

**SUBDIVISION**  
**AND**  
**DEVELOPMENT APPEAL BOARD**  
**AGENDA**

**Thursday, 9:00 A.M.**  
**July 12, 2018**

**Hearing Room No. 3**  
**Churchill Building,**  
**10019 - 103 Avenue NW,**  
**Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
HEARING ROOM NO. 3**

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I 9:00 A.M. SDAB-D-18-101 Operate a Major Home Based Business (Studio for Lash Extensions and Brow Services - Black Lash Ltd), expiring May 18, 2023  
**Development Permit Cancelled**  
1816C – Rutherford Road SW  
Project No.: 279614806-001

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II 10:30 A.M. SDAB-D-18-102 Remove a portion of an approved landscaped yard to develop additional parking spaces to an existing Professional, Financial, Office Support Service and Indoor Participant Recreation Services site - Existing without Permits (reference Development Permit 174584031-001)  
3470 - Allan Drive SW  
Project No.: 275243524-001

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**NOTE:** *Unless otherwise stated, all references to “section numbers” refer to the authority under the Edmonton Zoning Bylaw 12800.*

ITEM I: 9:00 A.M.

FILE: SDAB-D-18-101

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER BY AN ADJACENT PROPERTY OWNER

APPELLANT:

APPLICATION NO.: 279614806-001

APPLICATION TO: Operate a Major Home Based Business (Studio for Lash Extensions and Brow Services - Black Lash Ltd), expiring May 18, 2023

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: May 22, 2018

DATE OF APPEAL: May 19, 2018

NOTIFICATION PERIOD: May 23, 2018 through June 19, 2018

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 1816C - Rutherford Road SW

LEGAL DESCRIPTION: Condo Common Area (Plan 1324457)

ZONE: (RA7) Low Rise Apartment Zone

OVERLAY: N/A

STATUTORY PLAN: Rutherford Neighbourhood Area Structure Plan

**Development Permit Cancelled**



ITEM II: 10:30 A.M.

FILE: SDAB-D-18-102

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 275243524-001

APPLICATION TO: Remove a portion of an approved landscaped yard to develop additional parking spaces to an existing Professional, Financial, Office Support Service and Indoor Participant Recreation Services site - Existing without Permits (reference Development Permit 174584031-001)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: May 31, 2018

DATE OF APPEAL: June 14, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 3470 – Allan Drive SW

LEGAL DESCRIPTION: Plan 1523562 Blk 6 Lot 2

ZONE: DC1 Direct Development Control Provision (Bylaw 17739)

OVERLAY: N/A

STATUTORY PLAN(S): Ambleside Neighbourhood Structure Plan  
Windermeere Area Structure Plan

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***Grounds for Appeal***

The Appellant provided the following reasons for appealing the decision of the Development Authority:

After various attempts to have our original architect file for the revision of the above development permit, I as the owner of the building, filed for a variance as the architect has since left our job site and refuses to make the appropriate application for correction to our property. On May 31, 2018 the variance was denied due to the lack of authority to grant the variance.

We have also met with and discussed the issues with the area developer who has indicated that the changes would be acceptable for their requirements and did not feel that the changes were detrimental to the aesthetics of the property or area and only enhanced the function of the property. Attached is a letter from them confirming acceptance of the property based on the as built plans and the current status of the property.

My understanding is such that there have been revisions to the landscaping plans, that were originally filed, including the removal of landscaping in lieu of 2 much needed parking stalls. The architect and contractor who designed and built our building indicated that these changes should be acceptable as the building has met all the various landscaping minimums and restrictions.

The changes are as follows:

1) The row of landscaping adjacent to the west side of the building running the length of the building was removed and a concrete sidewalk replaced it in order to allow better access from the various parking stalls to the building. In addition the landscaping was likely going to be very difficult to maintain given the overhang of the building and covered parking area.

2) On the north west corner of the property there appeared to be landscaping originally designated for a 3 meter span adjacent to the fence, running east-west from the property line to the edge of the building. This was removed in order to add 2 much needed parking stalls. Our current tenant has already had to prepare and submit to the City parking reports indicating the lack of parking for the building and surrounding neighborhood. In addition the current covered parking (which was extended by the architect and contractor from the original plans to cover the additional parking stall to the fence/edge of the property line) will make the area extremely difficult to maintain. For your reference that portion of the property is adjacent to a public walkway with landscaping on the immediate exterior of the fence.

