
Planning Commission  
c/o INCOG  
Williams Tower II  
Two West 2nd Street, Suite 800  
Tulsa, OK 74103

Tulsa City Council  
City Hall  
175 East 2<sup>nd</sup> Street  
Tulsa, OK 74103

Re: Proposed Form-Based Zoning Code

Ladies and Gentlemen:

Sonic Restaurants, Inc. is the owner and operator of a Sonic Drive-In located at 120 South Utica in Tulsa. We have received information concerning a proposal to adopt a "form-based" zoning code over a large area east of downtown Tulsa. The proposed code would cover both sides of Utica Avenue from Interstate 244 to 11<sup>th</sup> Street and includes our property, which is roughly located at the farthest point Northeast in the proposed zoning district. While we appreciate many of the objectives of the form-based code and believe it could be beneficial for certain areas, I am writing to express Sonic's serious concerns about the inclusion of Sonic's property specifically, and Utica Avenue generally, in the area to be covered by the proposed code. If enacted in its present form, the results to Sonic, and other businesses along Utica Avenue, would be extremely detrimental.

One of the stated purposes of the form-based code is to limit and inhibit vehicular access to the properties within the district. Sonic's business depends on adequate and appropriate vehicular access. Without that, the store cannot survive. The same holds true for numerous other vehicular-oriented businesses along the nearly one-mile strip of Utica Avenue from I-244 to 11<sup>th</sup> Street which, as you know, is a heavily traveled, four-lane urban arterial street, and also serves as an exit from and entrance to I-244. As such, it receives heavy use and is not suited for inclusion within the boundaries of the proposed form-based code district. Moreover, under the terms of the proposed code, as we understand them, all buildings would be required to be built within a few feet of the front property line and at least two stories in height, further limiting vehicular access. It would be impossible for Sonic to build any kind of a drive-in facility that can meet those requirements.

It is no comfort that existing structures, such as Sonic's current drive-in, will be "grandfathered" as a legal nonconforming structure under the form based code. Should an existing nonconforming structure be destroyed by fire, tornado or other casualty, any replacement structure will be required to be rebuilt in accordance with the form-based code. Even if a casualty exception to applicability of the code is added, the problem for Sonic and

other brand name retailers would remain. In our industry, branding and operational standards are an integral part of the entire marketing concept. The size, configuration and appearance of a store are all crucial elements of our brand. Because corporate branding is so important, companies such as Sonic often demolish successful older stores and rebuild them on the same land in accordance with current branding and operational standards. In fact, the new structures are frequently built within the same, or a substantially similar, footprint to the one that previously existed. In some instances, rebuilds are necessary to comply with revised building or sanitation codes. A rebuild of Sonic's store at 120 S. Utica in accordance with Sonic's branding and operational standards would be prohibited under the proposed form-based code.

Although it is theoretically possible under the form-based code to do a minor expansion without having the entire building being required to comply, the code provides that any expansion of 26% or more must, in itself, comply with all of the requirements of the code. Those requirements, of course, include building to a street line and having two-story construction, among many other things. That restriction would also make it impossible to put any kind of addition onto the existing Sonic drive-in.

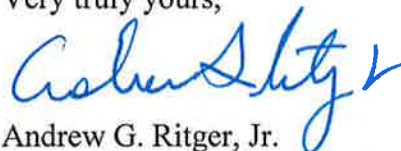
Signage is also an issue of concern. Under Section 204(C) of the code, signage is not listed as a lawful nonconforming use. Thus, it does not appear that nonconforming signs will be "grandfathered" and may have to be removed. Even if existing signs are "grandfathered," it appears that any upgrade or change to the size or appearance of the Sonic pylon or arch sign currently located at the drive-in would be prohibited. Once again, the form-based code would prevent our facility from being able to change over time to stay current with Sonic's corporate branding standards.

As noted above, we do believe the form-based code could have positive benefits to certain areas within the Pearl District. However, vehicular usage and access is absolutely necessary for the businesses on Utica Avenue. It is, therefore, critical that the businesses along Utica, including the Sonic Drive-In at 120 South Utica, be excluded from the area proposed to be covered by the form-based code. As mentioned previously, Utica is a major four-lane arterial street that is simply not suited as a walking district, either now or in the future. Accordingly, there is no advantage to be gained from including Sonic's property, or any of the business properties along Utica, within the form-based code district. There is, however, much to be lost. Many businesses along Utica operate in facilities that are rapidly approaching the end of their useful lives. As and when it becomes necessary to raze and rebuild these facilities to meet current branding and operational standards, it is our belief that many will be forced to close as a result of the building restrictions imposed by the form-based code. The Sonic Drive-In at 120 South Utica is no exception. If our property is included within the form-based code district, we will ultimately be forced to permanently close the drive-in rather than building a new facility in accordance with the current standards of our business model. Imposition of the form-based code to the properties on Utica will not, in our opinion, foster the perpetuation, growth and success of businesses on Utica, but will have the opposite effect, resulting in an increase in both business closures and the number of vacant buildings in the area.

