

Appeal

Hearing Request Application - Form 1  
Zoning Board of Adjustment  
City of Charlotte

Sonda Kennedy  
ZBA Clerk

12-032

Date Filed: July 3, 2012

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

Received by: \_\_\_\_\_

Instructions

This form must be filed out completely. Please attach the appropriate additional form depending on your request type along with required information as outlined in the appropriate checklist. Please type or print legibly. All property owners must sign and consent to this application, attach additional sheets if necessary. If the applicant is not the owner, the owners must sign the Designation of Agent section at the bottom of this form.

The Applicant Hereby (check all that apply):

- Requests a variance from the provisions of the zoning ordinance as stated on Form 2
- Appeals the determination of a zoning official as stated on Form 3
- Requests an administrative deviation as stated on Form 4

Applicant or Agent's Name: Casco Signs Incorporated, c/o John Carmichael

Mailing Address: 101 North Tryon Street, Suite 1900

City, State, Zip: Charlotte, NC 28246

Daytime Telephone: 704-377-8341

Home Telephone: \_\_\_\_\_

Interest in this Case (please circle one):    Owner                  Adjacent Owner                  Other

Property Owner(s) [if other than applicant/agent]: SCP LPA Ardrey Kell, LLC c/o Lat Purser & Associates

Mailing Address: 4530 Park Road, Suite 300

City, State, Zip: Charlotte, NC 28209

Daytime Telephone: 704-519-4213

Home Telephone: \_\_\_\_\_

Property Address: 16625 Lancaster Highway, Charlotte, NC 28277

Tax Parcel Number: 223-081-03

Zoning District: NS

Subdivision Name: N/A

Conditional District: YES    NO

Applicant Certification and Designation of Agent

I (we) certify that the information in this application, the attached form(s) and documents submitted by me (us) as part of this application are true and correct. In the event any information given is found to be false, any decision rendered may be revoked at any time. I (we) hereby appoint the person named above as my (our) agent to represent me (us) in this application and all proceedings related to it. I (we) further certify to have received, read and acknowledged the information and requirements outlined in this packet.

SCP LPA Ardrey Kell, LLC

July 3, 2012  
Date

By:   
Property Owner

**Appeal Application - Form 3**  
 Zoning Board of Adjustment  
 City of Charlotte

Date Filed: July 3, 2012

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

Received by: \_\_\_\_\_

- Has work started on this project? YES  NO
- If yes, Did you obtain a building permit? YES  NO  If yes, attach a copy.
- Have you received a Notice of Violation for this project? YES  NO  If yes, attach a copy.
- Has this property been rezoned? YES  NO  If yes, Petition Number: \_\_\_\_\_

(1) What zoning ordinance section numbers do you allege were applied in error? Please list each section, the requirement and the requested variance.

Item	Code Section	Code Requirement
<i>Example</i>	<i>9.205(1)(g)</i>	<i>45 foot rear yard required</i>
<b>A</b>	13.102(S7)(p)	An "incidental sign" is defined in this code section as "a sign used in conjunction with equipment or other functional elements of a use or operation. These shall include, but not be limited to drive through window menu boards, and signs on automatic teller machines, gas pumps, vending machines, or newspaper delivery boxes."
<b>B</b>		
<b>C</b>		
<b>D</b>		
<b>E</b>		

(2) Please describe why you feel the code sections listed above were applied in error. Tell the Board what you feel is the appropriate application of each code section.

(a) Code Section 13.102(S7)(p)

<p>Harris Teeter leases and occupies a premises (the "Premises") in a shopping center known as Shoppes at Ardrey Kell (the "Center") located on Lancaster Highway in Charlotte, North Carolina. Harris Teeter operates a grocery store and a pharmacy in the Premises, and the address of the Premises is 16625 Lancaster Highway. SCP LPA Ardrey Kell, LLC is the owner of the Center.</p>
<p>Harris Teeter desires to operate a drive thru window at the Premises relating to its pharmacy, and the drive thru window will be covered by a roof structure with columns (the "Roof Structure") to offer protection from the elements. Harris Teeter has engaged the Applicant, Casco Signs Incorporated ("Casco"), to design and install informational and safety signs relating to the drive thru window.</p> <p>Attached hereto as <i>Exhibit A-1</i> is a schematic rendering that depicts the front elevation of the Premises, the Roof Structure and the locations of the proposed drive thru window informational and safety signs (which are in blue and red). Attached hereto as <i>Exhibit A-2</i> is a schematic rendering that depicts in detail the proposed drive thru window informational signs that would be installed on the soffit of the Roof Structure. As seen from <i>Exhibit A-2</i>, these signs would advise customers where the drive thru window is located and whether the drive thru window is open or closed. Attached hereto as <i>Exhibit A-3</i> is a schematic rendering that depicts the proposed drive thru window safety signs that would be installed on the columns of the Roof Structure. As seen from <i>Exhibit A-3</i>, these signs would be "Do Not Enter" signs so that customers would not enter the drive thru window area from the wrong direction.</p> <p>The Applicant is of the opinion that the proposed informational and safety signs are incidental signs as defined in Section 13.102(S7)(p) of the City of Charlotte Zoning Ordinance (the "Ordinance"). The Applicant requested an interpretation or determination from the Zoning Administrator regarding this issue, and by an email dated June 5,</p>