My understanding is that all landscaping requirements for the property have been met and that there have been no alterations to the buildings (just change from landscaping to parking/sidewalks and extension of the cover parking structure to match). It was brought to our attention that as built landscape plans and site plans needed to be prepared for your acceptance which has been done and included with this package. We have attached 3 pictures of the parking area in question for your review.

For your reference the property to the west of my building (6055 Andrews Way) appears to have requested and received a variance for their property in 2016 in regards to the 3 meter setback of the north side of the property, adjacent to City public walkway. We have attached photos for your reference. We are simply asking for the same variance.

Unfortunately we have ongoing numerous issues with both the contractor and architect who refuse to offer us any assistance in correcting these issues or clarification of what needs to be done.

***General Matters***

**Appeal Information:**

The *Municipal Government Act*, RSA 2000, c M-26 states the following:

**Grounds for Appeal**

**685(1)** If a development authority

- (a) fails or refuses to issue a development permit to a person,
- (b) issues a development permit subject to conditions, or
- (c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

**685(4)** Despite subsections (1), (2) and (3), if a decision with respect to a development permit application in respect of a direct control district

- (a) ...
- (b) is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.

**Appeals**

**686(1)** A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board,

- (a) in the case of an appeal made by a person referred to in section 685(1)
  - (i) with respect to an application for a development permit,
    - (A) within 21 days after the date on which the decision is made under section 642, [...]

**General Provisions from the DCI (Bylaw 17739) Direct Development Control Provision (“the DCI”) and the Edmonton Zoning Bylaw (the “Bylaw”):**

Under section 3(n) (Area ‘A’) of the *DCI*, **Indoor Participant Recreation Services** is a **listed Use**.

Under section 3(t) (Area ‘A’) of the *DCI*, **Professional, Financial and Office Support Services** is a **listed Use**.

Under section 7.8(4) of the *Bylaw*, **Indoor Participant Recreation Services** means:

development providing facilities within an enclosed building for sports and active recreation where patrons are predominantly participants and any spectators are incidental and attend on a non-recurring basis. Typical Uses include athletic clubs; health and fitness clubs; curling, roller skating and hockey rinks; swimming pools; rifle and pistol ranges, bowling alleys and racquet clubs.

Under section 7.4(44) of the *Bylaw*, **Professional, Financial and Office Support Services** means:

development primarily used for the provision of professional, management, administrative, consulting, and financial services, but does not include Health Services or Government Services. Typical Uses include: the offices of lawyers, accountants, engineers, and architects; offices for real estate and insurance firms; clerical, secretarial, employment, telephone answering, and similar office support services; and banks, credit unions, loan offices and similar financial Uses.

Section 1 of the *DCI* states that the **General Purpose** of the *DCI* is:

To accommodate low intensity commercial and residential mixed-use development. The purpose is to complement the adjacent residential and employment uses with a transition of mixed compatible uses. Development regulations shall create a pedestrian-friendly environment and complement adjacent development through urban design controls and guidelines.

***Setback***

Section 4(c) of the *DCI* states “A minimum Setback of 3.0 m shall be required.”

Under section 6 of the *Bylaw*, **Setback** means “the distance that a development or a specified portion of it, must be set back from a property line. A Setback is not a Yard, Amenity Space, or Separation Space.”

**Development Officer's Determination**

**1. DC1 Ambleside Bylaw 17739 Section 4 (c): A minimum Setback of 3.0 m shall be required.**

**Proposed covered parking canopy: no setback from north property, adjacent to City public walkway.  
Deficient by: 3.0m**

**Also, the setback of the existing covered parking canopy is not constructed in accordance to the previous Development Permit approved, reference 174584031-001. [unedited]**

**Landscaping**

Section 4(k) of the *DCI* states "Landscaping shall be in accordance with Section 55. Notwithstanding subsection 55.4 (6), for the purpose of calculating Landscaping requirements, subsection 55.4 (7) shall apply to all Use Classes."

Section 55.3(1)(e) of the *Bylaw* states:

all open space including Front Yards, Rear Yards, Side Yards and Yards, Amenity Areas at ground level, Private Outdoor Amenity Areas, Setback areas and Separation Spaces shall be landscaped with flower beds, grass, ground cover or suitable decorative hardscaping in addition to trees and shrubs. This requirement shall not apply to those areas designated for parking or vehicular circulation.