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For the foregoing reasons, Sonic Restaurants, Inc., respectfully requests that the Eastern boundary of the area to be covered by the proposed form-based code be redrawn to exclude the properties along Utica Avenue including, without limitation, the Sonic Drive-In property located at 120 South Utica.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Andrew G. Ritger, Jr.", with a stylized flourish at the end.

Andrew G. Ritger, Jr.  
Senior Vice President, Development  
Sonic Corp. and Subsidiaries

cc: Malcolm E. Rosser IV, Esq.

**Huntsinger, Barbara**

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**From:** Tiny Tomsen [tinytomsen@sbcglobal.net]  
**Sent:** Thursday, December 22, 2011 3:13 PM  
**To:** esubmit; G.T. Bynum; Phil Lakin; Thomas Mansur; Skip Steele; Karen Gilbert; Blake Ewing; Jeannie Cue; Jack Henderson; David Patrick  
**Subject:** Form Based Code Proposal

*Dear Incog & City Council,*

*I am a property owner at East 11th & Norfolk Ave, I believe this is part of the "Pearl District". This "property" includes several city lots, three structures, and extensive parking areas. The principal tenant is Loomis. They have about 25 armored trucks based at this facility that operate not only in Tulsa but across most of eastern Oklahoma and portions of neighboring states to conduct their business. They service businesses and banks throughout the area, and also service all the toll booths on all the Oklahoma Turnpikes.*

*Loomis has approximately 75 employees that work shifts most hours of the day, 24-7. Parking facilities are furnished for these employees to preclude "on street" parking.*

*These facilities are well lighted 24-7, and highly secured with electronic doors and gates, high fencing, monitoring cameras, bulletproof glass, steel vaults, man traps, and by employees with firearms who are highly trained how to use them.*

*This is not an ordinary "office" or "shop" or "warehouse" or "eatery" or anything such. It is an important business that provides a very necessary service to Tulsa and much of Oklahoma and the surrounding area.*

*As I understand the proposed "form based code", it will be in direct conflict with this operation. Loomis requires on-site parking. Loomis is purposely at this site which precludes a dense, pedestrian oriented neighborhood, as envisioned by "form base". This location has not been an "urban community" for many, many years, and this has been attractive to Loomis for this reason. Loomis (and their predecessors of various names, but doing the same business) has been my tenant at this same location for 33 years. During that period a variety of changes have been made to the structures, fencing, access, security, lighting, parking, and other items to accommodate the changing needs of this tenant. What started from a single small building with windows is now a (stucco covered) building with no windows, and now has a large drive through (steel frame) facility adjoining, with only a couple windows with bulletproof glass. Two other building have been added, one for vehicle maintenance, another for offices. High fencing with secure vehicle traps, and internal man traps have been added. At one time there were two large buried fuel tanks with pumps to supply their fleet, these have been removed. Also at one time they needed a truck wash facility and this was built for their use, but no longer exists since the size and type of armored trucks has changed.*

*As Loomis' needs change in the future, and they will, rebuilding existing or building new facilities needed in some fashion to satisfy a new "form based code" may no longer be economically feasible nor possible to fit on the existing land.*

*Even though there may be some "grandfather" clauses, anytime any changes or improvements are made for any reason to accommodate the needs of the tenant -- and there likely will be for this or any other tenant in the future -- these changes will necessarily have to meet the "form based code" rather than the "land use based code" which exists today. This is unacceptable. I need the latitude to be able to accommodate the needs of this tenant, or any other tenant that may follow, and build or remodel as necessary to provide changes that may be essential and necessary for any business at this location.*

*Most of the balance of the square block that includes the Loomis facilities at 1100 E. 4th Street, is the bus terminal. This is where transient Greyhound busses are serviced, cleaned and washed, and where many other busses are maintained and stored. Quite obviously this facility also is not an "acceptable" facility for "form based code". They are not my tenant and I cannot speak for them.*

*The Loomis facilities have been approved by the City, built, and occupied in accordance with existing land use and construction codes. Allowing bureaucrats to make these kind of "form based" arbitrary changes is grossly unacceptable. I recognize that sometimes "change" is necessary, and also good. However, "change" just to satisfy the whims and desires of bureaucrats that have nothing better to do is grossly unacceptable. Perhaps they have an agenda to push these kind of operations from this area so they can attract some different kind of businesses (or non business recreation facilities, government housing, or whatever), I cannot know their rationale.*

*I would suggest the INCOG planners should, in this instance, go back to their desks, pull down their green eye shades, and spend more time sharpening pencils and wearing out erasers on other poorly thought out plans for our city. This area of Tulsa doesn't need this "help" nor this "change". Please put a halt to this action and do not pursue it further.*

*Sincerely,*

*Willis C. Tomsen  
918-299-5454*