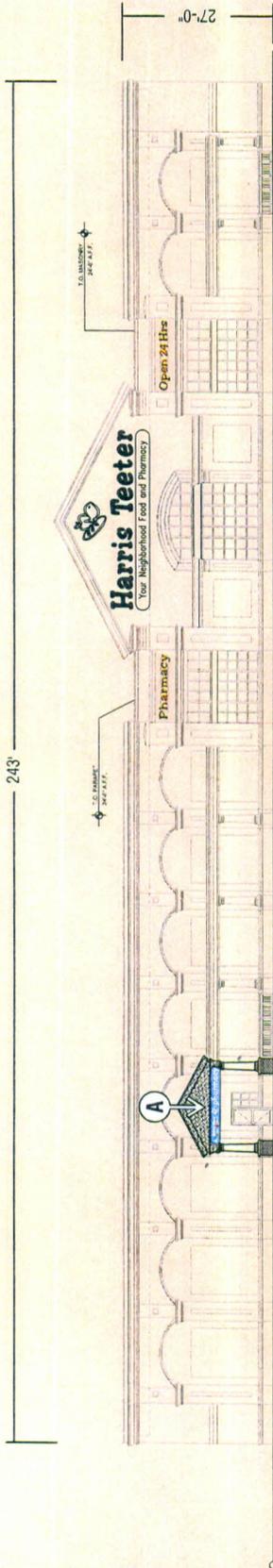
2012 from the Zoning Administrator to Ms. Kim Fisher of Casco, the Applicant was provided with the requested interpretation or determination. A copy of the Zoning Administrator's June 5, 2012 interpretation or determination is attached hereto as *Exhibit B*. As provided on *Exhibit B*, the Zoning Administrator determined that the drive thru window informational and safety signs proposed to be installed by Casco at the Premises are not incidental signs. The Applicant respectfully disagrees with the Zoning Administrator's interpretation or determination, and hereby appeals the same.

As the Applicant will discuss in more detail at the hearing on this appeal, the Applicant is of the opinion that the proposed drive thru window informational and safety signs are incidental signs because they are informational and safety signs that are used in conjunction with functional elements of the pharmacy drive thru use or operation. These signs serve no purpose other than to provide information to customers regarding the pharmacy drive thru window and to allow the pharmacy drive thru window to operate safely and efficiently. Additionally, these signs, by enabling the pharmacy drive thru window to operate safely and efficiently, will help the parking lot and related drive aisles operate safely and efficiently. As seen from *Exhibit A-1*, due to their size and locations, these signs do not serve to advertise Harris Teeter and they offer no advertising benefit to Harris Teeter.

Moreover, as seen from the definition of "incidental sign," incidental signs include, but are not limited to, "drive through window menu boards, and signs on automatic teller machines, gas pumps, vending machines, or newspaper delivery boxes." As seen from this list of signs, incidental signs are informational and much like the menu board at a fast food restaurant drive thru window, the signs proposed by the Applicant are merely informational and/or safety related.

For the reasons set out above and reasons to be raised at the hearing on this appeal, the Applicant respectfully appeals the Zoning Administrator's interpretation or determination and requests that the Board of Adjustment find that the proposed pharmacy drive thru window informational and safety signs are incidental signs under the Ordinance.

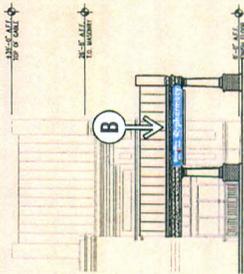
(b) Code Section \_\_\_\_\_

**Front Elevation**  
Scale: Not To Scale

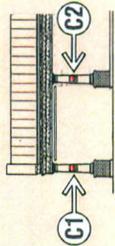
**Proposed Signage**  
Drive-Thru = Informational

**Existing Signage**  
 "Harris Teeter" = 54 Sq. Ft.  
 Tag-line Cabinet = 14 Sq. Ft.  
 Logo = 12 Sq. Ft.  
 "Pharmacy" = 10 Sq. Ft.  
 "Open 24 Hrs" = 10 Sq. Ft.  
**100 Total Sq. Ft.**