**Development Officer's Determination**

**2. DC1 Ambleside Bylaw 17739 Section 4(k) - Landscaping shall be in accordance with Section 55. Notwithstanding subsection 55.4 (6), for the purpose of calculating Landscaping requirements, subsection 55.4 (7) shall apply to all Use Classes.**

**Section 55.3(1)(5)(e) - All open space including Setback areas shall be landscaped with flower beds, grass, ground cover or suitable decorative hardscaping in addition to trees and shrubs.**

**The landscaping within the north 3.0m setback has been removed, contrary to the approved Development Permit 174584031-001. [unedited]**



***Parking***

Section 4(h) of the *DCI* states:

No parking, loading, storage, trash collection, outdoor service or display area shall be permitted within a minimum Setback adjacent to a public roadway, public walkway or a residential zone. Vehicular parking, loading, storage and trash collection areas shall be screened from view from any adjacent Sites or public roadways in accordance with Section 55.

**Development Officer's Determination**

**3. DC1 Ambleside Bylaw 17739 Section 4 (h) - No parking, loading, storage, trash collection, outdoor service or display area shall be permitted within a minimum Setback adjacent to a public roadway, public walkway or a residential zone. Vehicular parking, loading, storage and trash collection areas shall be screened from view from any adjacent Sites or public roadways in accordance with Section 55.**

**Proposed: Parking spaces located within the required 3.0m north Setback, contrary to the DC1 Ambleside Bylaw 17739 Section 4(h) .**


**Also, the parking lot is not developed in accordance to the previous Development Permit approved, reference 174584031-001. [unedited]**

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Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing.

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	Project Number: <b>275243524-001</b> Application Date: FEB 21, 2018 Printed: June 15, 2018 at 11:50 AM Page: 1 of 2
<h2 style="margin: 0;">Application for Major Development Permit</h2>	
This document is a Development Permit Decision for the development application described below.	
<b>Applicant</b>	<b>Property Address(es) and Legal Description(s)</b> 3470 - ALLAN DRIVE SW Plan 1523562 Blk 6 Lot 2
	<b>Specific Address(es)</b> Building: 3470 - ALLAN DRIVE SW
<b>Scope of Application</b> To remove a portion of an approved landscaped yard to develop additional parking spaces to an existing Professional, Financial, Office Support Service and Indoor Participant Recreation Services site - Existing without Permits (reference Development Permit 174584031-001)	
<b>Permit Details</b>	
Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): 1963	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)
I/We certify that the above noted details are correct. Applicant signature: _____	
<b>Development Application Decision</b> Refused	
<b>THIS IS NOT A PERMIT</b>	



Project Number: **275243524-001**  
 Application Date: FEB 21, 2018  
 Printed: June 15, 2018 at 11:50 AM  
 Page: 2 of 2

## Application for Major Development Permit

**Reason for Refusal**

1. DC1 Ambleside Bylaw 17739 Section 4 (c): A minimum Setback of 3.0 m shall be required.

Proposed covered parking canopy: no setback from north property, adjacent to City public walkway.  
 Deficient by: 3.0m

Also, the setback of the existing covered parking canopy is not constructed in accordance to the previous Development Permit approved, reference 174584031-001.

2. DC1 Ambleside Bylaw 17739 Section 4(k) - Landscaping shall be in accordance with Section 55. Notwithstanding subsection 55.4 (6), for the purpose of calculating Landscaping requirements, subsection 55.4 (7) shall apply to all Use Classes.

Section 55.3(1)(5)(e) - All open space including Setback areas shall be landscaped with flower beds, grass, ground cover or suitable decorative hardscaping in addition to trees and shrubs.

The landscaping within the north 3.0m setback has been removed, contrary to the approved Development Permit 174584031-001.

3. DC1 Ambleside Bylaw 17739 Section 4 (h) - No parking, loading, storage, trash collection, outdoor service or display area shall be permitted within a minimum Setback adjacent to a public roadway, public walkway or a residential zone. Vehicular parking, loading, storage and trash collection areas shall be screened from view from any adjacent Sites or public roadways in accordance with Section 55.

Proposed: Parking spaces located within the required 3.0m north Setback, contrary to the DC1 Ambleside Bylaw 17739 Section 4 (h) .