**Partial Left Side Elevation**  
Scale: Not To Scale

**Proposed Signage**  
Drive-Thru = Informational



**Partial Right Side Elevation**  
Scale: Not To Scale

**Proposed Signage**  
Do Not Enter = Informational

EXHIBIT  
tabbles  
A-1

Drawing #	11-4470	Sales	DM
Date	01/11/12	Designer	G. Peters
Revised	04/26/12		

Customer	HT #317 drive thru pharmacy	Customer Approval:	
Location	Shops @ Ardrey Kell Charlotte, NC		

All components and installations are approved and listed by: UNDERWRITERS LABORATORIES



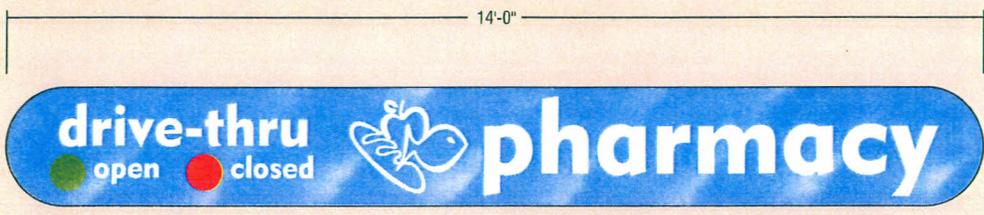
This design is the property of CASCO SIGNS, Inc. and remains our property until sign is purchased. Design may be purchased for a sum of Two Hundred and Fifty dollars (\$250.00) and is protected by U. S. copyright law. Any attempt to reproduce this design or use by others for any purpose, without written consent is subject to prosecution to the fullest extent allowed by law.  
Customer's signature:

See page 3 of 3 for location of signs on drive-thru canopy



**A** (1) S/F Lighted Cabinet  
Scale: 1/2" = 1'-0"

Power exits sign on left side



**B** (1) S/F Lighted Cabinet  
Scale: 1/2" = 1'-0"

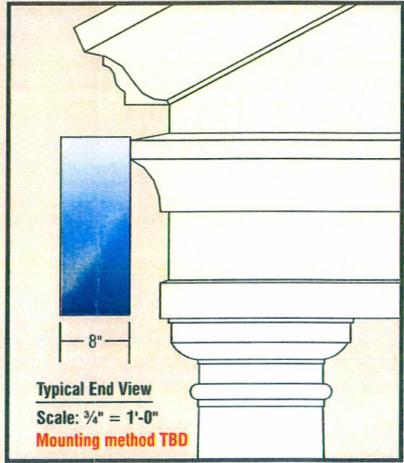
Power exits sign on left side

**Electrical Information**  
Need a single gang switch box with conduit up to the ceiling so we can run our low voltage wiring to a standard 3 way switch. We will need two separate 18 gauge pairs run from the switch box to the area where the signs will be installed. Power will come out on the left side of the signs.

**Cabinet Specifications**  
S/F, Lighted sign cabinets fabricated from aluminum (.040" returns & .063" backs [8" deep]) & finished blue. Graphics are routed from aluminum face & backed with white acrylic. Open & Closed lights backed by green & red acrylic & the lighting to be controlled by a baffle using a remote switch inside the Pharmacy. Internal lighting via white US LEDs.  
Cabinets mounted to soffit of Drive-Thru canopy via method TBD

**Harris Teeter**  
Food Market And Pharmacy  
Charlotte, NC (HT #317)

- 2447 White acrylic - backs routed areas
- 2793 Red acrylic - "Closed" light
- 2030 Green acrylic - "Open" light
- Paint to match PMS 2925 C Blue - face; cabinet