Also, the parking lot is not developed in accordance to the previous Development Permit approved, reference 174584031-001.

**Rights of Appeal**

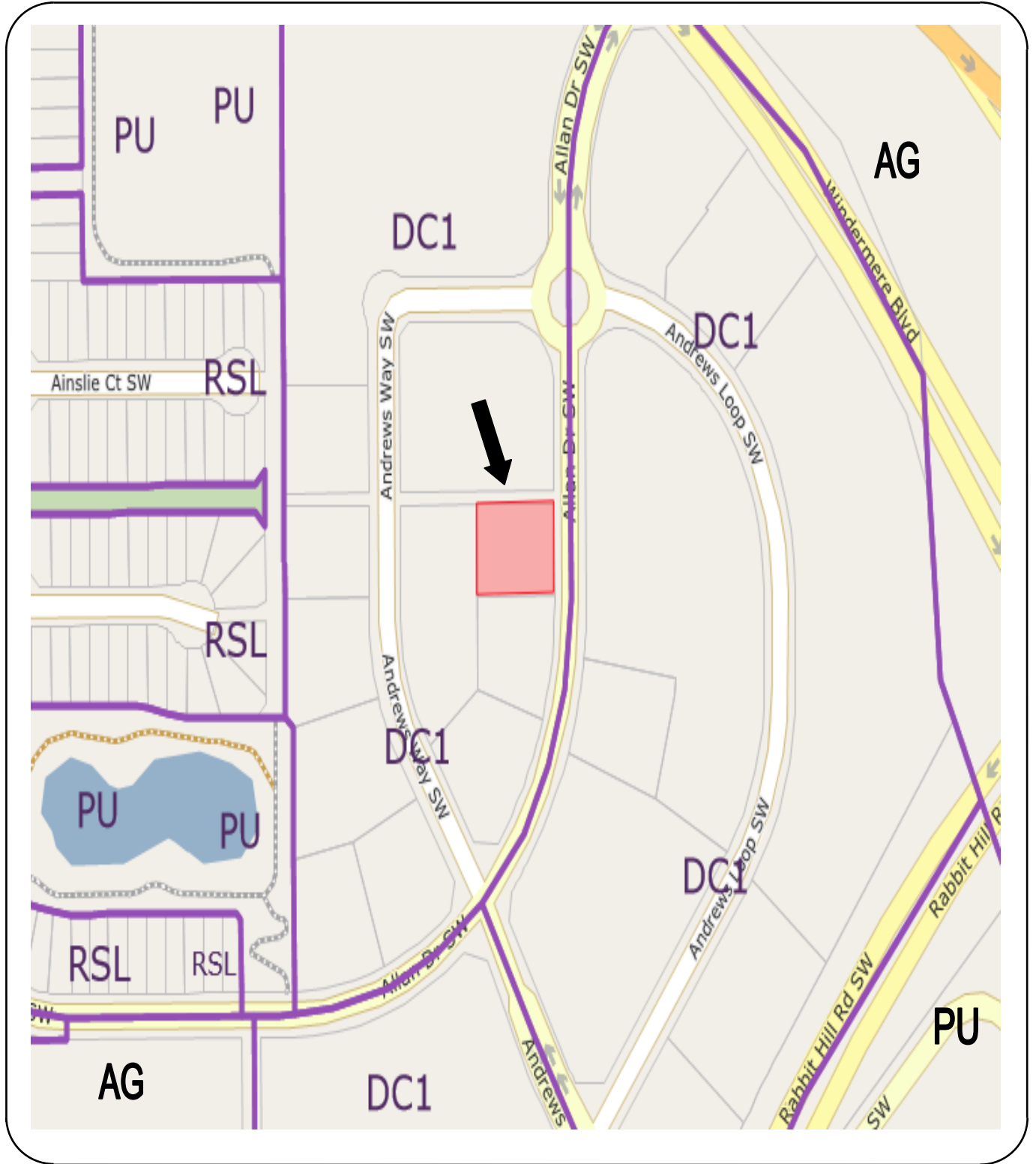
The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.

**Issue Date:** May 31, 2018    **Development Authority:** LI, CINDY

**Fees**

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$362.00	\$362.00	04808405	Feb 21, 2018
Total GST Amount:	\$0.00			
Totals for Permit:	\$362.00	\$362.00		

**THIS IS NOT A PERMIT**



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-18-102