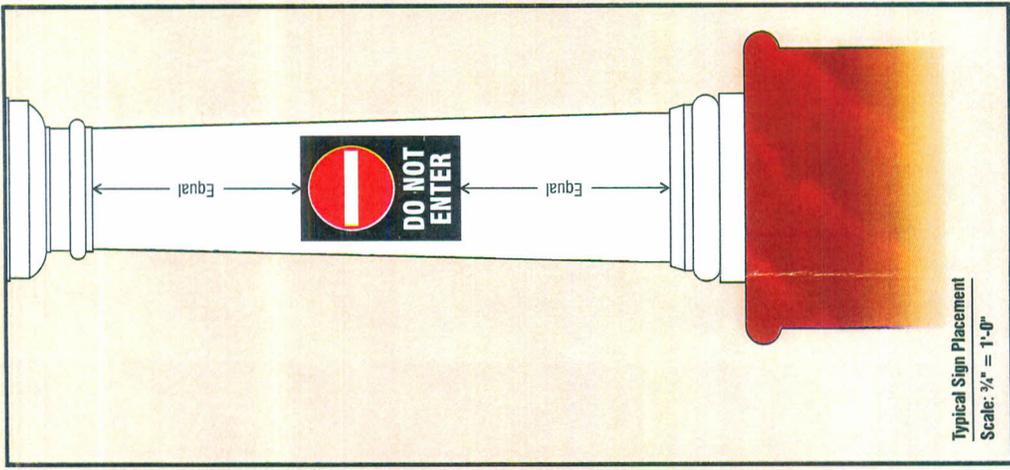


Production Drawing

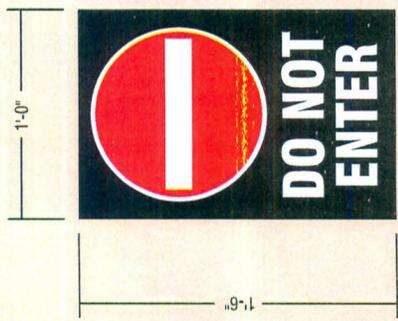
Drawing # **11-4470** Sales **DM** Customer **HT #317 drive thru pharmacy**  
 Date **01/11/12** Designer **G. Peiers** Location **Shops @ Audrey Kell Charlotte, NC**  
 Revised **04/19/12** Customer Approval: \_\_\_\_\_  
 All components and installations are approved and listed by: **casco signs incorporated**  
 This design is the property of CASCO SIGNS, Inc. and remains our property until sign is purchased. Design may be purchased for a sum of two hundred and fifty dollars (\$250.00) and is protected by U.S. copyright law. Any attempt to reproduce this design or use by others for any purpose, without written consent is subject to prosecution to the fullest extent allowed by law.  
 Customer's signature: \_\_\_\_\_  
 Page 1 of 3



See page 3 of 3 for location of signs on drive-thru canopy



Production Drawing



(C) (2) Digital Prints  
Scale: 1 1/2" = 1'-0"

**Harris Teeter**  
Food Market And Pharmacy  
Charlotte, NC (HT #88)

White  
PMS 185 C Red  
Black

**Sign Specifications**  
Graphics digitally printed on white vinyl.

Prints applied directly onto Drive-Thru columns

EXHIBIT  
A-3

Drawing # 11-4470	Sales DM	Customer HT #317 drive thru pharmacy	Customer Approval:
Date 01/11/12	Designer G. Peters	Location Shops @ Ardrey Kell Charlotte, NC	
Revised			All components and installations are approved and listed by:



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Customer's signature:

## Kim Fisher

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**From:** Young, Katrina [kyoung@ci.charlotte.nc.us]  
**Sent:** Tuesday, June 05, 2012 11:42 AM  
**To:** Kim Fisher  
**Cc:** dmartin@cascosigns.com  
**Subject:** RE: HT #317

Incidental signs are defined in the City of Charlotte Zoning Ordinance:

(p)  
Incidental Sign

A sign used in conjunction with equipment or other functional elements of a use or operation. These shall include, but not be limited to drive through window menu boards, and signs on automatic teller machines, gas pumps, vending machines, or newspaper delivery boxes.

The signs that you are proposing do not meet this definition and therefore cannot be considered as incidental signs.

## Katrina

Katrina Young, CZO  
Zoning Administrator  
Planning Department  
City of Charlotte  
600 E. Fourth Street  
Charlotte NC 28202  
Telephone: 704.336.3571  
Fax: 704.336.5123  
Email: [kyoung@charlottenc.gov](mailto:kyoung@charlottenc.gov)

Website: <http://www.charmeck.org/Departments/Planning/Zoning+Administration/home.html>  
*"We are what we repeatedly do; excellence then is not an act, but a habit." Aristotle*

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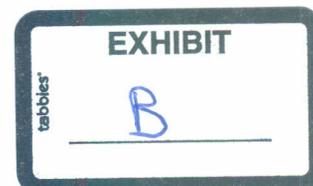
**From:** Kim Fisher [mailto:kfisher@cascosigns.com]  
**Sent:** Tuesday, June 05, 2012 9:27 AM  
**To:** Young, Katrina  
**Cc:** dmartin@cascosigns.com  
**Subject:** FW: HT #317

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**From:** Darin Martin [mailto:dmartin@cascosigns.com]  
**Sent:** Monday, June 04, 2012 9:06 AM  
**To:** 'Kim Fisher'  
**Subject:** HT #317

Kim,

Please send the attached letter to Katrina Young along with the attached drawings.



6/13/2012